

NOTE: The following regulations were signed and filed by Lt. Governor Parnell on November 30, 2007. They will become effective on December 30, 2007. The following copy of the regulations is not an official copy of the regulations, as they have not yet been published in the State Register. The regulations are being provided for informational purposes only at this time.

Register ____, _____ 2008 ENVIRONMENTAL CONSERVATION

The lead-in language of 18 AAC 50.030 is amended to read:

18 AAC 50.030. State air quality control plan. Volumes II and III of the *State Air Quality Control Plan* for implementing and enforcing the provisions of AS 46.14 and this chapter, as amended through **July 31, 2007** [SEPTEMBER 19, 2006], are adopted by reference. The plan includes the following documents which are also adopted by reference:

...

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 9/4/98, Register 147; am 1/1/2000, Register 152; am 12/30/2000, Register 156; am 9/21/2001, Register 159; am 1/27/2002, Register 161; am 3/27/2002, Register 161; am 5/3/2002, Register 162; am 2/20/2004, Register 169; am 6/24/2004, Register 170; am 10/1/2004, Register 171; am 12/14/2006, Register 180; am ___/___/___, Register ___)

Authority: AS 46.03.020 AS 46.14.030 Sec. 30, ch. 74, SLA 1993
AS 46.14.020 AS 46.14.140

18 AAC 50 is amended by adding a new section to Article 2 to read:

18 AAC 50.260. Guidelines for best available retrofit technology under the regional haze rule. (a) For purposes of this section, the following are adopted by reference:

(1) 40 C.F.R. 51.301 (Definitions), as revised as of July 1, 2007, except that

(A) "fugitive emissions" has the meaning given in AS 46.14.990;

(B) "major stationary source" has the meaning given in AS 46.14.990 and

18 AAC 50.990;

(C) "potential to emit" has the meaning given in AS 46.14.990;

(D) "stationary source" has the meaning given in AS 46.14.990;

(2) 40 C.F.R. Part 51, Appendix Y (guidelines for BART determinations under the regional haze rule), as revised as of July 1, 2007.

(b) Sources subject to a best available retrofit technology (BART) emission limitation will be identified consistent with Section III of the BART guidelines. No more than five days after *{effective date of regulations}*, the department will notify the owner or operator of each source subject to BART in writing and will identify the affected Class I areas. A written notice provided to the owner or operator before *{effective date of regulations}* satisfies the notification requirement in this subsection. Unless the department exempts a source in accordance with Section III of the BART guidelines, each source subject to BART shall comply with (d) - (h) and (l) - (o) of this section.

(c) An owner or operator notified under (b) of this section may request an exemption from BART. An exemption from BART approved by the department in writing before *{effective date of regulations}* has the same effect as an exemption approved under this subsection. An exemption from BART must be requested and will be processed as follows:

(1) the owner or operator shall

(A) notify the department, no more than 10 days after the later of *{effective date of the regulations}* or the date of the department's notice under (b) of this section that the owner or operator intends to request exemption from BART through visibility impact analysis modeling; and

(B) submit, no more than 30 days after the later of *{effective date of regulations}* or the date of the department's notice under (b) of this section, a visibility

impact analysis modeling protocol that will meet the requirements of (h)(3) of this section for refined visibility impact analysis modeling;

(2) no more than 30 days after receiving a submission under (1)(B) of this subsection, the department will

(A) approve the modeling protocol; or

(B) disapprove the modeling protocol and notify the owner or operator of the reasons for the disapproval;

(3) upon approval of the modeling protocol, the owner or operator shall

(A) conduct a visibility impact analysis in accordance with (h)(3) of this section; and

(B) submit the visibility impact analysis report, including all supporting documentation, to the department no more than 60 days after the date of the department's approval under (2)(A) of this subsection; if a modeling protocol is submitted and approved before *{effective date of regulations}*, the visibility impact analysis report required under this subparagraph shall be submitted no later than *{90 days after effective date of regulations}*;

(4) the department will approve an exemption if the owner or operator meets the requirements of (1) and (3) of this subsection and the information submitted adequately demonstrates that the BART-eligible source is not reasonably anticipated to cause or contribute to any impairment of visibility in a Class I area identified in the department's notice under (b) of this section;

(5) if the department disapproves an exemption, the owner or operator shall

(A) submit a BART control analysis in accordance with (d) - (o) of this section; or

(B) submit an application under 18 AAC 50.225 for an owner requested limit (ORL); that application must be submitted no more than 30 days after the date of the disapproval; upon approval of an owner requested limit under 18 AAC 50.225, the owner or operator shall comply with the terms and conditions of that approval; if the owner requested limit is subsequently rescinded, the owner or operator shall conduct a BART control analysis in accordance with (d) - (o) of this section;

(6) the department will notify each owner or operator, EPA, and each affected federal land manager, in writing, of a department approval or disapproval under this subsection; if the decision is to approve an exemption, either through visibility impact analysis or an owner requested limit, the department will explain what requirements of this section no longer apply to the BART-eligible source.

