

**MEMORANDUM OF UNDERSTANDING
BETWEEN
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AND
MUNICIPALITY OF ANCHORAGE
FOR AIR QUALITY CONTROL**

I. Purpose

The purpose of this Memorandum of Understanding is to clarify the joint responsibilities for air pollution control and monitoring within the boundaries of the Municipality of Anchorage. The Alaska Department of Environmental Conservation (ADEC) and the Municipality of Anchorage (MOA) share responsibility and authority for air quality control within boundaries of the Municipality of Anchorage. The parties to this Memorandum of Understanding recognize that clear lines of responsibility must be established and maintained to maximize the efficient utilization of available resources and to provide the greatest protection to health and safety.

The Anchorage Air Quality Program (AAQP) anticipates staffing of approximately 1.0 FTE in calendar year 2017. As a consequence, effective January 1, 2017, AAQP staff will discontinue operating the Anchorage monitoring network as detailed in the ADEC 2016 Alaska Air Monitoring Network Plan Amendment. AAQP staff will rely on ADEC to host, operate and maintain all monitoring sites within the boundaries of the MOA, and the automated collection and display of near-real time air monitoring data (i.e. the DR DAS network and AQI website), and to validate and report all monitoring data from the Anchorage network. AAQP staff will continue to cooperatively manage air pollution source permitting within the boundaries of the MOA as described in Section III.

MOA agrees to retain primary responsibility for air quality planning within the boundaries of the Municipality of Anchorage. ADEC and MOA recognize that existing MOA Air Quality staff resources are limited and additional resources may be needed if a significant, new planning effort such as a new attainment plan, is necessary. ADEC and MOA agree to work cooperatively to identify the funding and technical resources necessary to complete new planning obligations.

II. Ambient Air Monitoring

Effective January 1, 2017, ADEC will assume all responsibilities associated with the maintenance and operation of the Anchorage air monitoring network. ADEC agrees to maintain and operate the monitoring network for carbon monoxide (CO), coarse particulate (PM-10), fine particulate (PM-2.5), oxides of nitrogen (NO_x), sulfur dioxide (SO₂), ozone (O₃), and airborne lead as applicable, consistent with the ADEC Quality Assurance Project Plan (QAPP) and Quality Assurance/Quality Control (QA/QC) requirements in 40 CFR Part 58 to characterize air quality within the boundaries of the MOA.

AAQP will work cooperatively with ADEC to determine monitoring priorities in consideration of available personnel and funding resources.

MOA will continue to provide air quality reports and forecasts to the public each weekday (with predictions for weekends and holidays). If conditions warrant, AAQP will provide updates and health advisories for MOA and will post advisories on the MOA and state web sites. Close communication and cooperation between ADEC and MOA is necessary to determine the need to issue air quality advisories for anthropogenic or natural events impacting air quality.

A. ADEC will:

1. be responsible for all data collection, review, and submittal activities for the Anchorage air monitoring network in accordance to state and federal requirements. ADEC assumes maintenance and amortization of all monitoring and data acquisition system equipment;
2. function as the Primary Quality Assurance Organization (PQAO);
3. share with MOA correspondence and applicable materials associated with air quality monitoring performed by ADEC within MOA which may be of interest to MOA;
4. provide, or facilitate in-state, technical assistance and training as time and funding allows;
5. prepare exceptional events requests for exceedances that occur as a result of wind storms, volcanic ashfall, and other "natural events" in accordance with EPA's Exceptional Events Rule; and
6. provide training to MOA staff and grant MOA access to the DEC advisory website for issuing air quality advisories.

B. MOA will:

1. continue to implement its emergency episode plan for criteria air pollutants. When episodes are detected which occur due to natural events, provide documentation of MOA's public information efforts to ADEC in accordance with EPA's Exceptional Events Rule;
2. provide a daily recorded telephone message and web page update providing air quality information to the public each weekday morning (excluding holidays) that includes a summary report of the Air Quality Index (AQI) on the previous day and a forecast of the AQI for the next 24 hours; and
3. issue air pollution alerts, warnings, and emergencies to the public in accordance with state regulations and local ordinances, utilizing the state's advisory website.

