



June 9, 2017

Re: **Department Fees Regulations**

Opportunity to Comment on Proposed Regulations

Dear Alaskan:

The Department of Natural Resources (DNR) is proposing to adopt new regulations to replace its existing regulations concerning the fees it charges for: applications for resource use authorizations or approvals; the use of state-owned lands, resources and interests; and fees for facilities, publications, products, equipment or services. I am writing to explain the proposed regulations, why we are proposing this regulation package now, and how this action relates to the ongoing resource management process. I invite you to review and comment on these proposed regulations.

Overview of Departmental Fees

At statehood, Alaska received a land entitlement of approximately 100 million acres of uplands and 60 million acres of tidelands, shore lands and submerged lands. These lands and resources were granted to the state so that it could develop them to generate sufficient state income and help provide for the operations and services of the state government.

DNR is tasked with managing the state's vast land-based resource holdings which include agricultural lands, forest lands, public surface land interests, subsurface mineral interests, shore lands, tidelands and submerged lands, and public access interests.

For most of its history, Alaska has relied on revenues principally derived from the development of the state's oil and gas resources to fund state operations, including DNR's operations. While the state has also generated some income from its other resources, revenues from the development of these other resources and holdings have been minimal. In addition, the fees for DNR applications, such as land lease applications, do not cover the state's actual costs to adjudicate the applications in compliance with state laws.

The recent oil price decline and corresponding state budget deficit has caused DNR to reassess whether the state is realizing reasonable returns from the non-oil and gas resources it manages on behalf of its citizens, and whether it is appropriately assessing fees for DNR services.

New approach to charging department fees

These proposed new fee regulations address three significant issues DNR has identified in reviewing its fees for providing authorizations, approvals and services:

- The readability or clarity of its existing fee regulations as currently organized;
- Whether the fees are reasonable or appropriate for the service or resource use authorization provided; and
- The inflexibility and difficulty in responding to necessary changes to the fee levels as costs and values change over time.

These proposed new fee regulations provide the public and state agencies with a more logically organized and usable format for DNR's fee regulations. Currently, DNR's fees are contained in just one section of regulations which has grown over time to become very cumbersome and confusing to users. For example, many related fees are not arranged together in the same place.

DNR is proposing to repeal the one existing section of fee regulations and replace it with new fee regulations that are organized into multiple sections, based on subject matter. The department is also proposing new fees for department products and services for which no fees currently exist, and proposes to eliminate or reduce fees as appropriate for products and services that the department can provide more affordably or that the department no longer provides. Finally, the department is proposing to increase fees either based on inflation or actual costs to provide the services, products, facilities, equipment and resource use authorizations provided by the department, as appropriate.

The proposed repeal and reorganization of department-wide fee regulations is designed to provide a more logical and useable structure including:

- Multiple new sections, one for each distinct department product or service category;
- An alphabetical order to fees;
- Unless changed, existing regulations that have been transferred into the new structure as-is, and;
- Conforming changes to citations to fee regulations throughout the body of Title 11.

In these regulations, DNR also is proposing to adopt a "revenue recovery" mechanism that will allow the department's divisions to charge fees for land use authorizations, products and services that are more consistent with the department's actual costs to provide those products and services. This includes:

- Establishing a maximum fee for a fixed number of staff hours to be worked for specific services or adjudications; these higher fees are still significantly discounted from the actual department cost to perform these functions;
- Establishing an hourly fee for staff hours worked on specific services or adjudication that exceed the fixed number of staff hours prescribed by the regulation;

- Allowing the department to charge for actual contractual costs such as professional services, transportation and publication costs, as necessary;
- Requiring the applicants, who directly benefit from the resource use, to pay a more appropriate portion of the cost of the products and services they receive rather than the cost being borne by the general public through appropriations from the declining general fund; and
- Providing significant additional revenue to the state from the management of DNR-managed resources.

In these regulations, DNR proposes to adopt an “inflation-proofing” mechanism that will allow divisions to set and incrementally adjust fees by director order, provided the fees do not exceed the amounts established in the regulations. This will allow for appropriate fees now and future fee increases as they may become necessary in response to inflation and cost increases while reducing the need for continual updates to the fee regulations. Although a fee in these proposed regulations may set a maximum rate, the division directors will have the authority to set the actual fees at a substantially lower initial level through periodic director’s orders. This means that if these regulations are adopted, the actual fees charged by the divisions will likely be less than the maximum established in the regulation.

Why Do We Need These Regulations Now?

DNR’s fees generally fall into one of three categories: application fees for departmental resource use authorizations or approvals; resource use fees under an issued authorization; and fees for facilities, publications, products, equipment or services. DNR’s fee regulations have grown and expanded only minimally since statehood. Most of the application fees DNR charges were initially set as minimal token fees that bore no relation to the amount of time or cost for the deliberation and evaluation legally required to adjudicate an application. While some fees have been revised within the last 10 years, most of the department fees have not been changed in 20 to 30 years and are long overdue for evaluation.

