Craig E. Campbell
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520 465.5400 Fax
WWW.LTGOV.ALASKA.GOV

530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA

MEMORANDUM

TO: Gary Mendivil, AAC Contact
Department of Environmental Conservation

FROM: Scott Clark
Special Assistant
907.465.4081

DATE: March 2, 2010

RE: Filed Permanent Regulations: Department of Environmental Conservation

Air Quality, National Ambient Air Quality Standards, and Transportation: 18 AAC 50.010; 18 AAC 50.030; 18 AAC 50.035; 18 AAC 50.215(a)(2); 18 AAC 50.710; 18 AAC 50.715(a)(3), (c)(6); 18 AAC 50.720(a), (b); 18 AAC 50.990(35), (36), (128) - (130))

Attorney General File:	993-09-0067
Regulation Filed:	3/2/2010
Effective Date:	4/1/2010
Print:	193, April 2010

cc with enclosures: Linda Miller, Department of Law
Jim Pound, Administrative Regulation Review Committee
Judy Herndon, LexisNexis
Gary Mendivil, DEC,

ORDER ADOPTING CHANGES TO REGULATIONS OF
THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached ten pages of regulations, dealing with air quality control at 18 AAC 50 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 46.03.020, AS 46.14.020, 46.14.030, 46.14.140, and 46.14.510 and after compliance with the Administrative Procedure 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 attention 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: February 17, 2010
Anchorage, Alaska

Larry Hartig, Commissioner
Department of Environmental Conservation

Scott Clark for

FILING CERTIFICATION

I, Craig E. Campbell, Lieutenant Governor for the State of Alaska, certify that on March 2, 2010, at 11:40 am., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

Scott Clark for
Craig E. Campbell, Lieutenant Governor

Effective: April 1, 2010.

Register: 193, April 2010.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, CRAIG E. CAMPBELL, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

SCOTT CLARK, Special Assistant

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, at Juneau, on February 23, 2010.

CRAIG E. CAMPBELL
LIEUTENANT GOVERNOR

The lead-in language of 18 AAC 50.010 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:

. . .

18 AAC 50.010(1) is amended to read:

(1) for **particulate matter, as follows** [PM-10]:

(A) **for PM-10: a** [EXPECTED ANNUAL ARITHMETIC MEAN OF 50 MICROGRAMS PER CUBIC METER; AND (B)] 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 is less than or equal to one day;

(B) for PM-2.5:

(i) an annual arithmetic mean concentration of 15.0 micrograms per cubic meter, with this standard being attained when the three-year average of the annual arithmetic mean concentration is less than or equal to 15.0 micrograms per cubic meter; for purposes of this sub-subparagraph, a figure must be rounded to the nearest .1 microgram per cubic meter, as required in 40 C.F.R. Part 50, Appendix N, sec. 4.3(a), adopted by reference in 18 AAC 50.035(b);

(ii) a 24-hour average concentration of 35 micrograms per

cubic meter, with this standard being attained when the three-year average of the annual 98th percentile 24-hour concentration is less than or equal to 35 micrograms per cubic meter; for purposes of this sub-subparagraph, a figure must be rounded to the nearest one microgram per cubic meter, as required in 40 C.F.R. Part 50, Appendix N, sec. 4.3(b), adopted by reference in 18 AAC 50.035(b);

18 AAC 50.010(4) is amended to read:

(4) for ozone: **a daily maximum eight-hour average of .075 parts per million** [ONE-HOUR AVERAGE OF 235 MICROGRAMS PER CUBIC METER], with this standard being attained when the **three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to .075 parts per million** [EXPECTED NUMBER OF DAYS IN A CALENDAR YEAR WITH A MAXIMUM HOURLY AVERAGE CONCENTRATION ABOVE 235 MICROGRAMS PER CUBIC METER IS LESS THAN OR EQUAL TO ONE DAY];

18 AAC 50.010(6) is amended to read:

(6) for lead: **an** [QUARTERLY] arithmetic mean **concentration over a three-month period of .15 micrograms per cubic meter, with this standard being attained when the maximum arithmetic three-month mean concentration for a three-year period is less than or equal to .15** [OF 1.5] micrograms per cubic meter;

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am

04/01/2010, Register 193)

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

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 **November 6, 2009** [AUGUST 5, 2009], 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 04/01/2010, Register 193)

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

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,**

2009 [JULY 1, 2007], are adopted by reference:

. . .

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

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

(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 04/01/2010, Register 193)

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

18 AAC 50.215(a)(2) is amended to read:

(2) a reference method or an equivalent method described in 40 C.F.R Part 50, Appendices D and **P** [H], adopted by reference in 18 AAC 50.035(b), for ozone;

(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 04/01/2010, Register 193)

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

The lead-in language of 18 AAC 50.710 is amended to read:

18 AAC 50.710. Transportation conformity: incorporation by reference of federal

regulations. An agency subject to 40 C.F.R. **Part** 93 shall comply with the following federal regulations, as **revised as of July 1, 2009** [AMENDED THROUGH AUGUST 15, 1997], adopted by reference:

. . .

