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OFFICE OF THE LIEUTENANT GOVERNOR
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MEMORANDUM

TO: Gary Mendivil, AAC Contact
Department of Environmental Conservation

FROM: Scott Clark
Special Assistant
907.465.4081

A handwritten signature in black ink, appearing to read "Scott Clark".

DATE: August 27, 2012

RE: Filed Permanent Regulations: Department of Environmental Conservation

Regulations re: air quality, material adopted by reference, and "Title V" permits: 18 AAC 50.035(a); 18 AAC 50.040); 18 AAC 50.215; 18 AAC 50.220(c)(3)); 18 AAC 50.225(i)); 18 AAC 50.302(b); 18 AAC 50.326(c); 18 AAC 50.345(m); 18 AAC 50.400(a),(i),(j); 18 AAC 50.540(k)(3)(C); 18 AAC 50.990(91), (92)

Attorney General File:	JU2010201992
Regulation Filed:	8/15/2012
Effective Date:	9/14/2012
Print:	203, October 2012

cc with enclosures: Linda Miller, Department of Law
Kristen Peterson, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached 30 pages of regulations, dealing with air quality regulations are hereby adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 46.03 and AS 46.14 and after compliance with the Administrative Procedures 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 Environmental Conservation paid special consideration to the cost to private persons of the regulatory action being taken. The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action, as required by AS 46.03.024.

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: August 10, 2018
Anchorage, Alaska



Larry Hartig, Commissioner
Department of Environmental Conservation

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on _____, 2018, at _____ .m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

Byron Mallott, Lieutenant Governor

Effective: _____.

Register: _____.

18 AAC 50.035(a) is amended to read:

(a) The following documents are adopted by reference:

(1) the department's *In Situ Burning Guidelines for Alaska, Revision 1*, revised August 2008;

(2) Workbook for *Plume Visual Impact Screening and Analysis (revised)*, EPA 454/R-92-023, October 1992;

(3) the United States Environmental Protection Agency's (EPA) publication AP-42, *Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources*, Fifth Edition with Supplements A - F and annual updates, as updated through December 2007;

(4) *Meteorological Monitoring Guidance for Regulatory Modeling Applications*, EPA 454/R-99-005, February 2000;

(5) *Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD)*, EPA 450/4-87-007, May 1987;

(6) the department's Title V Standard Application and Forms, revised as of March 2012 [REPEALED 4/8/2012];

(7) AERSCREEN User's Guide, EPA-454/B-11-011, dated March 2011
[SCREEN3 MODEL USER'S GUIDE, EPA 454/B-95-004, DATED SEPTEMBER 1995; AND

(8) SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY IMPACT OF STATIONARY SOURCES, REVISED, EPA-454/R-92-019, DATED OCTOBER 1992].

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

(b) The following procedures and methods set out in 40 C.F.R., as revised as of July 1, 2011 [JULY 1, 2010], are adopted by reference:

...

(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)

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 July 1, 2011 [OCTOBER 8, 2009], are adopted by reference as they apply to a Title V source, except that the provisions adopted by reference in (2)(JJ) and (LL) of this subsection are adopted by reference as of October 8, 2009 as they apply to a Title V source:

...

18 AAC 50.040(a)(2) is amended by adding new subparagraphs to read:

(RR) Subpart LLLL (Standards of Performance for New Sewage Sludge Incineration Units);

(SS) Subpart MMMM (Emissions Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units);

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, 2011 [JULY 1, 2009], 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 for Source Categories), as revised as of February 17, 2011 [JULY 30, 2010], are adopted by reference as they apply to a Title V source:

...

18 AAC 50.040(c) is amended by adding a new paragraph to read:

(36) Subpart EEEEEEE (National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category).

18 AAC 50.040(d) is amended to read:

(d) The provisions of 40 C.F.R. Part 82, as revised as of July 1, 2011 [JULY 1, 2009], are adopted by reference to the extent that they apply to a Title V source.

