ALASKA DEPARTMENT OF

ENVIRONMENTAL CONSERVATION

18 AAC 50 Air Quality Control

Public Comment Review Draft

March 17, 2014

Comment Period Ends
April 22, 2014, 5:00 p.m.

Sean Parnell
Governor

Larry Hartig
Commissioner

18 AAC 50.010(1)(A) is amended to read:

18 AAC 50.010. Ambient air quality standards. The standards for concentrations of air pollutants in the ambient air, measured, determined, or predicted by an analytical method described in 18 AAC 50.035 or 18 AAC 50.215, are established as follows:

(1) for particulate matter, as follows:

(A) for PM-10: a 24-hour average of 150 micrograms per cubic meter, with this standard being attained when the expected number of days in a calendar year with a 24-hour average concentration above 150 micrograms per cubic meter**, as determined in accordance with 40 C.F.R. Part 50, Appendix K, adopted by reference in 18 AAC 50.035(b),** is less than or equal to one [DAY];

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am 4/1/2010, Register 193; am 9/17/2011, Register 199; am 1/4/2013, Register 205; am __/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030 Sec. 30, ch. 74, SLA 1993
AS 46.14.010

18 AAC 50.015(b)(2)(A) is repealed:

(A) repealed __/__/____.

…

18 AAC 50.015(e) is amended to read:

(e) The following **areas are** [AREA IS] subject to maintenance plan requirements for PM-10, as required under 42 U.S.C. 7505a, and as adopted by reference in 18 AAC 50.030 as part of the state air quality control plan:

(1) Eagle River area of Anchorage**;** [.]

(2) Mendenhall Valley area of Juneau.

(Eff. 1/18/97, Register 141; am 2/20/2004, Register 169; am 6/24/2004, Register 170; am 10/10/2004, Register 171; am 12/9/2010, Register 196; am 10/6/2013, Register 208; am __/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.010 AS 46.14.030

18 AAC 50.020, Table 2 is amended to read:

Table 2. Baseline Areas and Dates

Baseline Area	Air Pollutant	Minor Source Baseline Date
Cook Inlet Intrastate Air Quality Control Region	Nitrogen dioxide	February 8, 1988
	Sulfur dioxide	October 12, 1979
	PM-10	March 20, 1982
	PM-2.5	September 14, 2012
	Nitrogen dioxide	February 8, 1988

Northern Alaska Intrastate Air Quality Control Region	Sulfur dioxide	June 1, 1979
	PM-10	November 13, 1978
	PM-2.5	**November 2, 2012** [TO BE ESTABLISHED UNDER 40 C.F.R. 52.21(b)(14)(ii), ADOPTED BY REFERENCE IN 18 AAC 50.040(h)]
South Central Alaska Intrastate Air Quality Control Region	Nitrogen dioxide	February 8, 1988
	Sulfur dioxide	October 26, 1979
	PM-10	October 26, 1979
	PM-2.5	To be established under 40 C.F.R. 52.21(b)(14)(ii), adopted by reference in 18 AAC 50.040(h)
	Nitrogen dioxide	February 8, 1988

Southeast Alaska Intra-state Air Quality Control Region	Sulfur dioxide	November 10, 1986
	PM-10	To be established under 40 C.F.R. 52.21(b)(14)(ii), adopted by reference in 18 AAC 50.040(h)
	PM-2.5	To be established under 40 C.F.R. 52.21(b)(14)(ii), adopted by reference in 18 AAC 50.040(h)

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am 7/25/2008, Register 187; am 1/4/2013, Register 205; am __/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.010 AS 46.14.030

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

18 AAC 50.030. State air quality 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 {***adoption date of regulation***} [FEBRUARY 22, 2013], 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 12/30/2007, Register 184; am 5/17/2008, Register 186; am 7/25/2008, Register 187; am

11/9/2008, Register 188; am 5/6/2009, Register 190; am 11/4/2009, Register 192; am 4/1/2010, Register 193; am 10/29/2010, Register 196; am 4/13/2011, Register 198; am 9/17/2011, Register 199; am 8/1/2012, Register 203; am 5/8/2013, Register 206; 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 50.035(a) is amended by adding a new paragraph to read:

(8) *Quality Assurance Handbook for Air Pollutant Measurement Systems; Volume IV: Meteorological Measurements Version 2.0* (EPA-454/B-08-002).