III. Permitting

For the purpose of this MOU, an ADEC air quality control permit includes a pre-approved emission limit, letter of authorization for operation under an owner requested limit or general permit, as well as a minor permit, a construction permit, and an operating permit.

A. ADEC will:

1. upon request, provide MOA with copies of its procedures and guidelines on: permitting, enforcement, surveillance, inspection, ambient air quality monitor siting, and record keeping;
2. notify MOA in writing when it receives an application for an air quality control permit, permit renewal, or permit revision request within the boundaries of the MOA even if ADEC determines the source does not require an ADEC permit. Upon written request from MOA, ADEC will send copies of correspondence and written documentation related to the application within 5 working days of the request;
3. notify MOA in writing when ADEC publishes the public notice to issue, revise or renew a general permit;
4. upon request, provide MOA with access to all methodology and procedures used in evaluating each ADEC air quality control permit application and each general permit action;
5. if deemed appropriate and germane to developing an air quality control permit, permit revision, or permit renewal, send out a request for additional information based partially or wholly on MOA's written request, if MOA submits the written request to ADEC before ADEC publishes the public notice; and

6. for each stationary source and for each general permit, send a copy of the signed air quality control permit, permit revision, or permit renewal to MOA when issued.

B. MOA will:

1. maintain its registration to DEC's online system for public notice announcements;
2. send ADEC's Air Permits Anchorage Office copies of correspondence and written documentation of contact with applicants seeking a renewal of an existing MOA permit for a stationary source located in the boundaries of the Municipality of Anchorage, if the applicant's source would require an ADEC permit as a result of modifications proposed by the applicant. MOA will send copies in a timely manner after contact or receipt of written documentation. If an ADEC air quality control permit is necessary, MOA will not write a municipal permit;
3. if requested by ADEC, submit copies to ADEC of correspondence and written documentation of permits issued by MOA;
4. schedule time for MOA staff training in permitting; and
5. maintain air quality ordinances consistent with ADEC air quality control regulations.

MOA is currently considering revising local code to eliminate the municipal requirement for air quality permits for stationary sources within the boundaries of the Municipality of Anchorage. ADEC and MOA agree to amend this MOU in the oversight of air quality permits for stationary sources through a separate amendment should revision occur.

IV. Stationary Source Inspection and Enforcement

A. ADEC will:

1. maintain oversight of stationary sources under an ADEC air quality control permit;
2. conduct on-site and full compliance evaluations of stationary sources under an ADEC air quality control permit in accordance with the department's compliance monitoring schedule; give appropriate advance notice to MOA to attend on-site compliance evaluations as well as advance notice of changes in scheduled evaluations; and
3. take enforcement action on an ADEC-permitted stationary source if a unit at that source is found to be in violation of ADEC air quality control regulations 18 AAC 50 or statutes AS 46.14.

B. MOA will:

1. maintain oversight of those stationary sources under a MOA air quality control permit;
2. conduct on-site and full compliance evaluations of those stationary sources under a municipal air quality control permit with ADEC invited to join MOA to attend on-site compliance evaluations;
3. give appropriate advance notice to ADEC of selected on-site compliance evaluations and any changes in the scheduled evaluations; and
4. take enforcement action on a MOA-permitted stationary source, if a unit at that source is found to be in violation of state or municipal air quality control regulations;

V. **Open Burn.** For ADEC, "open burning" is as defined in 18 AAC 50.990(65) "means the burning of a material that results in the products of combustion being emitted directly into the ambient air without passing through a stack, flare, vent, or other opening of an emission unit from which an air pollutant could be emitted; does not include a campfire; a barbecue; a ceremonial fire; use of a candle; use of a cigar, cigarette, or pipe; the use of celebratory fireworks. For MOA, "open burning is as defined in Title 14, Chapter 15.35.040 Stationary Source Emissions—General definitions "*Open burning* means the burning of any matter in such manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through an approved stack, duct, vent or chimney but does not refer to the operation of safety flares for the purpose of protecting human life."