18 AAC 50.040(e) is amended to read:

(e) The requirements of 40 C.F.R. 52.70 - 52.97 [40 C.F.R. 52.70 - 40 C.F.R. 52.96], as revised as of July 1, 2011 [JULY 1, 2009], as they apply to a Title V source and for purposes of a Title V permit, are adopted by reference.

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 [(REVISED)]), as revised as of July 1, 2011 [JULY 1, 2009], 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 July 1, 2011 [JULY 1, 2009], are adopted by reference:

...

The lead-in language of 18 AAC 50.040(h)(4)(A) is amended to read:

(A) the following provisions are not adopted, and the terms defined [DERIVED] in those provisions [PROVISION] have the meanings given in AS 46.14.990 and 18 AAC 50.990:

...

18 AAC 50.040(h)(4)(C) is amended to read:

(C) 40 C.F.R. 52.21(b)(51) ("reviewing authority") is [THE FOLLOWING PROVISIONS ARE] not adopted, and the term [TERMS] defined in that provision has the meaning [THOSE PROVISIONS HAVE THE MEANINGS] given in 18 AAC 50.990 [:

(i) 40 C.F.R. 52.21(b)(50) ("REGULATED NSR POLLUTANT");

(ii) 40 C.F.R. 52.21(b)(51) ("REVIEWING AUTHORITY");

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, 2011 [JULY 1, 2009], text setting out provisions that a state implementation plan shall or may contain is adopted by reference as follows:

...

The lead-in language of 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 [AS 50.990]:

...

18 AAC 50.040 is amended by adding a new subsection to read:

(k) The provisions of 40 C.F.R. Part 64, as revised as of July 1, 2011, are adopted by

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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.)

Authority: AS 46.03.020 AS 46.14.020 AS 46.14.030
AS 46.14.010

Editor's note: The federal standards adopted by reference in 18 AAC 50.040 may be reviewed at the department's Anchorage, Fairbanks, or Juneau office.

The owner or operator of an affected facility subject to a federal emission standard that is not at a stationary source subject to a Title V permit should contact the United States Environmental Protection Agency.

As of Register 199 (October 2011), the regulations attorney made a technical revision under AS 44.62.125(b)(6), to 18 AAC 50.040(a).

The July 1, 2011 publication of 40 C.F.R. Part 60, Subparts LLLL and MMMM contains printing errors: Annotations that follow those provisions incorrectly describe the United States Environmental Protection Agency as having indefinitely delayed their effective dates.

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

(b) Except as provided in (c) [AND (e)] of this section,

...

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

(c) A [EXCEPT AS PROVIDED IN (e) OF THIS SECTION, A] person may substitute or modify **a refined** [AN] air quality model referenced in (b)(1) of this section only after

...

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 stationary source or modification are less than the concentrations in Table 5, the emissions are not considered to cause or contribute to a violation of an 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:**

(1) for the PM-2.5 significant impact level, or for the one-hour sulfur dioxide significant impact level, the person shall compare

(A) the highest modeled concentration when using either one year of meteorological data or screening meteorological data; or

(B) the highest multi-year average concentration when using a multi-year meteorological data set; and

(2) for all other pollutants and averaging periods, the person shall use the highest modeled concentration.

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18 AAC 50.215(e) is amended to read:

(e) A person may use the AERSCREEN [SCREEN3] dispersion model as an allowed screening technique under Section 4.2.1 of 40 C.F.R. Part 51, Appendix W (Guideline on Air Quality Models), adopted by reference in 18 AAC 50.040(f), for estimating the ambient impacts from onshore sources [, WITHOUT MEETING THE REQUIREMENTS OF (c) OF THIS SECTION], if the analysis conducted with AERSCREEN [SCREEN3] is consistent with EPA's AERSCREEN User's Guide [*SCREEN3 MODEL USER'S GUIDE AND SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY IMPACT OF STATIONARY SOURCES, REVISED*], adopted by reference in 18 AAC 50.035(a). (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)

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)(3) is amended to read:

(3) standard exhaust gas volumes must include only the volume of gases formed from the theoretical combustion of the fuel, plus the excess air volume normal for the specific emission unit [SOURCE] type, corrected to standard conditions.

