

**ALASKA DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**



18 AAC 50 AIR QUALITY CONTROL

Response to Comments on April 26, 2020, Proposed Regulations

July 22, 2020

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Introduction

This document provides the Alaska Department of Environmental Conservation's (ADEC) response to public comments received regarding the April 26, 2020, draft regulations pertaining to regulation changes to adopt by reference revised federal air quality regulations, adopt the 2nd 10-year PM-10 Limited Maintenance Plans for Eagle River and Juneau, adopt federal requirements that identify what triggers a contingency measure in nonattainment and maintenance areas statewide, clarify the definition of thermal soil remediation unit, and adopt an updated policy manual from the National Fireplace Institute.

The details describing the proposed regulation changes were presented in ADEC's public notice dated April 26, 2020. ADEC received emailed comments from the Environmental Protection Agency.

This document responds to comments from:

- Environmental Protection Agency (EPA)

Opportunities for Public Comment

The public notice dated April 26, 2020, provided information on the opportunities for the public to submit comments. The deadline to submit comments was June 15, 2020, at 11:59 p.m. This provided a 50 day period for the public to review the proposal and submit comments.

Opportunities to submit written comments included submitting electronic comments using the Air Quality Division's online comment form, submitting electronic comments via email, submitting written comments via facsimile, and submitting written comments via email.

The Department's public notice stated that DEC would hold a public hearing on May 29, 2020, if the Department received a request to hold the hearing by May 21, 2020. The Department received no requests and cancelled the hearing. The Department posted notice of the cancellation on the State, Department, and Division of Air Quality public notice web pages on May 22, 2020, as stated in the public notice.

Comments on 18 AAC 50 Regulations

Comments:

18 AAC 50.030: EPA comments, “The proposed language in 18 AAC 50.030(c), specifically “after reasonable notification to affected entities”, does not appear to be consistent with the U.S. Environmental Protection Agency’s requirements for fine particulate matter nonattainment area contingency measures at 40 CFR 51.1014. We recommend that the Alaska Department of Environmental Conservation rephrase the proposed language in 18 AAC 50.030(c) so that reasonable notification is not a pre-requisite to triggering contingency measures. The Alaska Department of Environmental Conservation may place a notice burden on itself, however it should be done without making the notice a pre-requisite. This rule section may not be practically enforceable as proposed.”

18 AAC 50.030(c) proposed language:

18 AAC 50.030 is amended by adding a new subsection to read:

(c) With respect to plan requirements for nonattainment and maintenance areas identified in 18 AAC 50.015(b) and (d) – (e), contingency measures must be implemented as described in the *State Air Quality Control Plan* and after reasonable notification to affected entities for an area upon

(1) the occurrence of a condition identified in the *State Air Quality Control Plan* as requiring implementation of a contingency measure; or

(2) the effective date of an EPA finding that the area failed:

(A) to attain the applicable NAAQS by the applicable attainment date;

(B) to meet a qualitative milestone;

(C) to submit a required quantitative milestone report; or

(D) to meet a reasonable further progress requirement.

Response:

The Department understands the concern expressed by the Environmental Protection Agency, however, 40 CFR 51.1014(b)(2) states “Each contingency measure shall specify the timeframe within which its requirements become effective following a determination by the Administrator under paragraph (a) of this section.” And 81 FR 58010,58093 states “As with Moderate areas, the EPA expects that contingency measures should become effective for Serious areas within 60 days of the EPA making its determination that the area failed to meet RFP or attain the NAAQS.” The Department has revised the regulation to address this concern as shown below.

18 AAC 50.030(c) is amended by adding a new subsection to read:

(c) With respect to plan requirements for contingency measures in nonattainment and maintenance areas identified in 18 AAC 50.015(b) and (d) – (e),

(1) contingency measures must be implemented as described in the *State Air Quality Control Plan* for an area upon

(A) the occurrence of a condition identified in the *State Air Quality Control Plan* as requiring implementation of a contingency measure; or

(B) the effective date of an EPA finding that the area failed:

(i) to attain the applicable NAAQS by the applicable attainment date;

(ii) to meet a qualitative milestone;

(iii) to submit a required quantitative milestone report; or

(iv) to meet a reasonable further progress requirement.

(2) contingency measures may provide for notice to affected entities as outlined in the approved *State Air Quality Control Plan*.