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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Mary Kay Ryckman
Department of Natural Resources

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: April 22, 2020

RE: Filed Permanent Regulations: Department of Natural Resources

Department of Natural Resources regulations re: fees and commercial land use (11 AAC 05.270, 11 AAC 96.030)

Attorney General File:	2019200385
Regulation Filed:	4/22/2020
Effective Date:	5/22/2020
Print:	234, July 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Joseph Joyner, Regulations Specialist

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF NATURAL RESOURCES

The attached 5 page of regulations, dealing with 11 AAC 05.270, Higher Fees, and 11 AAC 96.030 Application (Permits), is adopted and certified to be a correct copy of the regulation changes that the Department of Natural Resources adopts under the authority of AS 38.05.020, and AS 38.05.850 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Natural Resources paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 2 April 2020

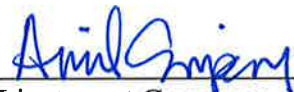

Corri Feige, Commissioner, Department of
Natural Resources

April Simpson for
↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

April 22nd, 2020, at 12:49pm., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


for Lieutenant Governor Kevin Meyer

Effective: May 22, 2020

Register: 231, July 2020.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employees to perform the Administrative Procedures Act
filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



A handwritten signature in blue ink, appearing to read "K. Meyer", is written over a horizontal dotted line.

**KEVIN MEYER
LIEUTENANT GOVERNOR**

11 AAC 05.270(a) is amended to read:

11 AAC 05.270. Higher fees. (a) Notwithstanding 11 AAC 05.020 - 11 AAC.05.260, the department may require a fee higher than that set out in 11 AAC 05.030 - 11 AAC.05.260 if the department determines that the location or nature of the use makes a higher fee appropriate to ensure a reasonable return to the state. Under this subsection, and at the department's discretion to ensure a reasonable return to the state, the department may set

(1) a variable fee of 5.0 percent of the gross receipts attributable to the use of the site; [OR]

(2) a fee based on the director's estimate of the market value of the use or, at the applicant's option and expense after receiving the director's written estimate of that value, based on appraised fair market value of the use; or

(3) a fee equal to the highest responsive bid submitted from among multiple qualified bidders when a statute, a department regulation, or the director has determined that only a limited number of authorizations will be awarded, and there are more qualified applicants than authorizations available.

(Eff. 7/1/2018, Register 227; am 5 / 22 / 2020, Register 234)

Authority:	AS 27.21.030	AS 38.05.255	AS 40.15.370
	AS 27.21.940	AS 38.05.295	AS 40.17.030
	AS 37.10.050	AS 38.05.550	AS 40.25.110
	AS 37.10.052	AS 38.05.555	AS 40.25.115
	AS 37.10.058	AS 38.05.560	AS 41.06.020
	AS 38.04.045	AS 38.05.565	AS 41.21.020

Register ~~234~~, July 2020

NATURAL RESOURCES

AS 38.04.900	AS 38.05.600	AS 41.21.026
AS 38.05.020	AS 38.05.810	AS 41.23.440
AS 38.05.035	AS 38.05.850	AS 44.37.011
AS 38.05.057	AS 38.08.110	AS 44.37.020
AS 38.05.082	AS 38.09.020	AS 44.37.025
AS 38.05.083	AS 38.09.110	AS 44.37.027
AS 38.05.102	AS 38.35.020	AS 45.29.525
AS 38.05.133	AS 38.35.050	AS 45.50.315
AS 38.05.177	AS 38.50.160	AS 46.15.020
AS 38.05.180	<u>AS 38.95.240</u>	AS 46.15.035
AS 38.05.250	[AS 38.95.230]	AS 46.15.037

11 AAC 96.030(a) is amended to read:

11 AAC 96.030. Application. (a) An application for a permit under 11 AAC 96.010 must be on a form provided by the department and accompanied by the applicable nonrefundable application fee required by 11 AAC 05 [11 AAC 05.180]. An application that is not complete or otherwise does not comply with this section or other applicable statute or regulation may be rejected and returned to the applicant without consideration. The application must contain the following information in sufficient detail to allow for the department's evaluation of the planned activities' effect on the land:

(1) except if the application is for a limited non-timber forest product commercial harvest permit, a map at a sufficient scale and detail to depict the [SHOWING THE

GENERAL] location of all activities and routes of travel of all equipment or motorized vehicles for which a permit is required;

(2) a description of the proposed activity, any associated structures, temporary improvements, and the type of equipment or motorized vehicles that will be used; and

(3) any additional information or document that the department requires.

11 AAC 96.030 is amended by adding new subsections to read:

(d) To qualify for a permit under 11 AAC 96.010, an applicant must comply with (a) of this section and

(1) must be

(A) an individual at least 18 years of age; or

(B) a corporation, limited liability company, partnership, or other

business entity organized under the laws of the United States or of any state or territory of the United States and qualified to do business in this state;

(2) must be in good standing with the department;

(3) if operating as a business, must possess a valid business license issued under AS 43.70 for the intended activity; and

(4) comply with specific qualification requirements and other applicable statutes or regulations.

(e) Upon a written determination that the interests of the state are best served, or that the limitation is consistent with the purpose and intent of an applicable authorizing statute or regulation, the department may limit the number of land use permits when warranted by acreage,

geography, public safety, negative land use impacts, or limited infrastructure.

(f) If the number of qualified applicants exceeds the number of land use permits allowed under (e) of this section, and the department decides to issue one or more permits, the department will award permits using a competitive process including public outcry auction or sealed bid auction using one of the land use fees or visitor day use fees applicable to the permit under 11 AAC 05.180(d)(2) as a bid variable, or by lot.

(g) If the department decides to offer land use permits through a competitive process under (e) and (f) of this section or if another statute or regulation requires permits to be allocated through a competitive process, the department will provide public notice that contains sufficient information in commonly understood terms to inform the public of the nature of the action and of the opportunity to submit a permit application under this section. In the notice, the department will set out

- (1) the qualifications for a permit under (a) of this section;
- (2) the general conditions for the competitive offering; and
- (3) how a person may apply for a permit.

(h) The department will provide the public notice described in (g) of this section

(1) on the Alaska Online Public Notice System (AS 44.62.175) for at least 14 days; and

(2) by any other method that the department determines to be appropriate.

(i) Subsections (e) and (f) of this section apply only to permits issued under AS 38.05.850. The department will not use (e) and (f) of this section to implement a guide concession program under the department's January 2013 management framework document,

Alaska Division of Lands (ADL) number 230869, and will not use (e) and (f) of this section to implement any other big game guide concession program that may be established for state-owned lands.

(j) For purposes of this section,

(1) "good standing" means being in compliance with applicable state law, applicable department regulations, and provisions of all permits managed by the department and held by the applicant;

(2) "qualified to do business in this state" means holding the certificate issued by the commissioner of commerce, community, and economic development under AS 10, AS 32, or other applicable law necessary to lawfully conduct business in the state. (Eff. 1/1/70, Register 31; am 8/6/94, Register 131; am 12/7/2002, Register 164; am 8/31/2008, Register 187; am 7/1/2018, Register 227; am 5 / 22 / 2020, Register 234)

Authority: AS 38.05.020 AS 38.05.035 AS 38.05.850