

**Response to Public Comments
Regulation Changes to Title 18, Chapter 50 of the Alaska Administrative Code
Regulation Hygiene Rulemaking
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The Department proposed regulation hygiene to the Air Quality Control regulations in 18 AAC 50 to address the following goals:

1. Update documents and federal citations adopted by reference;
2. Adopt clarifications to existing regulations which fix typos, incorrect references, and internal regulation conflicts; and
3. Make changes to regulations to clarify areas where there has been confusion or concerns.

The changes are considered to be non-controversial

Public Comment Process: The proposed regulations were public noticed on November 26, 2007, and the Department accepted public comments from November 26, 2007, through January 7, 2008. The Department held a public hearing on January 3, 2008; however, no comments were received at the public hearing.

This document responds to comments received during the comment period.

The Department received written comments from the following:

- A) Chevron, by Janet Bounds, dated December 21, 2007 (received December 26, 2007); e-mail with comment letter attached; letter under separate cover; and AOGA, by Marilyn Crockett, January 7, 2008; e-mailed and faxed letter.
- B) Sally Ryan, ADEC, January 4, 2008; e-mail.
- C) Alan Schuler, ADEC, January 7, 2008; e-mail with suggested language document attached.

Structure of Response to Comments

The public comments were received as written comments sent via e-mail and fax by the close of the comment period. Two comments were similar in nature in regards to AERMOD. The responses were combined to address the comments. The other two comments were regulation language clarification provided by Department staff.

The department considered the proposed changes to the regulations presented. The Response to Comments addresses all comments below.

Comment A: Chevron and AOGA's Comments about Adoption of AERMOD as Regulatory Dispersion Model

“The proposed changes to 18 AAC 50 air quality regulations potentially have a large impact to our onshore permitting. ADEC has proposed changing the air quality modeling protocol for onshore facilities to use AERMOD. We currently do not have the data collected to support the data input requirements of the protocol. We are in the process of setting up meteorological stations at Swanson River Field and Trading Bay Production Facility to collect the required data to support AERMOD. One years worth of data is required. Final approval of the data set by ADEC will likely not happen until late 2009.

Therefore, we are requesting a ADEC retain the current protocol (ISC) for minor NSR permits so that air quality permitting can continue without uncertainty and likely delays. This will allow ADEC to efficiently process and approve minor air quality permits that require dispersion modeling. ...

...Union Oil Company of California (UOCC), a wholly-owned indirect subsidiary of Chevron Corporation, is submitting the following comments regarding the proposed change to 18 AAC 50.040(f). Through this proposed change, the ADEC will adopt AERMOD as the regulatory dispersion model to be used for preparing ambient air quality analyses for many minor air permit applications. ISC, the dispersion model currently used for these same analyses, will become a non-guideline model. As a result, future use of ISC will require specific case-by-case authorization from both the Alaska Department of Environmental Conservation (ADEC) and the U.S. Environmental Protection Agency (EPA) Region 10.

UOCC supports the adoption of AERMOD as a regulatory model. However, UOCC requests that ISC be retained as a regulatory model for the minor air permit program until at least December 31, 2009, while the collection, review, and approval of meteorological data sets to support AERMOD is completed. As ADEC knows, AERMOD and ISC require different sets of meteorological data as an element of the model input. Because at least one complete year of valid meteorological data is needed, collecting the required data is a lengthy and expensive process.

UOCC is currently installing meteorological monitoring stations at the Swanson River Unit and the Trading Bay Production Facility to collect the appropriate meteorological data sets for AERMOD. However, these data sets will not be ready for submission to ADEC for review and approval until the first quarter of 2009. While ADEC has improved the meteorological data review and approval process, final approval of the meteorological data sets might not be obtained until late in 2009. To avoid air permitting delays and inefficiencies during this interim, UOCC is requesting that ADEC retain ISC as a regulatory model for the minor air permit program. This approach will provide a reasonable alternative for the continued processing of minor air permit applications until the end of 2009 without the uncertainty and possible delays associated with ADEC and EPA Region 10 case-by-case decisions regarding the use of the already proven ISC

model. ADEC will be able to continue to efficiently process and approve minor air permit applications that include dispersion modeling as a required element....”

AOGA’s Comments on AERMOD

AOGA provided comments that were substantively the same as the comments submitted by Chevron regarding retaining ISC as an alternative to AERMOD as the regulatory dispersion model.