A. ADEC will:

1. review and issue open burn approvals to stationary sources within the boundaries of the MOA that are regulated under AS 46.14.130(b);
2. inform stationary sources regulated under AS 46.14.130(b) that they are also obliged to meet open burn ordinance requirements contained in Anchorage Municipal Code Section 15.35.100 and that this may entail obtaining an open burn permit from MOA for certain activities not regulated by ADEC;
3. work with MOA to develop consistency in the permitting process and the terms and conditions applied to open burn permits within the boundaries of the MOA;
4. prior to issuing an open burn approval for a prescribed fire, significant land clearing operation, or fire training exercise within MOA, notify MOA that an application has been received. If requested by MOA, send a copy of the permit application and draft approval to solicit input from MOA on the terms and

conditions of the permit. ADEC will provide a copy of all open burning approvals issued within the boundaries of the MOA to MOA when issued; and

5. provide notice to MOA when applications for open burning in the Matanuska-Susitna Borough and Kenai Borough are received if those activities have a reasonable potential to affect air quality in the MOA. This notification system will be implemented as soon as possible based on available resources. Until then, ADEC will continue to provide MOA with copies of all open burning approvals issued in the Matanuska-Susitna and Kenai boroughs when issued.

B. MOA will:

1. take the primary role in the issuance of open burn permit within the boundaries of the MOA for open burning activities on properties or stationary sources not regulated under AS 46.14.130(b);
2. develop and/or maintain local open burning regulations consistent with requirements in State statutes and ADEC regulations;
3. work with ADEC to develop consistency in the permitting process and consistency with the terms and conditions applied to MOA open burn permits;
4. prior to issuing an open burn permit for a prescribed fire, significant land clearing operation, or fire training exercise, notify ADEC that an MOA application has been received. If requested by ADEC, send a copy of the application and draft permit to solicit input from ADEC on the terms and conditions of the permit; and
5. if requested, provide ADEC with copies of open burning permits issued within five working days of request.

VI. Air Quality Planning

Under the Clean Air Act, states are required to adopt enforceable plans to achieve and maintain air pollution standards. In 1982, MOA sought gubernatorial authority to develop the Anchorage components of the State Implementation Plan (SIP). MOA agrees to retain this authority and responsibility with the understanding that ADEC will work with MOA to provide the resources necessary to meet the obligations of the Clean Air Act and consequent EPA planning requirements. These include but are not limited to SIP amendments, associated SIP reporting requirements, and natural events action plans.

MOA and ADEC will work cooperatively to ensure that the air pollution emission control programs committed to in the SIP are fully implemented. If a decision is made to modify any of the control programs identified in the SIP, MOA and ADEC will work together to amend the SIP to reflect these changes.

A. ADEC will:

1. provide technical and administrative assistance to MOA in the development and processing of SIP revisions for attainment and maintenance of the national ambient air quality standard and other plans such as natural events action plans, required by the EPA;
2. assist MOA in its dealings with EPA, particularly in the development of SIP revisions;
3. process locally-developed SIPs through the state regulatory process and submit state-approved plans to EPA for final federal approvals;
4. participate in the inter-agency consultation process to insure federally-funded projects within MOA conform to the SIP; and
5. if additional staff and/or funding are necessary to complete plans or plan amendments required by the EPA, ADEC agrees to work together with MOA to assemble the resources required.

B. MOA will:

1. take the primary role, in conjunction with the Anchorage Metropolitan Area Transportation Solutions (AMATS) organization, for all CO and PM planning for areas within MOA;
2. prepare amendments to the SIP, as necessary, to reflect local or State decisions that substantially change air pollution emission control programs committed to in the SIP;
3. develop Natural Events Action Plans (NEAP) when required by EPA monitoring rules;
4. coordinate with AMATS, as necessary, to meet SIP deadlines for CO and PM;
5. continue its efforts to maintain the national ambient air quality standards for CO and PM;
6. continue to study, identify and implement additional strategies to further reduce ambient CO and PM as needed in the boundaries of the MOA; and,
7. participate in the inter-agency consultation process to ensure federally-funded projects within the boundaries of MOA conform to the SIP.

VII. Response to Citizen Air Quality Complaints within the Boundaries of the Municipality of Anchorage

A. ADEC will:

1. take the primary role in responding to air quality complaints regarding stationary sources within the boundaries of the MOA that are regulated as needing an ADEC permit under AS 46.14.130(b);
2. refer air quality complaints from other sources, not permitted by ADEC, to MOA; and
3. if requested, assist MOA in the response, investigation, and prosecution of air quality complaints regarding air pollution emissions that may be violations of both the Anchorage Municipal Code (AMC 15.35.070) and State regulations (18 AAC 50).