(d) If an owner or operator does not submit a modeling protocol under (c)(1) of this section, or if the department disapproves the exemption request under (c) of this section, the owner or operator shall submit a BART assessment modeling protocol that meets the requirements of (h)(3) of this section for control technology visibility impact analysis modeling no more than 30 days after the latest of *{effective date of regulations}*, the date of the department's notice under (b) of this section, or the date of the department's notice disapproving the exemption request under (c) of this section. No more than 30 days after submission of a modeling protocol under this subsection, the department will

(1) approve the modeling protocol; or

(2) disapprove the modeling protocol and notify the owner or operator of the reasons for the disapproval.

(e) For purposes of analyzing the visibility impact from potential control technologies, the owner or operator of each source subject to BART shall submit to the department an analysis of control options consistent with Section IV of the BART guidelines

(1) no more than 210 days after the later of *{effective date of regulations}* or the date of the department's notice under (b) of this section, if the owner or operator did not submit an exemption modeling protocol under (c)(1) of this section; or

(2) no more than 180 days after the date of the department's notice disapproving an exemption request submitted under (c) of this section.

(f) The pollutants of concern for purposes of BART are nitrogen dioxide, sulfur dioxide, and PM-10.

(g) If an owner or operator elects to apply, or has already applied, the most stringent controls available consistent with the analysis conducted under (e) of this section, the owner or operator is not required to conduct a visibility impact analysis for the emission units and pollutants to which the controls are to be or have been applied.

(h) A visibility impact analysis must

(1) use an identical modeling approach for comparing the pre-control and post-control impacts of potential BART controls;

(2) determine the maximum change in visibility impacts, in daily deciviews, between the current or pre-control technology and each potential BART control option consistent with the approved modeling protocol compared to the annual average default natural visibility

Register ____, _____ 2008 ENVIRONMENTAL CONSERVATION

condition as listed in EPA's *Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Rule*, EPA-454/B-03-005, dated September 2003 and adopted by reference, at each Class I area identified in the department's notice under (b) of this section; and

(3) be conducted in a manner consistent with either

(A) the Western Regional Air Partnership's *CALMET/CALPUFF Protocol for BART Exemption Screening Analysis for Class I Areas in the Western United States*, dated August 15, 2006 and adopted by reference, as amended by the Western Regional Air Partnership's *Summary of WRAP RMC BART Modeling for Alaska, Draft #7*, dated April 6, 2007 and adopted by reference; or

(B) a modified protocol that was first submitted as a draft and made available for at least a 15-day review by EPA and each affected federal land manager, and subsequently approved in writing by the department.

(i) The department will request from the owner or operator any additional information necessary to complete review of the analysis of control options for a source subject to BART. The department will establish a reasonable deadline for submitting the information after consulting the owner or operator. The owner or operator shall provide such information no later than the deadline established by the department.

(j) The department will review each analysis of control options and issue a preliminary BART determination for each emission unit at each source subject to BART. In the preliminary BART determination, the department will include

(1) the pollutant-specific emission limits for each emission unit at each source subject to BART; and

(2) the monitoring, record-keeping, and reporting needed to demonstrate compliance with the emission limits, consistent with 40 C.F.R. 71.6(a)(3), adopted by reference in 18 AAC 50.040(j).

(k) No more than 120 days after receipt of BART analysis under (e) of this section, the department will publish a notice of its preliminary BART determination and provide at least 30 days for the public to comment in accordance with 40 C.F.R. 71.11, adopted by reference in 18 AAC 50.040(j), except as follows:

(1) the department may distribute a public notice to a person by electronic mail; if a person requests to be sent notice by postal mail instead of electronic mail, the department will send the notice by postal mail;

(2) the department will hold a public hearing only if one is requested within 15 days after publication of the notice.

(l) Within 15 days after the deadline for receipt of public comments, and after consideration of comments and testimony received, the department will make a final BART determination and provide written notice of the final determination to each owner or operator, EPA, each affected federal land manager, and any person who commented on the preliminary BART determination. In the final BART determination, the department will include

(1) the pollutant-specific emission limits for each emission unit at each source subject to BART; and

(2) the monitoring, record-keeping, and reporting needed to demonstrate compliance with the emission limits, consistent with 40 C.F.R. 71.6(a)(3), adopted by reference in 18 AAC 50.040(j).

(m) An informal review of the final BART determination may be requested as prescribed in 18 AAC 15.185. An adjudicatory hearing of the final BART determination may be requested as prescribed in 18 AAC 15.195 - 18 AAC 15.340.

(n) As expeditiously as practicable, but in no case more than five years after the date of EPA approval of the regional haze state implementation plan required under 42 U.S.C. 7410 and 7491, the owner or operator of a source that is subject to a final BART determination under this section shall comply with the requirements established in that determination.

(o) The owner or operator of a source required to install control equipment to comply with the BART determination shall

(1) maintain the control equipment and establish procedures to ensure that the equipment is properly operated and maintained; and

(2) conduct monitoring, recordkeeping, and reporting in accordance with methods set out in the final BART determination.

