ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

18 AAC 50 AIR QUALITY CONTROL

Response to Comments on October 7, 2019, Proposed Regulations:

June 22, 2020

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Introduction

This document provides the Alaska Department of Environmental Conservation's (ADEC) response to public comments received regarding the October 7, 2019, draft regulations pertaining to regulation changes applicable to air quality control permits, updates to cross-references and a facility name, clarified reporting requirements for diesel engine pre-approved emission limits (PAELs), a new PAEL for non-road diesel engines, updated adoption of a monitoring quality assurance plan, and revised Standard Permit Conditions.

The details describing the proposed regulation changes were presented in ADEC's public notice dated October 7, 2019, and the supplemental public notice dated November 21, 2019, which extended the public comment period. ADEC received emailed comments, oral testimony at ADEC's public hearing, and comments submitted via the Air Quality Division's online comment system.

This document responds to comments from:

- Public Hearing Comments from November 13, 2019
- ADEC Permitting Staff (ADEC)
- Alyeska Pipeline Company (Alyeska)
- Alaska Power and Telephone (AP&T)
- North Slope Borough Power Generation and Distribution and HMS Consulting (NSBP)
- Alaska Oil and Gas Association (AOGA)

This document does not respond to comments that were received after the January 3, 2020, 5:00 p.m. deadline.

Opportunities for Public Comment

The public notice dated October 7, 2019, provided information on the opportunities for the public to submit comments. The deadline to submit comments was November 25, 2019 at 5:00 p.m. This provided a 50 day period for the public to review the proposal and submit comments. A supplemental public notice dated November 21, 2019, extended the comment period to January 3, 2020, at 5:00 p.m., for a total 89 day period for the public to review the proposal and submit comments.

Opportunities to submit written comments included submitting electronic comments using the Air Quality Division's online comment form, submitting electronic comments via email, submitting written comments via facsimile, and submitting written comments via email.

The Division provided an opportunity for individuals to submit oral comments at a daytime public hearing held in Anchorage on November 13, 2019. The hearing provided the opportunity for the public to submit oral comments.

Comments from the Public Hearing

All comments received pertaining to SPCs during the Public Hearing on November 13, 2019, were reiterated and discussed in detail in AOGA's written comments on SPCs. Please refer to Comments on Standard Permit Conditions (SPCs) section on page 13.

Comments on 18 AAC 50 Regulations

Comment:

18 AAC 50.040(a)—AP&T commented that the adoption by reference date of 18 AAC 50.040(a) should be updated to reflect the publication in the Federal Register on November 13, 2019, of a final rule regarding new source performance standards for compression ignition reciprocating engines in remote areas of Alaska.

Response:

The final rule for 40 C.F.R. 60, Subpart IIII was published and went into effect after the publication of the public notice on October 7, 2019. Therefore the final rule was not provided to the public as part of the public notice and comment period, and the Department is not making the requested change to the regulations in this package of revisions. However, the Department has addressed this requested update the adoption by reference date in 18 AAC 50.040(a) to reflect the April 2, 2020, C.F.R in a subsequent regulation package that is proceeding through the state regulatory process. .

Comment:

18 AAC 50.205(b)—AP&T commented on the proposed revision to how the Department proposes to accept an alternative to the existing electronic signature provision if the person uses a security procedure, as defined in AS 09.80.190 that the Department has approved. AP&T stated that the alternative approval process and approval timing remains unstated and ill-defined and, as such, they are uncomfortable with the State's proposal to impose new mandates for electronic reporting as set out in the proposed regulations and proposed changes to the State's standard permit conditions until after the Department has articulated its approval process and allowed an opportunity for the regulated community's due process.

Response:

The Department proposed this change as a result of a change in Alaska Statutes that pertains to the use of electronic records and electronic signatures. It does not change how the Department requires certification of electronic signatures. Additionally, this section of the regulations is fundamental to ensuring that ADEC retains compliance with EPA's Cross Reporting Electronic Media Report Rule (CROMERR).

Comment:

18 AAC 50.240(c)—In connection with AOGA's comment on SPC III (item A), AOGA commented that the words "or as part of the next routine emission monitoring report, whichever is sooner" should be deleted; if not, then change the term "routine emission monitoring report" to "operating report" in 18 AAC 50.240(c) to match the term used elsewhere in 18 AAC 50.