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

Authority: AS 46.03.020 AS 46.14.020 AS 46.14.140

18 AAC 50.225 is amended by adding a new subsection to read:

(i) If an owner or operator requests a limit under this section for a stationary source that already has one or more limits approved under this section, the owner or operator shall provide a copy of all existing limits with the information provided under (b) of this section. This copy is required regardless of whether the new limit will apply to emission units regulated under any existing limits. If the department makes a preliminary decision to approve the new limit, the department will combine the new limit and all existing limits into a single decisional document and process it in accordance with (d) - (g) of this section. All existing limits remain in effect until the effective date of the new decision, unless revoked earlier in accordance with (h) of this section. (Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am 1/29/2005, Register 173; am 7/25/2008, Register 187; am 12/9/2010, Register 196; am 9/14/2012, Register 203)

Authority: AS 46.03.020 AS 46.14.030 AS 46.14.140
AS 46.14.020 AS 46.14.120

18 AAC 50.302(b) is amended to read:

(b) If a stationary source or modification **requires** [MAY REQUIRE] permits under more than one section in this chapter, the owner or operator may file a single permit application, and the department will issue a single permit incorporating all applicable construction permit requirements.

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(Eff. 10/1/2004, Register 171; am 12/9/2010, Register 196; am 9/14/2012, Register 203)

Authority: AS 46.03.020 AS 46.14.030 AS 46.14.140
AS 46.14.010 AS 46.14.120 Sec. 30, ch. 74, SLA 1993
AS 46.14.020

The lead-in language of 18 AAC 50.326(c) is amended to read:

(c) **Applications.** To be timely, an application must satisfy [FOR THE PURPOSES OF 40 C.F.R. 71.5(a)(1)(i) AND (ii), A TIMELY APPLICATION IS ONE THAT SATISFIES] AS 46.14.150, and 40 C.F.R. 71.5(a)(1)(i) - (ii) do not apply. To be timely, an application for renewal must also satisfy 40 C.F.R. 71.5(a)(1)(iii). Application fees must be paid in accordance with 18 AAC 50.400 - 18 AAC 50.430. To establish confidentiality for information submitted to the department, the owner and operator must satisfy the requirements of AS 46.14.520, and 40 C.F.R. 71.5(a)(3) does not apply. The requirements of 18 AAC 50.205 apply to a permit application, report, or compliance certification under this section, and 40 C.F.R. 71.5(d) does not apply. After ^{March 13, 2013} {the date that is 180 days after the effective date of the regulations}, an applicant for an operating permit, modification or revision to an operating permit, or renewal of an existing operating permit must use the department's Title V Standard Application and Forms, adopted by reference in 18 AAC 50.035(a). The owner or operator of an existing Title V source who is planning a modification that requires a Title I permit as well as an operating permit modification may request either

...

The subsection heading for 18 AAC 50.326(i) is changed to read:

(i) **Applications - insignificant emission units: administratively insignificant emission units [SOURCES].**

...

(Eff. 10/1/2004, Register 171; am 12/1/2004, Register 172; am 9/17/2011, Register 199; am 9/14/2012, Register 203.)

Authority:	AS 46.03.020	AS 46.14.140	AS 46.14.190
	AS 46.14.010	AS 46.14.150	AS 46.14.220
	AS 46.14.020	AS 46.14.170	AS 46.14.230
	AS 46.14.120	AS 46.14.180	AS 46.14.515
	AS 46.14.130		

18 AAC 50.345(m) is amended to read:

(m) Before conducting any source tests, the permittee shall submit a plan to the department. The plan must include the methods and procedures to be used for sampling, testing, and quality assurance and must specify how the emission unit [SOURCE] will operate during the test and how the permittee will document that operation. The permittee shall submit a complete plan within 60 days after receiving a request under (k) of this section and at least 30 days before the scheduled date of any test unless the department agrees in writing to some other time period. Retesting may be done without resubmitting the plan.