…

The lead-in language to 18 AAC 50.035(b) is amended to read:

(b) The following procedures and methods set out in 40 C.F.R., revised as of **July 1, 2013** [JULY 1, 2011], are adopted by reference:

…

18 AAC 50.035(b)(1) is amended to read:

(1) 40 C.F.R. Part 50, Appendices A, **C,** D, F, G, J, K, L, N, P, Q, R, S, and T;

…

18 AAC 50.035(b)(3) is repealed:

(3) **repealed __/__/____** [40 C.F.R. PART 58, APPENDIX B];

…

18 AAC 50.035(b) is amended by adding new subsections to read:

(4) the following test methods as they apply to 40 C.F.R. 63.11(b)(6):

(A) ASTM D1946-90(1994)e1, Standard Practice for Analysis of Reformed Gas by Gas Chromatography; and

(B) ASTM D 240-92(1997)e2, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter**;** [.]

(5) **40 C.F.R. Part 60, Appendices A – F;**

(6) **40 C.F.R. Part 63, Appendix A.**

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 7/2/2000, Register 154; am 2/2/2002, Register 161; am 5/3/2002, Register 162; am 10/1/2004, Register 171; am 12/3/2005, Register 176; am 7/25/2008, Register 187; am 11/9/2008, Register 188; am 4/1/2010, Register 193; am 9/17/2011, Register 199; am 4/8/2012, Register 202; am 9/14/2012, Register 203; am 1/4/2013, Register 205; am __/__/____, Register ___)

Authority:	AS 46.03.020	AS 46.14.020	AS 46.14.140
	AS 46.14.010	AS 46.14.030	Sec. 30, ch. 74, SLA 1993

The lead-in language of 18 AAC 50.040(a) is amended to read:

(a) The following provisions of 40 C.F.R. Part 60 (Standards of Performance for New Stationary Sources), as revised as of **March 19, 2014** [APRIL 24, 2013], are adopted by reference as they apply to a Title V source:

…

The lead-in language of 18 AAC 50.040(b) is amended to read:

(b) The following provisions of 40 C.F.R. Part 61 (National Emission Standards for Hazardous Air Pollutants), as revised as of **July 1, 2013** [JULY 1, 2012], are adopted by reference as they apply to a Title V source:

...

The lead-in language of 18 AAC 50.040(c) is amended to read:

(c) The following provisions of 40 C.F.R. Part 63 (National Emission Standards for Hazardous Air Pollutants), as revised as of **July 1, 2013** [APRIL 24, 2013], are adopted by reference as they apply to a Title V source:

...

The lead-in language of 18 AAC 50.040(d) is amended to read:

(d) The provisions of 40 C.F.R. Part 82, as revised as of **July 22, 2013** [JULY 1, 2012], are adopted by reference to the extent that they apply to a Title V source.

...

The lead-in language of 18 AAC 50.040(e) is amended to read:

(e) The requirements of 40 C.F.R. 52.70 - 40 C.F.R. 52.98, as revised as of **October 8, 2013** [MARCH 18, 2013], as they apply to a Title V source and for purposes of a Title V permit, are adopted by reference.

...

The lead-in language of 18 AAC 50.040(f) is amended to read:

(f) The provisions of 40 C.F.R. Part 51, Appendix W (Guideline on Air Quality Models), as revised as of **July 1, 2013** [JULY 1, 2012], are adopted by reference.

•••

The lead-in language of 18 AAC 50.040(g) is amended to read:

(g) The following provisions of 40 C.F.R. Part 62 (Approval and Promulgation of State Plans for Designated Facilities and Pollutants), as revised as of **September 6, 2013** [JULY 1, 2012], are adopted by reference as they apply to a Title V source:

•••

The lead-in language of 18 AAC 50.040(h) is amended to read:

(h) The following provisions of 40 C.F.R. 51.166 (Prevention of Significant Deterioration of Air Quality) and 40 C.F.R. Part 52 (Approval and Promulgation of Implementation Plans), as revised as of **December 9, 2013** [APRIL 1, 2013], are adopted by reference:

•••

18 AAC 50.040(h)(21) is repealed:

(21) **repealed __/__/____** [40 C.F.R. 52.22 (ENFORCEABLE COMMITMENTS FOR FURTHER ACTIONS ADDRESSING THE POLLUTANT GREENHOUSE GASES (GHGS))].