Response:

The Department does not agree with the proposed deletion of "or as part of the next routine emission monitoring report, whichever is sooner;" to retain flexibility in submitting EE/PD reports with operating reports. See response to SPC III (item A). The Department does agree with the correction of "routine emission monitoring report" to

"operating report" in 18 AAC 50.240(c). This change will be incorporated into the regulation as soon as possible either through a conforming correction or, if that is not possible, in a future regulation package.

Comment:

18 AAC 50.345(j) and 18 AAC 50.400(e)(1) – AOGA comments that although the Department has not proposed revisions to these two rules, they suggest that each be administratively amended to change the term "excess emission report" used in these rules to "excess emission**s** report" because the term used in 18 AAC 50.240 is "excess emission**s**" and the term is defined in 18 AAC 50.990(34) as "excess emission**s**."

Response:

The Department did not propose changes to these parts of the regulations but agrees with the comment. This change will be incorporated into the regulation as soon as possible either through a conforming correction or, if that is not possible, in a future regulation package..

Comment:

18 AAC 50.346(b)(9) – AOGA requested that the Department revoke (or repeal, as appropriate) SPC XVI – Emission Inventory Reporting Form from this section of the regulations as a result of their accompanying comments on the proposed revisions to the Standard Permit Condition XVI.

Response:

The Department concurs with this comment and will repeal 18 AAC 50.346(b)(9) as a result of also repealing SPC XVI.

Comment:

18 AAC 50.346(c) – AOGA commented that the Department should revise the language in 18 AAC 50.346(c) and Table 7 to remove the word "operating" as done by the Department throughout 18 AAC 50.346.

Response:

The Department concurs with this comment and will make the change to 18 AAC 50.346(c) and Table 7.

Comment:

18 AAC 50.326(j)(3)—AOGA commented that the Department should delete "(b)(1)" from the citation "18 AAC 50.346(b)(1)" at the end of 18 AAC 50.326(j)(3), because SPC II is adopted by reference under 18 AAC 50.346(a) and 18 AAC 50.346(b)(1) includes only SPC I. The rest of the Standard Permit Conditions are listed in 18 AAC 50.346(b)(2) – (10) and 18 AAC 50.346(c).

Response:

The Department declines to make the changes proposed by AOGA. 18 AAC 50.326(j)(3) states:

> "a stationary source subject to this section will also be subject to the standard permit conditions and other permit conditions as required by 18 AAC 50.345 and 18 AAC 50.346; prompt reporting of permit deviations is subject to the department's Standard Permit Condition , adopted by reference in 18 AAC 50.346, instead of 40 C.F.R. 71.6(a)(3)(iii)(B)(1) – (B)(4); **the provisions of 40 C.F.R. 71.6(a)(5) – (7) are replaced by the standard permit conditions of 18 AAC 50.345 and 18 AAC 50.346(b)(1)**;" *(used **bold** text for emphasis)*

The main focus of the replacement provision at the end pertains to 40 C.F.R. 71.6(a)(5) – (7). 40 C.F.R. 71.6(a)(5) – (7) do not pertain to SPC II (Air Pollution Prohibited, adopted under 18 AAC 50.346(a)). The replacements for 40 C.F.R. 71.6(a)(5) and (a)(6) are contained in 18 AAC 50.345(c)-(g) and (i). 40 C.F.R. 71.6(a)(7) pertains to emission fees requirements referencing 40 C.F.R. 71.9; however, 18 AAC 50.326(j)(1) excludes 40 C.F.R. 71.9. SPC I specifically addresses the state emission fees requirements and is adopted under 18 AAC 50.346(b)(1). Therefore, it is appropriate to reference the specific citation 18 AAC 50.346(b)(1) as replacement for 40 C.F.R. 71.6(a)(7).

Comment:

18 AAC 50.346(c), Table 7—In connection with AOGA's comments on SPCs VIII (item A), IX (item A) and XII (item A), AOGA commented that the Department should change "Liquid (Gas and Dual) Fuel-burning Equipment" to "Liquid (Gas and Dual)-**Fired** Fuel-Burning Equipment."