B. MOA will:

1. take the primary role in responding to air quality complaints unrelated to stationary sources within the boundaries of MOA that are regulated as needing an ADEC permit under AS 46.14.130(b);
2. refer air quality complaints about sources within the boundaries of the MOA that are regulated as needing an ADEC permit under AS 46.14.130(b) to the ADEC; and
3. assume initial responsibility to investigate complaints about air quality and air pollution emissions not related to ADEC-permitted sources that may be violations of AMC 15.35.070 or 18 AAC 50. MOA may request ADEC assistance if MOA believes its staff resources are insufficient to provide an adequate response to the complaint or prosecution of a violation of 18 AAC 50.

VIII. Compensation

This MOU has no financial consideration. If future services are needed by either party requiring funding, an amendment to this MOU will be issued.

IX. General Provisions

A. Term

This Agreement, when signed by both parties, shall commence on January 1, 2017 and be completed on December 31, 2021.

B. Amendment

This Agreement may only be amended, modified or changed in writing, and executed by authorized representatives of both parties. The only representatives authorized to amend, modify or change the terms of the Agreement are:

ADEC: Commissioner or Approved Designee

MOA: Mayor, Municipal Manager or Approved Designee

C. Notices

Any notice required pertaining to the subject matter of this agreement shall be personally delivered, sent via fax, e-mail, or mailed by prepaid first class registered or certified mail, return receipt requested to the following address:

Municipality of Anchorage
Director, Department of Health and Human Services
P.O. Box 196650
Anchorage, AK 99519-6650
FAX: 907-343-6740

Alaska Department of Environmental Conservation
Director, Air Quality
PO Box 111800
410 Willoughby Ave, Ste. 303
Juneau, AK 99811-1800
FAX: 907-465-5129

D. Jurisdiction

Any civil action arising from this agreement shall be brought in the Superior Court Third Judicial District of the State of Alaska at Anchorage. The laws of the State of Alaska shall govern the rights and duties of the parties under this agreement.

E. Integration

This agreement and all appendices and modifications hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

F. Permits and Laws

The parties agree to acquire and maintain in good standing all permits, licenses, and other entitlements necessary to their performance under this Agreement. All actions

taken by the parties under this Agreement shall comply with all applicable laws, statutes, ordinances, and rules and regulations.

G. Indemnification

Each party shall defend, indemnify, save and hold harmless the other party from and against any and all claims, lawsuits, or liability, including attorney fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or from any wrongful or negligent act, error or omission of indemnifying party or indemnifying party's agents, employees, contractors, subcontractors or representatives, occurring during the course of or as a result of the indemnifying party or indemnifying party's employees, contractors, subcontractors or representatives performance pursuant to this Agreement.

H. Termination

The Agreement may be terminated:

1. by mutual consent of the parties;
2. for convenience of one party, provided that the terminating party notifies the other party of its intent to terminate at least sixty (60) days prior to the effective date of the termination; or
3. for cause, by either party where the other party fails in any material way to perform its obligations under the Agreement. Termination is subject to the terminating party notifying the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to cure the default within thirty (30) days after receiving the notice.

I. Duties Upon Termination

All notes, data collected, and any draft reports shall be submitted to ADEC or MOA, within thirty (30) days of termination of this agreement by either party.

J. Equal Employment Opportunity

The parties shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex or marital status or who is a "qualified individual with a disability." The parties shall comply with applicable equal employment opportunity requirements, including but not limited to those regarding recruiting, hiring, notice, affirmative action, and records retention.

IN WITNESS WHEREOF, the parties have executed this Agreement.

**Alaska Department of
Environmental Conservation**

By: 
Larry Hartig
Commissioner


Date: Nov. 30, 2016

Municipality of Anchorage

By: 
Mayor, Municipal Manager or
Authorized Designee

Date: 11-22-16

**Alaska Department of
Environmental Conservation
Fund Certification**

By: 
Nikolay Barkov
Finance Officer

Date: 12/02/16