•••

The lead-in language of 18 AAC 50.040(i) is amended to read:

(i) From the following provisions of 40 C.F.R. 51.165 (Permit Requirements), as revised as of **July 1, 2013** [JULY 1, 2012], text setting out provisions that a state implementation plan shall or may contain is adopted by reference as follows:

•••

18 AAC 50.040(i)(1)(B) is amended to read:

(B) the following provisions are not adopted, and the terms defined in those provisions have the meaning given in 18 AAC 50.990:

(i) [40 C.F.R. 51.165(a)(1)(xxxvii) ("REGULATED NSR POLLUTANT");] 40 C.F.R. 51.165(a)(1)(xxxviii) ("reviewing authority");

(ii) 40 C.F.R. 51.165(a)(1)(ix) ("fugitive emissions");

…

The lead-in language of 18 AAC 50.040(j) is amended to read:

(j) The following provisions of 40 C.F.R. Part 71 (Operating Permits), as revised as of **July 1, 2013** [JULY 1, 2012], are adopted by reference as they apply to a Title V source, except as provided in 18 AAC 50.326:

…

18 AAC 50.040(j)(9) is repealed:

(9) **repealed __/__/____** [40 C.F.R. 71.13 (ENFORCEABLE COMMITMENTS FOR FURTHER ACTIONS ADDRESSING GREENHOUSE GASES (GHGS))].

…

The lead-in language of 18 AAC 50.040(k) is amended to read:

(k) The provisions of 40 C.F.R. Part 64, as revised as of **July 1, 2013** [JULY 1, 2012], are adopted by reference to the extent that they apply to a Title V source.

(Eff. 1/18/97, Register 141; am 6/14/98, Register 146; am 6/21/98, Register 146; am 7/2/2000, Register 154; am 6/1/2002, Register 162; am 8/15/2002, Register 163; am 10/1/2004, Register

171; am 12/3/2005, Register 176; am 7/25/2008, Register 187; am 12/9/2010, Register 196; am 9/14/2012/ Register 203; am 1/4/2013, Register 205; am 10/6/2013, Register 208; am __/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.020 AS 46.14.030
AS 46.14.010

The title of Article 2, Section 230 in the Article 2 Table of Contents is amended to read:

230. Preapproved **Emission** Limits

…

18 AAC 50.215(a)(3) is amended to read:

(3) EPA's *Meteorological Monitoring Guidance for Regulatory Modeling Applications*, adopted by reference in 18 AAC 50.035(a) **and the department's *Alaska Quality Assurance Project Plan for the State of Alaska Air Monitoring & Quality Assurance Program*, adopted by reference in 18 AAC 50.030**, for meteorological data; or

…

The lead-in language of 18 AAC 50.215(d) is amended to read:

(d) [TABLE 5 ESTABLISHES THE SIGNIFICANT IMPACT LEVEL, EXPRESSED AS MICROGRAMS PER CUBIC METER, FOR EACH POLLUTANT AND AVERAGING PERIOD. IF THE AMBIENT IMPACTS FROM EMISSIONS FROM A] **A** stationary source or modification [ARE LESS THAN THE CONCENTRATIONS IN TABLE 5, THE EMISSIONS ARE NOT] **will be** considered to cause or contribute to a violation of an ambient air quality standard or maximum allowable increase for a Class II area **when such source or modification would, at a minimum, exceed a significant impact level listed in Table 5 at any locality that**

does not or would not meet the applicable ambient air quality standard or maximum allowable increase for a Class II area. A person shall conduct the comparison of a modeled impact to the significant impact level as follows:

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am 7/25/2008, Register 187; am 4/1/2010, Register 193; am 10/29/2010, Register 196; am 9/17/2011, Register 199; am 9/14/2012, Register 203; am 1/4/2013, Register 205; am__/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.140 Sec. 30, ch. 74, SLA 1993
AS 46.14.030 AS 46.14.180

18 AAC 50.220(c)(1)(E) is amended to read:

(E) source testing for emissions of total particulate matter, sulfur compounds, nitrogen compounds, carbon monoxide, lead, volatile organic compounds, fluorides, sulfuric acid mist, municipal waste combustor organics, metals, and acid gases must follow the procedures specified in Appendix A to 40 C.F.R. Part 60, adopted by reference in **18 AAC 50.035(b)(5)** [18 AAC 50.040]; and

…

18 AAC 50.220(c)(2) is amended to read:

(2) emissions of any air pollutant may be determined using an alternative method approved by the department in accordance with Method 301 in Appendix A to 40 C.F.R. Part 63, adopted by reference in **18 AAC 50.035(b)(6)** [18 AAC 50.040(c)]; and

(Eff. 1/18/97, Register 141; am 10/1/2004, Register 171; am 9/17/2011, Register 199; am 9/14/2012, Register 203; am __/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.020 AS 46.14.140

AS 46.14.010 AS 46.14.030 Sec. 30, ch. 74, SLA 1993

Article 5, Table of Contents is amended to read:

510. Minor permit – Title V permit interface

The lead-in language of 18 AAC 50 Article 7 is amended to read:

Article 7. **Transportation** Conformity

18 AAC 50.700 is repealed and readopted to read:

18 AAC 50.700. Purpose. (a) The purpose of 18 AAC 50.700 - 18 AAC 50.755 is to implement section 176(c) of the Clean Air Act, as amended (42 U.S.C. 7401 et seq.), and the related requirements of 23 U.S.C. §109(j), to ensure that a transportation plan, transportation improvement program or revisions to Alaska's *State Air Quality Control Plan*, including those portions in it which are federally approved and recognized as Alaska's state implementation plan, or other federal action that affects transportation within a carbon monoxide, nitrogen dioxide, ozone, PM-2.5 or PM-10 nonattainment or maintenance area located in Alaska will not hinder the attainment or maintenance of the national ambient air quality standards in that area if:

(1) the plan, program, project or action is federally-funded or federally-approved; or

(2) the plan, program, project or action is non-federally funded but is a regionally significant project that is funded, adopted or approved by a current or prior recipient of funds under 23 U.S.C. (Highways) or 49 U.S.C. 53 (Federal Transit Act).

(b) 18 AAC 50.700 - 18 AAC 50.755 sets forth the policy, criteria and consultation procedures for demonstrating and assuring conformity of transportation activities described under 18 AAC 50.700(a), for inclusion in Alaska's *State Air Quality Control Plan* adopted by reference in 18 AAC 50.030; developed pursuant to section 110 and part D of the Clean Air Act and 40 C.F.R. Part 51.390(b), revised as of January 24, 2008 and adopted by reference. (Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am__/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

18 AAC 50.705 is repealed and readopted to read:

18 AAC 50.705. Applicability. (a) The provisions of 18 AAC 50.700 - 18 AAC 50.755 apply to:

(1) a transportation plan, transportation improvement program or other federal transportation project located within a carbon monoxide, nitrogen dioxide, ozone, PM-2.5 or PM-10 nonattainment or maintenance area in Alaska that is funded by or requires approval under 23 U.S.C. or 49 U.S.C. 53;

(2) a transportation plan, transportation improvement program or other federal transportation project that is non-federally funded but that is a regionally significant project funded, adopted or approved by a current or prior recipient of funds designated under 23 U.S.C. or 49 U.S.C. 53; or

(3) revisions to Alaska's *State Air Quality Control Plan*, including the state implementation plan, that affect transportation.

(b) It is the obligation of the sponsoring agency to meet the applicable requirements of 18 AAC 50.700 - 18 AAC 50.755. For purposes of 18 AAC 50.700 - 18 AAC 50.755,

"sponsoring agency" means the agency that:

(1) receives or manages federal money for the transportation plan, transportation improvement program or other federal transportation project as described in (a) of this section;

(2) develops the transportation plan, transportation improvement program or other federal transportation project as described in (a) of this section; or

(3) funds, adopts or approves a nonfederal, regionally significant project and is a current or prior recipient of funds under 23 U.S.C. or 49 U.S.C. 53.

(Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am__/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

18 AAC 50.710 is repealed and readopted to read:

18 AAC 50.710. Agency responsibilities. Representatives of the department, the Alaska Department of Transportation & Public Facilities, metropolitan planning organizations, local and regional air quality and transportation agencies recognized by the State of Alaska shall undertake an interagency consultation process with each other and with the local or regional offices of the U.S. Environmental Protection Agency, the U.S. Department of Transportation's Federal Highway Administration and Federal Transit Administration on the development of Alaska's state implementation plan, transportation plans, transportation improvement programs and associated conformity determinations in accordance with the responsibilities and procedures of this article and Alaska's *State Air Quality Control Plan*, Volume II, Section III.I.3.

(Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am 4/1/2010, Register 193; am__/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

The lead-in language of 18 AAC 50.715 is amended to read:

18 AAC 50.715. <u>Interagency consultation procedures</u> [TRANSPORTATION CONFORMITY:INTERAGENCY CONSULTATION PROCEDURES].