Response:

The Department declines to make the changes proposed by AOGA. "Liquid (or Gas or Dual)-Fired Fuel Burning Equipment" sounds superfluous and confusing. "Liquid, Gas and Dual" as used in the SPCs simply describe the type of fuel burned in the fuel-burning equipment (as defined in 18 AAC 50.990(39)); i.e., "Liquid (or Gas or Dual) Fuel-burning Equipment." "Fired," as used in SPC XI, is the same as "fuel-burning" so there is no need to be repetitive.

Comment:

18 AAC 50. 410(c)(2)—In connection with AOGA's comments on SPC I (item A), AOGA commented that the Department should delete the words "the most" in 18 AAC 50. 410(c)(2).

Response:

The Department does not agree with the revision requested. See response to comment on SPC I (item A).

Comment:

18 AAC 50.990(151) – AOGA commented that the Department should revise the referenced revision date for 40 CFR 51.100(o) found in 18 AAC 50.990(151) from **July 1, 2017** to **July 1,**

2019, consistent with the Department's proposed changes on the referenced revision dates pertaining to 40 CFR 51.100 found in 18 AAC 50.990(42)(A) and in 18 AAC 50.990(121) to July 1, 2019.

Response:

The update to the adoption date in 18 AAC 50.990(151) was not provided to the public as part of the public notice and comment period, and as a result the Department is not making the requested change to the regulations in this package of revisions. However, the Department has included the requested update to the adoption by reference date in 18 AAC 50.990(151) to the July 1, 2019, C.F.R in a subsequent regulation package that is proceeding through the state regulatory process.

Comments on 18 AAC 50.230(c)(2)(D) & (f) PAEL

AP&T Comment (3):

18 AAC 50.230(c)(2)(D) and (f)(2)(D). The State proposes to require pre-approved emission limit subject owners and operators to use the Department's website to file records on or after February 1, 2020 or seek department approval. That approach is laudable to reduce paperwork handling costs by both the regulated community and State staff. However, last January AP&T attempted to use the State's electronic system, Air on-line services (AOS) and believes that the State should take corrective steps to improve usability before mandating its use. Specifically companies such as Alaska Power and Telephone would be challenged to require their responsible official(s) to set up a MyAlaska account, create a Cross-Media Electronic Reporting Rule (CROMERR) compliant e-signature, master AOS and electronically file our reports on time. Instead, they pay administrative staff to take care of the company's regulatory filings, including air quality reports. As AP&T has this dilemma, we've continued to file paper documents, adding to the State's and our records management costs. Before mandating electronic filing, the State should upgrade its system to allow additional flexibility in electronic filing options to obtain wider acceptance of its electronic filing platform.

Response:

The State will continue to take corrective steps to improve usability of the AOS system. However, the Department notes that we have been successfully receiving reports through AOS for years. Regarding administrative staff historically taking care of the company's regulatory filings, the Permittee has the ability to assign both a "preparer" and an "e-signer" to each stationary source in AOS. The preparer has the ability to prepare the reports in AOS just as they have traditionally done prior to the requirement of electronic submittal. After the report has been prepared, the e-signer can go into AOS and submit the report to the Department, which is the equivalent of the responsible official signing the report true, accurate, and complete. The Department notes that the steps to become an e-signer in AOS include creating a MyAlaska account and sending the Department a completed Electronic Signature Validation Form (https://dec.alaska.gov/Applications/Air/airtoolsweb/AosHelp) with notarized copy of driver's license. The Department notes that this one time requirement will take time to complete initially, but we do not believe it to be overly burdensome. Using a myAlaska account is the State of Alaska's method for individuals to do business with the State of Alaska. A myAlaska account allows for identity verification and authentication in order to use eSignatures and does not require a user to be an Alaskan resident.

It should also be noted that EPA has approved the AOS system as meeting the requirements of the Cross-Media Electronic Reporting Rule (CROMERR). The myAlaska system is a necessary and required component of that approval and changes to the system would require EPA approval prior to implementation. At this point in time, the Division has no plans to change AOS's electronic signature process as myAlaska provides all the necessary components for authentication, identity verification, repudiation, back up, saving, and security to meet the CROMERR requirements.