18 AAC 50.710(16) is amended to read:

(16) 40 C.F.R. 93.116 (Criteria and procedures: Localized CO_2 [AND] PM-10**,** **and PM-2.5** violations (hot spots));

18 AAC 50.710(17) is amended to read:

(17) 40 C.F.R. 93.117 (Criteria and procedures: Compliance with PM-10 **and PM-2.5** control measures);

18 AAC 50.710(19) is amended to read:

(19) 40 C.F.R. 93.119 (Criteria and procedures: **Interim emissions** [EMISSIONS REDUCTIONS] in areas without motor vehicle emissions budgets);

18 AAC 50.710(21) is amended to read:

(21) 40 C.F.R. 93.121 (Requirements for adoption or approval of projects by other recipients of funds designated under **title** 23 U.S.C. or [49 U.S.C. 53 (] the Federal Transit **Laws** [ACT)]);

18 AAC 50.710(23) is amended to read:

(23) 40 C.F.R. 93.123 (Procedures for determining localized CO_2 [AND] PM-10, **and PM-2.5** concentrations (hot-spot analysis));

18 AAC 50.710(28) is amended to read:

(28) 40 C.F.R. 93.128 (Traffic signal synchronization projects). [;] (Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am 04/01/2010, Register 193)

Authority: AS 46.03.020 AS 46.14.030

Editor's note: The regulations of the Federal Highway Administration and the Federal Transit Authority concerning fiscal constraint referred to **in 18 AAC 50.710(8)** [BY PARAGRAPH (8)] may be found at **23 C.F.R. 450.216(m), 23 C.F.R. 450.322(f)(10), and 23 C.F.R. 450.324(h)** [23 C.F.R. 450.216(a)(5), 23 C.F.R. 450.322(b)(11), AND 23 C.F.R. 450.324(e)].

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

(3) **make** [HOLD A PUBLIC HEARING OR MEETING IN ACCORDANCE WITH PROCEDURES ESTABLISHED UNDER 18 AAC 50.720 TO PROVIDE THE PUBLIC WITH AN OPPORTUNITY TO CONSIDER] the public review draft of the conformity determination **available for public review and comment as required in 18 AAC 50.720**.

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

(6) identify, as required by 40 C.F.R. 93.123(b), adopted by reference in 18 AAC 50.710, projects located at sites

(A) within a PM-10 nonattainment area identified in 18 AAC 50.015(b)(2)**, or within a PM-2.5 nonattainment area, if any, identified in 18 AAC 50.015(b)(2); and**

(B) that have vehicle and roadway emission and dispersion characteristics essentially identical to those at sites that have air quality violations verified by monitoring, and that, therefore, require a quantitative PM-10 **or PM-2.5** hot-spot analysis; and

(Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am 04/01/2010, Register 193)

Authority: AS 46.03.020 AS 46.14.030

18 AAC 50.720(a) is amended to read:

(a) The responsible agency referred to in 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 before the agency issues a final conformity determination. **As required under 40 C.F.R. 93.112, adopted by reference in 18 AAC 50.710, the** [THE] public involvement process must be consistent with the requirements of **23 C.F.R. 450.316(a), 23 C.F.R. 450.322(i), and 23 C.F.R. 450.324(b), as revised as of April 1, 2009** [23 C.F.R. 450.316(b)(1), 23 C.F.R. 450.322(c), AND 23 C.F.R. 450.324(c), AS AMENDED THROUGH APRIL 1, 1997].

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

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

(A) [HOLD A PUBLIC HEARING OR MEETING TO] receive **written** comments on the public review draft of the conformity determination; **and**

(B) hold a public hearing or meeting

(i) for a transportation plan or transportation improvement program;

(ii) for a project that is not included in a transportation plan or transportation improvement program, but that is within a designated nonattainment area listed under 18 AAC 50.015(b) or a designated maintenance area listed under 18 AAC 50.015(d); or

(iii) if a written comment received under (A) of this paragraph requests a public hearing or meeting for a regionally significant project;

(Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am 04/01/2010, Register 193)

Authority: AS 46.03.020 AS 46.14.030

18 AAC 50.990(35) is repealed:

(35) repealed 04/01/2010;

18 AAC 50.990(36) is amended to read:

(36) "expected number," as that term is used in **18 AAC 50.010(1)(A)** [(A)

18 AAC 50.010(1)(B)], has the meaning given in 40 C.F.R. Part 50, Appendix K, sec. 2.1, adopted by reference in 18 AAC 50.035; [AND (B) 18 AAC 50.010(4), HAS THE MEANING GIVEN IN 40 C.F.R. PART 50, APPENDIX H, ADOPTED BY REFERENCE IN 18 AAC 50.035;]

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

(128) "PM-2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers;

(129) "ozone" means a colorless gas that has a pungent odor and the molecular form O_3;

(130) "transportation improvement plan" or "TIP" has the meaning given in 40 C.F.R. 93.101, adopted by reference in 18 AAC 50.710. (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 04/01/2010, Register 193)

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