…

The lead-in language of 18 AAC 50.715(a) is amended to read:

(a) Before issuing a final **<u>transportation</u>** conformity determination **<u>or transportation related state implementation plan revision</u>** under 18 AAC 50.700 - **<u>18 AAC 50.755</u>** [18 AAC 50.720], the **<u>sponsoring</u>** [RESPONSIBLE] agency described in **<u>18 AAC 50.705(b)</u>** [18 AAC 50.705(c) (1)], shall**<u>:</u>**

…

18 AAC 50.715(a)(2) is amended to read:

(2) prepare a preliminary interagency discussion draft, a public review draft, and a final draft of the conformity determination **<u>or transportation related state implementation plan revision</u>** through the interagency consultation process described in (b) - (g) of this section with staff of **<u>the following entities:</u>**

(A) the department;

(B) the local air quality planning agency or government;

(C) the Alaska Department of Transportation and Public Facilities;

(D) the local transportation agency or government;

(E) any agency created under state law that sponsors or approves transportation projects;

(F) the United States Environmental Protection Agency;

(G) the Federal Highway Administration;

(H) the Federal Transit Administration; [AND]

(I) the metropolitan planning organization and any other regional transportation planning organization; and

(J) any participant listed in Alaska's *State Air Quality Control Plan*, Volume II, Section III.I.3.

…

18 AAC 50.715(a)(3) is amended to read:

(3) make the public review draft of the conformity determination **or transportation related state implementation plan revision** available for public review and comment as required in 18 AAC 50.720.

…

18 AAC 50.715(b) is amended to read:

(b) A staff member of the **sponsoring** [RESPONSIBLE] agency shall**:**

(1) consult with staff of the agencies listed in (a)(2) of this section to prepare a preliminary interagency discussion draft of the conformity determination **or transportation related state implementation plan revision**, including necessary supporting information;

(2) ensure that all documents**, including transportation related state implementation plan revisions,** and information relevant to the preliminary interagency discussion draft are available to staff from the participating agencies; and

(3) consider the comments of staff from participating agencies and respond in writing to those comments in a timely, substantive manner before making a final decision on the preliminary interagency discussion draft; written agency comments and written responses must

be included in the record of any conformity decision, **transportation related state implementation plan revision** or action.

...

The lead-in language of 18 AAC 50.715(c) is amended to read:

(c) In preparing the preliminary interagency discussion draft, a staff member of the **sponsoring** [RESPONSIBLE] agency shall consult with the staff of the agencies listed in (a)(2) of this section to

...

18 AAC 50.715(c)(1) is amended to read:

(1) evaluate and choose a traffic demand [AND REGIONAL EMISSIONS] model[,] and associated methods and assumptions to be used in a hot-spot analysis or a regional emissions analysis;

...

18 AAC 50.715(c)(2) is amended to read:

(2) determine which minor arterials and other projects should be considered regionally significant for purposes of a regional emissions analysis, in addition to those **functionally classified as principal arterial or higher or fixed guide-way systems or extensions that offer an alternative to regional highway travel; and which projects should be considered to have a significant change in design concept and scope from the transportation plan or transportation improvement program** [REGIONALLY SIGNIFICANT PROJECTS AS DEFINED IN 40 CFR 93.101, ADOPTED BY REFERENCE IN 18 AAC 50.710];

…

18 AAC 50.715(c)(3) is amended to read:

(3) discuss whether a project that is otherwise exempt from the requirements of 18 AAC 50.700 – **18 AAC 50.755** [18 AAC 50.720] under 40 C.F.R. 93.126**, revised as of January 24, 2008 and adopted by reference,** and 40 C.F.R. 93.127, **revised as of March 10, 2006 and** adopted by reference [IN 18 AAC 50.710], should be treated as nonexempt if potential regional emissions impacts or other adverse emissions impacts might exist for any reason;

…

18 AAC 50.715(c)(4) is amended to read:

(4) determine, as required by 40 C.F.R. 93.113(c)(1), **revised as of August 15 1997 and** adopted by reference [IN 18 AAC 50.710], whether past obstacles to implementation of a transportation control measure [(TCM) DEFINED IN 40 C.F.R. 93.101, ADOPTED BY REFERENCE IN 18 AAC 50.710,] that is behind the schedule established in the state implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for **transportation control measures** [TCMs] are giving maximum priority to approval or funding for **transportation control measures** [TCMs] **to be initiated by the sponsoring agency in accordance with 18 AAC 50.700 - 18 AAC 50.755 and Alaska's State Air Quality Control Plan, Volume II, Section III.I.3**; the interagency consultation process must also consider whether delays in **transportation control measure** [TCM] implementation necessitate a revision to the state implementation plan to remove or to substitute a **transportation control measure** [TCM] or other emission reduction measures;

…

18 AAC 50.715(c)(5) is amended to read:

(5) determine, as required by 40 C.F.R. 93.121, **revised as of March 14, 2012 and** adopted by reference [IN 18 AAC 50.710],

...

18 AAC 50.715(c)(5)(B) is amended to read:

(B) that, based on the requirements for a project that is not from a conforming transportation plan and **transportation improvement program** [TIP], as specified in 40 C.F.R. 93.118 and 40 C.F.R. 93.119, **both revised as of March 14, 2012 and** adopted by reference [IN 18 AAC 50.710],

...