AP&T Comment (4):

18 AAC 50.230(f). AP&T supports the flexibility this new provision grants to owners and operators of smaller and standby diesel electric stations to avoid minor permits and operating permits if their plant solely consists of CI RICE engines certified tier 1 or higher and maintaining access to the original diesel pre-approved emission limit provisions for those owners and operators with stations that do not meeting the 50.230(f) provisions. However, most of AP&T's diesel generating stations are for existing sites, and several stations contain pre-2007 model year tier zero CI RICE. AP&T supports an expansion of this concept to allow an owner or operator of an existing generating station to upgrade operations by installing an EPA certified engine and avoid project minor permitting under 18 AAC 50.502(c)(3) or (4) through a pre-approved emission limit equivalent to the minor permit triggering classification (10 tons per year oxides of nitrogen).

Response:

The Department is not expanding the scope of the preapproved emission limit (PAEL) to allow for existing sources to increase emissions and avoid project minor permitting under 18 AAC 50.502(c)(3) or (4). The Department's intent in creating the new PAEL under 18 AAC 50.230(f) was to provide a more accurate minor permitting avoidance tool for new diesel engine facilities to account for the fact that newer EPA tier certified diesel engines emit lower levels of pollutants, and therefore can consume more fuel before crossing minor permitting thresholds. The approach recommended by AP&T would be too complicated for this "one size fits all" basic permit avoidance tool, which was designed with one fuel consumption limit for a stationary source based on the lowest EPA Tier certified engine located at the facility. The Department notes that the minor permit avoidance scenario described by AP&T could be permitted through a stationary source specific owner-requested limit (ORL) under 18 AAC 50.225.

North Slope Borough & HMH Consulting Comment (1):

18 AAC 50.230(c)(2)(D). Electronic submittal of PAEL annual operating reports will be required after Feb. 1, 2020, or alternatively by paper submittal with prior Department approval. While this change is acceptable, we suggest the Department ponder the following concern.

It is unclear how the account user would relate to the Responsible Official (R.O.) when submitting electronic documents through an online portal. For example, in multi-tiered organizations, the R.O. is not the same person who prepares air quality reports. The preparer delivers a completed document to the R.O. for signature, then it is transmitted to the Department. Thus, it would appear that procedural changes would need to take place within such organizations at multiple levels. The portal should make it possible for coordination to occur between the preparer and the R.O. in such a manner that the R.O. can retain the ability to delegate report preparation tasks as needed. For example, the EPA's eGGRT system sends a notice to the R.O. that the report has been prepared by an authorized third party, and the R.O. reviews the report and electronically signs through his/her own separate eGGRT account. Thus, the accounts for the preparer and the R.O. are linked and collaboration can occur seamlessly. An online system of report submittal implemented by the Department should similarly allow collaboration.

Response:

The electronic submittal procedures used in Air Online Services (AOS) already has the functionality described by the North Slope Borough and HMH Consulting. The Permittee has the ability to assign both a "preparer" and an "e-signer" to each stationary source in AOS. The preparer has the ability to prepare the reports in AOS just as they have traditionally done prior to the requirement of electronic submittal. After the report has been prepared, the e-signer can go into AOS and submit the report to the Department, which is the equivalent of the responsible official signing the report true accurate and complete.

North Slope Borough & HMH Consulting Comment (2):

18 AAC 50.230(f). NSB is pleased that the Department is adding a new section to 18 AAC 50.230, which allows PAEL facilities to exercise higher annual fuel limits when using EPA Tier certified engines. In our attempt to fully understand the Department's approach, we observed some inconsistencies and we make some recommendations:

• In the document titled "Explanation of Changes," (page 3) ADEC states "The previous PAEL for a new diesel generating facility would allow approximately 132,000 gallons of diesel fuel be consumed in any consecutive 12 months." This is not entirely correct. There are many PAELs in existence that allow up to 330,000 gallons of fuel used in 12 consecutive months, which were issued prior to promulgation of the minor permit program. This is the maximum fuel throughput for a plant when avoiding the Title V threshold. The threshold given in the statement above applies only to brand new facilities that need to avoid the minor permit threshold of 40 TPY NOx. Existing facilities appear to be unable to exercise the special limits given in Table 5a.

• The proposed regulation does not make it clear whether the values in Table 5a are applicable to each engine, or if this is a limit for the whole facility. PAELs currently apply a single fuel limit to the whole stationary source.