“...AOGA supports the adoption of AERMOD as a regulatory model. However, AOGA requests that ADEC recognize the need for a transition period as some of our members have already made significant investments in the process to meet the requirements of the ISC model. AOGA therefore recommends that ISC be retained as a regulatory model for the minor air permit program until at least December 31, 2009. This date will allow our members to collect at least one complete year of valid meteorological data and prepare it for submission to ADEC for review and approval by early 2009....”

Response A: Chevron and AOGA’s Comments about the adoption of AERMOD as Regulatory Dispersion Model

The department does not concur with the suggestion to retain ISC as a regulatory model. There has been sufficient time and discussion on the promulgation of AERMOD as the regulatory model. The pending switch from ISC to AERMOD has been publicly anticipated for several years. EPA formally proposed the switch in April 2000. When EPA promulgated AERMOD in November 2005, they included a one-year transition period from ISC to AERMOD (i.e., continued use of ISC was allowed under federal rules through November 9, 2006). The department sent a letter to all permittees in December 2006 saying ADEC was planning to adopt AERMOD and that permittees should evaluate their meteorological data needs. Industry has had a 12-month notice of the State’s regulatory proposal timeframe, in addition to the one-year notification time provided under the federal rules. The department considers this two-year notification adequate and is, therefore, denying this request.

The department further notes that the adoption of AERMOD as a regulatory model does not preclude applicants from using other models, including ISC. As correctly noted by Chevron, non-regulatory models may still be used on a case-by-case basis under the provisions contained in 18 AAC 50.215(c). While this provision requires the department to obtain EPA approval for each case (per federal requirement), the flexibility exists when there is a substantive reason. Chevron’s request to include ISC as an allowed model in State regulation essentially by-passes the EPA approval process, which is inconsistent with requirements in EPA’s *Guideline on Air Quality Models*.

Response A: Revised Regulations— Chevron’s Comments about the adoption of AERMOD as Regulatory Dispersion Model

The department does not propose to revise the regulations to continue to allow the use of ISC as a regulatory model. The regulations in 18 AAC 215(c) allow for the substitution of an air quality model in accordance with EPA’s *Guideline of Air Quality Models (Revised)* if necessary.

Comment B: Construction Permit Group Recommended Regulation Language Changes

The Air Permits Program Construction Permit Group submitted the following comments and suggested language changes:

“The Construction Permits Group respectfully submits the following comments on the proposed Regulation Hygiene Project,

1. 18 AAC 50.030(10) Revision: The current language should be left as is. The Minor Permit Application Forms referenced in this section regard the forms posted on the Department’s web-site at <http://www.dec.state.ak.us/air/ap/rewrite.htm>. These “forms” list the *type* of information that will be required of minor permit applications. They are *not* the *actual* application forms used by applicants and provided on the Department’s web-site at <http://www.dec.state.ak.us/air/ap/applic.htm>. The Department adopted the forms currently listed in 18 AAC 50.030(10), rather than the actual application forms, so that it could make editorial changes as needed without going through a regulatory process for each revision.
2. 18 AAC 50.225(b)(6): The term “requirement” be written as “requirement(s)” (emphasis added) in case there are multiple classifications that the owner/operator is avoiding (e.g., minor permitting, Title V permitting and PSD permitting).
3. 18 AAC 50.225(b)(7): Change “new classification” to “remaining classifications” – emphasis added (i.e., change “new” to “remaining” and make “classification” plural).
4. 18 AAC 50.225(b)(9): Add the missing end-quotation mark.
5. 18 AAC 50.544(h)(3): The terms “classification,” “standard,” and “increase” should each be plural rather than singular (in case the ORL has multiple purposes).
6. 18 AAC 50.020: Table 2 spells Nitrogen dioxide and Table 3 has a different spelling of Nitrogen Dioxide where Dioxide is capitalized. To be consistent with the CFR’s Table 3 should have the spelling updated to Nitrogen dioxide.
7. 18 AAC 50.502(c)(1): Remove “. . .or addition or modification to an existing stationary source where the resulting PTE would be greater than” and replace with “. . .with a potential to emit greater than”. This is the “original” language. The

proposed change is probably substantive, as it could require a permit under 18 AAC 50.502(c)(1) even with no emissions increase due to the project, which is not appropriate.”

Response B: Construction Permit Group Recommended Regulation Language Changes

Response B1: The department agrees, in part, with the proposed revisions. However, EPA commented during the SIP approval process in 2007 that the forms available on the website were revised as of dates subsequent to August 30, 2004. It was not obvious to EPA that the Minor Permit Application Forms document adopted by reference as of August 30, 2004, is the guideline for what is required and that any other forms developed subsequently are examples of what is needed. The Minor Permit Application Forms document has now been posted with the other forms on the <http://www.dec.state.ak.us/air/ap/applic.htm> page so that it is clear what document is adopted by reference and that more recently dated forms have been developed to comply with the requirements of the August 30, 2004, document.