18 AAC 50.715(c)(6) is amended to read:

(6) identify, as required by 40 C.F.R. 93.123(b), **revised as of January 24, 2008 and** adopted by reference [IN 18 AAC 50.710], projects located at sites

...

18 AAC 50.715(c)(6)(A) is amended to read:

(A) within a PM-10 **or PM-2.5** nonattainment **or maintenance** area identified in 18 AAC 50.015(b)(2)[,] or **18 AAC 50.015(b)(3)** [WITHIN A PM-2.5 NONATTAINMENT AREA, IF ANY, IDENTIFIED IN 18 AAC 50.015(b)(2)]; and

...

18 AAC 50.715(c)(7) is amended to read:

(7) notify staff of participating agencies of any revision or amendment to a transportation plan or **transportation improvement program** [TIP] that merely adds or deletes

an exempt project listed in 40 C.F.R. 93.126, **revised as of January 24, 2008 and** adopted by reference [IN 18 AAC 50.710].

…

18 AAC 50.715(c) is amended by a adding a new paragraph to read:

(8) develop a list of transportation control measures for inclusion in the state implementation plan and distribute this list to those agencies described in 18 AAC 50.715(a)(2).

…

18 AAC 50.715(d) is amended to read:

(d) In addition to the consultation described in (c) of this section, a staff member of the **sponsoring** [RESPONSIBLE] agency shall consult with staff of the state and local agencies listed in (a)(2) of this section to

(1) evaluate events that will trigger new conformity determinations in addition to those triggering events established in 40 C.F.R. 93.104, **revised as of January 24, 2008 and** adopted by reference [IN 18 AAC 50.710];

(2) consider an emissions analysis for transportation activities that extend beyond the boundaries of a local governing body, nonattainment area, **maintenance area** or air basin; [AND]

(3) determine the design, schedule, and funding of research and data collection efforts and regional transportation model development by the local governing body, such as household or travel transportation surveys**;** [.]

(4) assure that plans for construction of regionally significant projects that are not U.S. Department of Transportation's Federal Highway Administration or Federal Transit Administration projects, including projects for which alternative locations, design

concept and scope, or the no-build option are still being considered and including all those by recipients of funds designated under Title 23 U.S.C, are disclosed to the metropolitan planning organization on a regular basis and to assure that any changes to those plans are disclosed within ten business days;

(5) request that participants in the interagency consultation process identify all non- Federal Highway Administration and all non-Federal Transit Administration transportation projects and their design concept and scope, including those where detailed design features have not yet been decided, to determine which ones meet the definition of regionally significant for regional emissions modeling. Any recipient of federal funding as defined in 40 C.F.R. 93.101, revised as of March 14, 2012 and adopted by reference, is required to disclose to the metropolitan planning organization information regarding all non- Federal Highway Administration and non-Federal Transit Administration regionally significant projects; any changes to these plans shall be disclosed within ten business days; and

(6) choose conformity tests and methodologies for isolated rural nonattainment and maintenance areas.

…

The lead-in language of 18 AAC 50.715(f) is amended to read:

(f) After completing the interagency consultation process, the **sponsoring** [RESPONSIBLE] agency shall prepare the public review draft of the conformity determination, based on changes made to the preliminary draft during the consultation process, and shall make the public review draft available for public review and comment as required in 18 AAC 50.720.

…

The lead-in language of 18 AAC 50.715(g) is amended to read:

(g) After opportunity for public review and comment on the public review draft of the conformity determination, the **sponsoring** [RESPONSIBLE] agency shall

...

18 AAC 50.715(h) is repealed:

(h) Repealed ___/___/_____.

(Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am 4/1/2010, Register 193; am__/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

The lead-in language of 18 AAC 50.720 is amended to read:

18 AAC 50.720. Public involvement [TRANSPORTATION CONFORMITY: PUBLIC INVOLVEMENT]**.**

...

The lead-in language of 18 AAC 50.720(a) is amended to read:

(a) The **sponsoring** [RESPONSIBLE] agency referred to in **18 AAC 50.705(b)(1)** [18 AAC 50.705(c)] shall establish a public involvement process to provide opportunity for public review and comment on the public review draft of the conformity determination **or transportation related state implementation plan revision** before the agency issues a final conformity determination **or transportation related state implementation plan revision**. As required under 40 C.F.R. 93.112, **revised as of August 15, 1997 and** adopted by reference [IN 18 AAC 50.710], the public involvement process must be consistent with the requirements of **40 C.F.R. 93.105(e), revised as of March 14, 2012 and adopted by reference; and** 23 C.F.R.