The proposed regulations are necessary to:

- Provide the public and state agencies with a more logically organized and usable format for DNR’s fee regulations;
- Provide the department and the State of Alaska with a schedule of reasonable resource use-related fees that more accurately represent the value of the resource use authorized;
- More appropriately compensate the state for its costs of processing land use authorizations, products and services under Alaska Statutes that deal with state land management;
- Allow the department’s divisions to set and incrementally adjust fees by director order that do not exceed the maximum fees established in these proposed regulations. This will provide the department with a mechanism to administratively provide for lower initial fees and higher future fee as they may become necessary;
- Establish a fee schedule for facilities, equipment, services and data provided by the Division of Geological & Geophysical Surveys (DGGS) at the Alaska Geologic Materials Center

- (GMC) in Anchorage; and
- Increase regulatory fee levels for services and authorizations that the Division of Parks & Outdoor Recreation (DPOR) can charge within state park units.

DGGS and DPOR have encountered specific circumstances described below that require establishing new fees or adjusting their existing fees.

In 2016, AS 41.08, Geological and Geophysical Surveys, was revised to include a new section AS 41.08.045. (SB 170, or Ch. 27 SLA 2016). This law gives the DNR the authority to establish regulations to provide for charging fees for facilities, equipment, products, or services offered by DGGS. These proposed regulations are necessary to establish the fee schedule for services and data offered at the GMC in Anchorage.

In 1989, DNR established an inflation-proofing mechanism in its fee regulations (11 AAC 05.010(a)(12)) that allows the department to set, and incrementally adjust fees for activities within state parks by order of the DPOR director. This mechanism has been used periodically, as necessary, without exceeding the fees established in the regulations. The director order based fees are then made available to the public through posting in conspicuous locations or on the DPOR website. This has provided DNR with a mechanism to administratively set initial fees and then adjust them without adopting new regulations. Because DPOR's current order-set fees are at the maximum allowed by regulation, DNR needs to revise these DPOR maximum fees to allow for future increases.

The inflation-proofing mechanism has proven to be an efficient and responsive way of setting and adjusting DPOR fees. Because of this, DNR proposes adopting this mechanism for many of its other fee categories. Like fees for DPOR activities, a fee in these proposed regulations will set a maximum rate, but the other divisions may set the actual fees at a substantially lower initial rate through periodic director's orders. In other words, if these regulations are adopted, the actual fees charged by the divisions likely will be less initially than what is allowed in the regulation.

Fee Matrix

To help the public navigate through the proposed regulations and understand what those lower initial director's order-set fees might be, DNR has developed a fee table or fee matrix of those estimated fees that is available on the webpages listed below. The matrix provides a list of the proposed new fee categories. Clicking one of the proposed fee categories will link you to the fee matrix, which shows:

- 1) the specific department service or resource use fee,
- 2) the current fee (if any),
- 3) the department estimate for the actual director order-set fee for 2018, and
- 4) the maximum fee proposed in these proposed regulations, by proposed new fee regulation section number.

Clicking on the proposed new fee regulation category (such as “Applicability” or “Easements and Rights-of-Way”) at the beginning of the matrix will link you to the applicable portion of the body of the matrix. Clicking on any row in the body of the matrix will link you to the specific proposed new fee regulation for that fee category.

For a copy of the fee matrix, go to the Division of Mining, Land & Water’s Hot Topics page at <http://www.dnr.state.ak.us/mlw/hottopics>. The matrix is also listed on the following DNR division websites:

Division of Geological & Geophysical Surveys: <http://dggs.alaska.gov/gmc>

Division of Oil & Gas: <http://dog.dnr.alaska.gov/>

Division of Parks & Outdoor Recreation: <http://dnr.alaska.gov/parks/asp/curevnts.htm>

Recorder’s Office: <http://dnr.alaska.gov/ssd/recoff/closuresnotices.cfm>,

Uniform Commercial Code Central File System Office:
http://dnr.alaska.gov/ssd/recoff/noticespage_UCC.cfm

The matrix is also available by contacting the Director’s Office, Division of Mining, Land and Water, Department of Natural Resources, Attention Joseph Joyner, 550 W. 7th Avenue, Suite 1070, Anchorage, Alaska 99501-3579; or call 907-269-8511.

Public Hearings

Under AS 41.08.045, the Division of Geological & Geophysical Services (DGGs) will conduct public hearings specifically regarding proposed 11 AAC 05.090, fees for Geological and Geophysical Services. These hearings will be held on:

Wednesday June 21, 2017, from 4:00 P.M. to 5:00 P.M., Alaska Division of Geological & Geophysical Surveys Large Conference Rm., 3354 College Rd, Fairbanks, AK., and

Wednesday June 28, 2017, from 4:00 P.M. to 5:00 P.M., in the large conference room at the Alaska Geologic Materials Center, located at 3651 Penland Pkwy, Anchorage, AK.