Response B1: Revised Regulations – The existing language in Section 030(10) will be retained in the regulations. The change in language in the proposed Regulation Hygiene rulemaking is rejected for the reasons cited above. There will be no change to the existing regulations.

Response B2: The department agrees with the proposed revision to Section 225(b)(6). The department will revise the language as recommended by APP staff to address additional regulations language concerns identified by the Construction Permit Group staff.

Response B2: Revised Regulation: Section 225(b)(6) is revised with the suggested regulation language.

Response B3: The department agrees with the proposed revision to Section 225(b)(7). The department will revise the language as recommended by APP staff to address additional regulations language concerns identified by the Construction Permit Group staff.

Response B3: Revised Regulation: Section 225(b)(7) is revised with the suggested regulation language.

Response B4: The department agrees with the proposed revision to Section 225(b)(9). The department will revise the language as recommended by APP staff to address additional regulations language concerns identified by the Construction Permit Group staff.

Response B4: Revised Regulation: Section 225(b) (9) is revised with the suggested regulation language.

Response B5: The department agrees with the proposed revision to Section 544(h)(3). The department will revise the language as recommended by APP staff to address additional regulations language concerns identified by the Construction Permit Group staff.

Response B5: Revised Regulation: Section 544(h)(3) is revised with the suggested regulation language.

Response B6: The department agrees with the proposed revision to Section 020(b), Table 3. The department will revise the language as recommended by APP staff to address additional regulations language concerns identified by the Construction Permit Group staff

Response B6: Revised Regulation: Section 020(b) Table 3 is revised with the suggested regulation language.

Response B7: The department agrees with the proposed revision to Section 502(c)(1). The department will revise the language as recommended by APP staff to address additional regulations language concerns identified by the Construction Permit Group staff.

Response B7: Revised Regulation: Section 502(c)(1) is revised with the suggested regulation language.

Comment C: Language change to address SCREEN3 Model

The Air Permits Program Construction Permit Group submitted the following comments and suggested language changes:

“The APP construction permit group is submitting the attached additional comments regarding the 18 AAC 50 regulation hygiene project. The additional comments are the result of a recent conversation with a consultant regarding the future status of the dispersion model, SCREEN3. Upon further research, we found that while EPA stated in the regulatory preamble to the *Guideline on Air Quality Models* (Guideline) that SCREEN3 may be used until AERSCREEN is released, there is nothing codified in the actual Guideline to that affect. Therefore, to clarify that SCREEN3 may still be used in Alaska; we recommend that the Department amend 18 AAC 50.215 to specifically say so. The attached comments provide our suggested wording.

Note: The Department will likely need to drop the SCREEN3 language once EPA supersedes SCREEN3 with AERSCREEN. However, we can deal with that situation when it happens. At the current rate of development, it may be several more years before EPA releases AERSCREEN. Therefore, incorporating SCREEN3 into our regulations would be a worthwhile endeavor.

Please revise the following sections as indicated by the **RED BOLD** text.

18 AAC 50.215(c) is amended to read:

(c) **Except as noted in (e) of this section**, a person may substitute or modify an air quality model reference in (b)(1) of this section only after

...

(e) A person may use the dispersion model, SCREEN3, without using the procedures described in (c) of this section. An analysis conducted with SCREEN3 must be consistent with EPA's SCREEN3 Model User's Guide, adopted by reference in 18 AAC 50.035(a)(7), and EPA's Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised, adopted by reference in 18 AAC 50.035(a)(8).

18 AAC 50.035(a) is amended as follows:

(3) {as proposed}

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

(7) SCREEN3 Model User's Guide, EPA-454/B-95-004, September 1995; and

(8) Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised, EPA-454/R-92-019, October 1992."

Response C: Language changes to address SCREEN3 Model

The department agrees with the proposed revisions to Subsection 215(c), Subsection 215(e) and Paragraphs 035(a)5, 035(a)(7) and 035(a)(8). The department will revise the language in 18 AAC 50.215 and 18 AAC 50.035 as recommended by APP staff to address additional regulations language concerns identified by the Construction Permit Group staff.

Response C: Revised Regulations—Language changes to address SCREEN3 Model

Subsection 215(c) is revised to reflect the recommended language change. Subsection 215(e) is added to include the recommended language. Paragraph 035(a)(5) is revised as recommended. Paragraphs 035(a)(7) and 035(a)(8) are added as recommended.