450.316(a), **revised as of February 14, 2007 and adopted by reference** [23 C.F.R. 450.322(i), AND 23 C.F.R. 450.324(b), AS REVISED AS OF APRIL 1, 2009].

…

The lead-in language of 18 AAC 50.720(b) is amended to read:

(b) The **sponsoring** [RESPONSIBLE] agency shall

…

18 AAC 50.720(b)(1) is amended to read:

(1) subject to (d) of this section,

(A) receive written comments on the public review draft of the conformity determination **or transportation related state implementation plan revision**; and

(B) hold a public hearing or meeting

(i) for a transportation plan**,** [OR] transportation improvement program **or transportation related state implementation plan revision**;

(ii) for a project that is not included in a transportation plan**,** [OR] transportation improvement program **or transportation related state implementation plan revision**, but that is within a designated nonattainment area listed under 18 AAC 50.015(b) or designated maintenance area listed under 18 AAC 50.015(d); or

…

The lead-in language of 18 AAC 50.720(c) is amended to read:

(c) Opportunity for public involvement under this section must include access to information, emissions data, analyses, models, and modeling assumptions used to perform a conformity determination **or transportation related state implementation plan revision**.

…

18 AAC 50.720 is amended by adding a new subsection to read:

(e) Charges imposed for inspection and copying of information, emissions data, analyses, models, and modeling assumptions used to perform a conformity determination or transportation related state implementation plan revision must be consistent with AS 40.25.110 and AS 40.25.115.

(Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am 4/1/2010, Register 193; am__/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

18 AAC 50.725 is repealed:

18 AAC 50.725. General conformity: incorporation by reference of federal regulations. Repealed. (Eff. 1/4/95, Register 133; repealed__/__/____, Register ___)

18 AAC 50.730 is repealed:

18 AAC 50.730. General conformity: mitigation of air quality impacts. Repealed. (Eff. 1/4/95, Register 133; repealed__/__/____, Register ___)

18 AAC 50.735 is repealed and readopted to read:

18 AAC 50.735. Frequency of transportation conformity determinations. (a) The conformity status of a federal action lapses five years after the date that a final conformity determination is reported to the department unless

(1) the federal action is completed before five years has elapsed; or

(2) the federal agency has commenced a continuous program to implement the action within a reasonable time.

(b) Conformity determinations and conformity redeterminations for transportation plans, transportation improvement programs and other Federal Highway Administration or Federal Transit Administration projects must be made in accordance with the requirements of 40 C.F.R. 93.104, revised as of January 24, 2008 and adopted by reference.

(Eff. 1/4/95, Register 133; am__/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

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

18 AAC 50.740. Written commitments. (a) In accordance with 40 C.F.R. 93.122(a)(4)(ii), revised as of July 1, 2004 and adopted by reference, prior to making a conformity determination on the transportation plan or transportation improvement program, a metropolitan planning organization or the Alaska Department of Transportation and Public Facilities may not include emissions reduction credits from any control measures that are not included in the transportation plan or transportation improvement program and that do not require a regulatory action in the regional emissions analysis unless the metropolitan planning organization, the Alaska Department of Transportation and Public Facilities, the Federal

Highway Administration or the Federal Transit Administration obtains written commitments as defined in 40 C.F.R. 93.101, revised as of March 14, 2012 and adopted by reference, from the appropriate entities to implement those control measures. The written commitments to implement those control measures must be fulfilled by the appropriate entities.

(b) In accordance with 40 C.F.R. 93.125(c), revised as of March 10, 2006 and adopted by reference, prior to making a project-level conformity determination for a transportation project, the Federal Highway Administration or the Federal Transit Administration must obtain from the project sponsor or operator written commitments as defined in 40 C.F.R. 93.101, revised as of March 14, 2012 and adopted by reference, to implement any project-level mitigation or control measures in the construction or operation of the project identified as conditions for National Environmental Policy Act process completion. The written commitments to implement those project-level mitigation or control measures must be fulfilled by the appropriate entities. Prior to making a conformity determination on the transportation plan or transportation improvement program a metropolitan planning organization or the Alaska Department of Transportation and Public Facilities must ensure any project-level mitigation or control measures are included in the project design concept and scope and are appropriately identified in the regional emissions analysis. Prior to making a project-level conformity determination, written commitments must be obtained before such mitigation or control measures are used in a project-level hot-spot analysis.