You may call in to both public hearings regarding proposed 11 AAC 05.090, fees for Geological and Geophysical Services, by dialing 1-800-315-6338 and using the access code 50077. Questions and oral or written comments regarding proposed 11 AAC 05.090 may be submitted at these hearings.

Under AS 41.21.026, the Division of Parks & Outdoor Recreation (DPOR) will conduct public hearings specifically regarding proposed 11 AAC 05.170, fees for activities within state parks. These hearings will be held on:

Monday July 10, 2017, from 5:30 P.M. to 7 P.M., in Room 104, Atwood Building, 550 West 7th Avenue, Anchorage, AK., and

Thursday, July 13, 2017, from 5:30 P.M. to 7 P.M., in the Kenai River Center, 514 Funny River Road, Soldotna, AK.

The call-in number for both public hearings is 1-877-226-9607. Access Code: 7547916061#
Questions and oral or written comments regarding proposed 11 AAC 05.170 may be submitted at these hearings.

Opportunity for Comment

Interested parties are encouraged to review the proposed regulations and submit any comments to DNR. Enclosed is the official “Notice of Proposed Changes in the Regulations of the Department of Natural Resources,” which lists the specific areas and provides the details regarding the submission of public comment. You can view the proposed regulations on our websites at:

Division of Mining, Land & Water: <http://www.dnr.state.ak.us/mlw/hottopics>

Division of Geological & Geophysical Surveys: <http://dggs.alaska.gov/gmc>

Division of Oil & Gas: <http://dog.dnr.alaska.gov/>

Division of Parks & Outdoor Recreation: <http://dnr.alaska.gov/parks/asp/curevnts.htm>

Recorder’s Office: <http://dnr.alaska.gov/ssd/recoff/closuresnotices.cfm>,

Uniform Commercial Code Central File System Office:
http://dnr.alaska.gov/ssd/recoff/noticespage_UCC.cfm

You are invited to comment on these proposed regulation changes to the Department of Natural Resources. For your comments to be considered, the department must receive them no later than **5:00 p.m. on Friday, July 28, 2017**. Comments must be in writing, and they may be mailed, faxed, or e-mailed to the address below. Please see the Notice of Proposed Changes for additional information.

Attn: Joseph Joyner
Division of Mining, Land and Water
550 W 7th Ave., Suite 1070
Anchorage, Alaska 99501-3579
Fax: (907) 269-8904
E-Mail: dnr.fees.regulation@alaska.gov

You may also submit written questions relevant to the proposed regulations to: Joseph Joyner, Department of Natural Resources, 550 W 7th Ave., Suite 1070, Anchorage, Alaska 99501-3579, Fax: (907) 269-8904, E-Mail: dnr.fees.regulation@alaska.gov. Questions must be received at least 10 days before the end of the public comment period (**July 18, 2017**). The Department of Natural Resources will

aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System <https://aws.state.ak.us/OnlinePublicNotices/Login.aspx> and at <http://www.dnr.state.ak.us/mlw/hottopics>.

For more information regarding the DNR's proposed fee regulations or a copy of the proposed regulation changes, go to go to the Division of Mining, Land & Water's Hot Topics page at <http://www.dnr.state.ak.us/mlw/hottopics>, or write to the Director's Office, Division of Mining, Land and Water, Department of Natural Resources, Attention Joseph Joyner, 550 W. 7th Avenue, Suite 1070, Anchorage, Alaska 99501-3579; call 907-269-8511; or email joe.joyner@alaska.gov.

These documents are also available on the following DNR division websites:

Division of Geological & Geophysical Surveys: <http://dggs.alaska.gov/gmc>

Division of Oil & Gas: <http://dog.dnr.alaska.gov/>

Division of Parks & Outdoor Recreation: <http://dnr.alaska.gov/parks/asp/curevnts.htm>

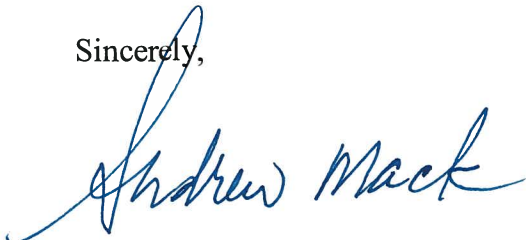
Recorder's Office: <http://dnr.alaska.gov/ssd/recoff/closuresnotices.cfm>,

Uniform Commercial Code Central File System Office:
http://dnr.alaska.gov/ssd/recoff/noticespage_UCC.cfm

If you are a person with a disability who needs a special accommodation to participate in this process, please contact Joseph Joyner at 269-8511 or joe.joyner@alaska.gov no later than July 7, 2017, to ensure that any necessary accommodations can be provided.

Thank you for your consideration of these proposed regulations. DNR looks forward to reading your comments and suggestions.

Sincerely,

A handwritten signature in blue ink that reads "Andrew Mack". The signature is written in a cursive, flowing style.

Andrew T. Mack

Commissioner, State of Alaska, Department of Natural Resources