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 5/3/2002, Register 162; am 10/1/2004, Register 171; am 11/9/2008, Register 188; am 9/14/2012, Register 203.)

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Authority: AS 46.03.020 AS 46.14.120 AS 46.14.140
AS 46.14.010 AS 46.14.130 AS 46.14.180
AS 46.14.020

The lead-in language of 18 AAC 50.400(a) is amended to read:

(a) The permittee, owner, or operator of a Title V source described under 18 AAC 50.326 shall pay to the department the annual permit administration fees listed in this subsection. Permittees will be invoiced in July for each period from July 1 through the following June 30. Each annual permit fee is one-fifth of the total cost of permit renewal. **For an initial Title V permit, the annual permit fee is collected starting the first July after the permit is issued.**

[AN ANNUAL PERMIT FEE LISTED IN THIS SUBSECTION FOR RENEWAL OF A PERMIT IS COLLECTED IN SUBSEQUENT YEARS AFTER THE FEE FOR AN ORIGINAL PERMIT UNDER 18 AAC 50.410(j) IS PAID IN FULL OR AFTER A RENEWAL PERMIT IS ISSUED. IF A TITLE V SOURCE HAS BEEN ISSUED A TITLE V PERMIT BEFORE JANUARY 29, 2005, THE PERMITTEE, OWNER, OR OPERATOR SHALL PAY THE APPLICABLE ANNUAL FEE FOR PERMIT RENEWAL.] The following permit administration fees apply to Title V sources:

• • •

18 AAC 50.400(i) is amended to read:

(i) Except as provided in (j)(20) of this section, the fee for department **review of a request for** [APPROVAL OF] open burning under 18 AAC 50.065 is \$200.

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18 AAC 50.400(j)(19) is amended to read:

(19) department review [APPROVAL] of a modeling protocol;

18 AAC 50.400(j)(20) is amended to read:

(20) department review of a request for [APPROVAL OF] open burning under 18 AAC 50.065, if the department determines that smoke incursion into a public place, into an airport, into a Class I area, into a nonattainment area for carbon monoxide or PM-10, or into a maintenance area for carbon monoxide or PM-10 is likely;

(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 12/30/2007, Register 184; am 7/25/2008, Register 187; am 7/1/2010, Register 194; am 9/14/2012, Register 203)

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

18 AAC 50.540(k)(3)(C) is amended to read:

(C) the underlying ambient demonstration, if any [REQUIRED UNDER (c)(2) OF THIS SECTION]; and

(Eff. 10/1/2004, Register 171; am 12/1/2004, Register 172; am 12/3/2005, Register 176; am 7/25/2008, Register 187; am 12/9/2010, Register 196; am 9/14/2012, Register 203)

Authority: AS 46.03.020 AS 46.14.120 AS 46.14.170
AS 46.14.010 AS 46.14.130 AS 46.14.180

AS 46.14.020 AS 46.14.140

18 AAC 50.990(91) is amended to read:

(91) "regulated air **pollutant** [POLLUTION]" has the meaning given in AS 46.14.990;

18 AAC 50.990(92) is amended to read:

(92) "regulated NSR pollutant" has the meaning given in **40 C.F.R. 52.21(b)(50), adopted by reference in 18 AAC 50.040(h)** [40 C.F.R. 51.166(b)(49)];

(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)

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

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AS 46.14.130

AS 46.14.240

Sec. 30, ch. 74, SLA 1993

[EDITOR'S NOTE: THE JULY 1, 2009 VERSION OF 40 C.F.R. 51.166(b)(49)
CONTAINS A PRINTING ERROR. THE CORRECT DEFINITION FOR "REGULATED
NSR POLLUTANT" MAY BE FOUND IN 73 FED. REG. 28347 (MAY 16, 2008).]