(Eff. __/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

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

18 AAC 50.745 Resolving conflicts. (a) The department will refer to the governor for the resolution of any conflict between state agencies or between state and local agencies that cannot be resolved by the heads of the involved agencies. A conformity determination that is the subject of a conflict resolution under this subsection must have the governor's concurrence to be considered final.

(b) The department will make the referral to the governor within 14 calendar days after notification or a determination that the conflict cannot be resolved. Such 14-day period shall commence when the metropolitan planning organization or the Alaska Department of Transportation and Public Facilities has confirmed receipt of the comments of the department. The department will provide the participating agencies with a copy of its referral to the governor.

(c) The governor may delegate the role of resolving a conflict under this subsection and deciding whether to concur in the conformity determination to a state official or agency other than the department, Alaska Department of Transportation and Public Facilities or a state transportation board or commission.

(d) If the department does not appeal to the governor within 14 calendar days, the sponsoring agency, metropolitan planning organization or the Alaska Department of Transportation and Public Facilities may proceed with the final conformity determination.

(e) In the case of any comments with regard to any proposed determination of conformity, Alaska Department of Transportation and Public Facilities has 14 calendar days to appeal a proposed determination of conformity, or other policy decision under this rule, to the governor after the metropolitan planning organization has notified the department of the resolution of all comments on such proposed determination of conformity or policy decision.

Such 14-day period shall commence when the metropolitan planning organization has confirmed receipt by the department of the resolution of the comments of the Alaska Department of Transportation and Public Facilities.

(f) If the Alaska Department of Transportation and Public Facilities appeals to the governor, the final conformity determination must have the concurrence of the governor.

(g) The Alaska Department of Transportation and Public Facilities must provide notice of any appeal under this subsection to the metropolitan planning organization and the department; if the Alaska Department of Transportation and Public Facilities does not appeal to the governor within 14 calendar days, the metropolitan planning organization may proceed with the final conformity determination.

(Eff. __/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

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

18 AAC 50.750 Exempt projects. Notwithstanding the other requirements of 18 AAC 50.700 - 18 AAC 50.755, highway and transit projects of the types listed in table 2 of 40 C.F.R. 93.126, revised as of January 24, 2008 and adopted by reference, are exempt from the requirement to determine conformity. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and transportation improvement program. A particular action of the type listed in table 2 of 40 C.F.R. 93.126, revised as of January 24, 2008 and adopted by reference, is not exempt if the metropolitan planning organization in consultation with other agencies, the EPA, and the Federal Highway Administration, (in the case of a highway project) or the Federal Transit Administration, (in the case of a transit project) concur

that it has potentially adverse emissions impacts for any reason. Metropolitan planning organizations must ensure that exempt projects do not interfere with transportation control measure implementation.

(Eff. __/__/____, Register ___)

Authority: AS 46.03.020 AS 46.14.030

18 AAC 50.990(32) is amended to read:

(32) "**emissions** [EMISSION] unit" has the meaning given in AS 46.14.990;

...

18 AAC 50.990(90) is amended to read:

(90) "regionally significant project" has the meaning given in 40 C.F.R. 93.101, **revised as of March 14, 2012, and** adopted by reference [IN 18 AAC 50.710];

...

18 AAC 50.990(92) is amended to read:

(92) "regulated NSR pollutant" **means**

(A) for the purposes of 18 AAC 50.311, the meaning given in 40 C.F.R. 51.165(a)(1)(xxxvii), adopted by reference in 18 AAC 50.040(i);

(B) for all other purposes, [HAS] the meaning given in 40 C.F.R. 52.21(b)(50), adopted by reference in 18 AAC 50.040(h);

...

18 AAC 50.990(121) is amended to read:

(121) "volatile organic compound" or "VOC" has the meaning given in 40 C.F.R. 51.100(s), as revised as of **November 21, 2013** [APRIL 18, 2013], and adopted by reference;

…

18 AAC 50.990(130) is amended to read:

(130) "transportation improvement program" or "TIP" has the meaning given in 40 C.F.R. 93.101**, revised as of March 14, 2012, and** adopted by reference [IN 18 AAC 50.710].

…

18 AAC 50.990 is amended by adding new paragraphs to read:

(133) "metropolitan planning organization" has the meaning given in 40 C.F.R. 93.101, revised as of March 14, 2012, and adopted by reference;

(134) "transportation control measure" has the meaning given in 40 C.F.R. 93.101, revised as of March 14, 2012, and adopted by reference;

(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 12/30/2007, Register 184; am 7/25/2008, Register 187; am 4/1/2010, Register 193; am 12/9/2010, Register 196; am 9/17/2011, Register 199; am 9/14/2012, Register 203; am 10/6/2013, Register 208; 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
	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