(p) Department services under this section are designated regulatory services for pre-application assistance and will be billed to the operating permit covering the source subject to BART as set out in 18 AAC 50.400(m).

(q) In this section,

(1) "BART" has the meaning given the term "Best Available Retrofit Technology" in 40 C.F.R. 51.301, adopted by reference in (a) of this section;

(2) "BART-eligible source" has the meaning given in 40 C.F.R. 51.301, adopted by reference in (a) of this section;

(3) "BART guidelines" means 40 C.F.R. Part 51, Appendix Y (Guidelines for

BART determinations under the regional haze rule), adopted by reference in (a) of this section;

(4) "cause or contribute to impairment of visibility" means to release emissions that produce a 0.5 or greater change in the daily deciview when compared against natural conditions; for purposes of this paragraph, "natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration;

(5) "deciview" has the meaning given in 40 C.F.R. 51.301, adopted by reference in (a) of this section;

(6) "existing stationary facility" has the meaning given in 40 C.F.R. 51.301, adopted by reference in (a) of this section;

(7) "federal land manager" has the meaning given in 40 C.F.R. 51.301, adopted by reference in (a) of this section;

(8) "maximum change" means the greatest relative change in visibility between pre-BART controls and post-BART controls for purposes of this section;

(9) "source subject to BART" means a source identified by the department in accordance with Section III of the BART guidelines;

(10) "visibility impact analysis" means an air quality modeling analysis conducted for the purposes of determining visibility impacts. (Eff. ___/___/___, Register ___)

Authority: AS 46.03.710 AS 46.14.020 Sec. 30, ch. 74, SLA 1993
AS 46.14.010 AS 46.14.030

Editor's note: *The Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Rule, the CALMET/CALPUFF Protocol for BART Exemption Screening Analysis*

Register ____, _____ 2008 ENVIRONMENTAL CONSERVATION

for Class I Areas in the Western United States, and the Summary of WRAP RMC BART Modeling for Alaska, Draft #7, adopted by reference in 18 AAC 50.260(h), may be reviewed at the department's Anchorage, Fairbanks, or Juneau office. To obtain a copy of these or any other documents adopted by reference in this section, contact the Department of Environmental Conservation, Division of Air Quality at (907) 465-5100.

18 AAC 50.400(m)(3) is amended to read:

(3) an adjudicatory hearing under 18 AAC 15.195 - 18 AAC 15.340, if requested under **18 AAC 50.260(m)**, 18 AAC 50.306(e), 18 AAC 50.326(k), or 18 AAC 50.542(d) by the permit applicant; at the request of the permittee, and if the permittee is current on all other billings in the department, the department will hold in abeyance a fee charged under this paragraph during the course of the adjudicatory hearing;

18 AAC 50.400(m)(9) is amended to read:

(9) pre-application assistance, **including services under 18 AAC 50.260**;
(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am 12/1/2004, Register 172; am 1/29/2005, Register 173; am ___/___/___, Register ___)

Authority: AS 37.10.050 AS 44.46.025 AS 46.14.140
AS 37.10.052 AS 46.03.020 AS 46.14.240
AS 37.10.058

Register ____, _____ 2008 ENVIRONMENTAL CONSERVATION

18 AAC 50.990(47) is amended to read:

(47) "impairment of visibility" means **any** [A] humanly perceptible change in visibility [SUCH AS VISUAL RANGE, CONTRAST, OR COLORATION,] from that which would **have existed** [EXIST] under natural conditions; **in this paragraph, "change in visibility" includes light extinction, atmospheric discoloration, and any other change in visual range, contrast, or coloration;**

18 AAC 50.990(88) is amended to read:

(88) "reconstruct" and "reconstruction" have the meaning given "reconstruction" in 40 C.F.R. 63.2, adopted by reference in 18 AAC 50.040, **except that for purposes of 18 AAC 50.260, "reconstruction" has the meaning given in 40 C.F.R. 51.301, adopted by reference in 18 AAC 50.260(a);**

(Eff. 1/18/97, Register 141; am 6/14/98, Register 146; am 6/21/98, Register 146; am 9/4/98, Register 147; am 11/4/99, Register 152; am 1/1/2000, Register 152; am 2/2/2002, Register 161; am 5/3/2002, Register 162; am 11/15/2002, Register 164; am 8/8/2003, Register 167; am 10/1/2004, Register 171; am 12/3/2005, Register 176; am ___/___/____, Register ____)

Authority:	AS 44.46.025	AS 46.14.140	AS 46.14.250
	AS 46.03.020	AS 46.14.150	AS 46.14.255
	AS 46.03.710	AS 46.14.160	AS 46.14.280
	AS 46.14.010	AS 46.14.170	AS 46.14.285
	AS 46.14.020	AS 46.14.180	AS 46.14.290
	AS 46.14.030	AS 46.14.210	AS 46.14.300

Register ____, _____ 2008 ENVIRONMENTAL CONSERVATION

AS 46.14.120

AS 46.14.230

AS 46.14.560

AS 46.14.130

AS 46.14.240

Sec. 30, ch. 74, SLA 1993