• Also, it is feasible, even likely, that a given power plant may eventually acquire multiple engines certified to different tier levels (i.e., Engine #1 is Tier 2, Engine #2 is Tier 3, etc.). It is unclear how such a circumstance might be handled. We recommend that the Department publish factors associated with each tier that would allow a facility to calculate its NOx emissions, not unlike the factor of 3309 that is already in the rule for non-Tier engines. This may give sources the flexibility they need to determine a suitable fuel limit that can be applied across the facility with a combination of engines with different tier certificates and/or engines with no tier certificates.

Response:

The Department notes that the commenter is correct in stating that "*there are many PAELs in existence that allow up to 330,000 gallons of fuel used in 12 consecutive months, which were issued prior to promulgation of the minor permit program. This is the maximum fuel throughput for a plant when avoiding the Title V threshold*." This was the maximum allowable fuel consumption used for an existing PAEL source prior to the 2004 program changes that created the minor permitting program. The Department's intent on creating the new PAEL category under 18 AAC 50.230(f) was to provide a more accurate minor permitting avoidance tool for facilities with new(er) diesel engines

to account for the realities that newer EPA tier certified diesel engines emit lower levels of pollutants, are more fuel efficient, and therefore can consume more fuel before triggering minor permitting requirements under 18 AAC 50.502(c). The pre-2004 existing source diesel engine PAEL authorized under 18 AAC 50.230(c) was promulgated to allow a source existing at that time to avoid the Title V threshold of 100 tons per year (tpy) NO_X. It predates the promulgation of the Department's minor permit program. The new category of diesel engine PAEL authorized under 18 AAC 50.230(f) was written with the intention of avoiding the current minor permit threshold of 40 tpy. The Department did not intend for this PAEL to be used in conjunction with a previous PAEL limit that allows for more than 40 tons per year of NOx emissions (330,000 gallons of diesel consumption per 12 consecutive months). However, if it is advantageous to the owner of an existing stationary source to apply to switch the facility to the new PAEL, then that option is available.

The new PAEL is a facility wide fuel limit based on the diesel engine with the **lowest** EPA Tier certification at the stationary source, as stated 18 AAC 50.230(f)(1)(C) (emphasis added).

As stated in the previous paragraph, the new PAEL is a facility wide fuel limit based on the diesel engine with the lowest EPA Tier certification at the stationary source. The request recommended by the North Slope Borough and HMH Consulting to include multiple emission factors for different tiered engines would be too complicated for this "one size fits all" basic permit avoidance tool. Adding additional complexity to the regulation to accommodate an almost infinite variety of potential engine mixes would raise the costs and time to issue a document associated with the source-specific arrangement. The Department notes that the scenario of a facility with multiple engines with different emission factors would require a designated fuel meter on each engine and would best be permitted through a stationary source specific owner-requested limit (ORL) under 18 AAC 50.225.

Additional Changes Made by the Department:

The Department modified the PAEL regulations under 18 AAC 50.230(f) to allow for the addition of U.S. EPA Tier Certified Marine Compression Ignition Engines. These marine diesel engines have the ability to be installed at stationary sources; and similar to the U.S. EPA Tier Certified Nonroad Compression Ignition Engines that this regulation was originally intended for, they emit lower concentrations of nitrogen oxides compared to the older diesel engines that operate under the original 18 AAC 50.230(c) PAEL. The maximum allowable diesel fuel consumption for the lowest certified engine at a stationary source can be found in Table 5a of the regulation. The Department also revised the language in 18 AAC 50.230(c)(2)(D) and 18 AAC 50.230(f)(2)(D) to delete references to submission date requirements that were in the past.

Comments on Standard Conditions

Comments on SPCs I, III, IV, V, VII, VIII, IX, XI, XII, XV, XVI, and XVII were received by the Department. There were no comments received on SPCs II, VI, X, XIII, and XIV. Below is a summary of the comments and the Department's responses. Comments of minor importance (i.e., obvious typographical, grammatical, and formatting errors) that the Department agreed with are not included in this summary.

I. Comments on SPC I – Emissions Fees:

A. **Condition 1.2** — AOGA commented that the requirement should be to use any available representative data to estimate actual emissions; the words "the most" should be deleted.

Response:

The Department does not agree with removal of the words "the most" in Condition 1.2. The condition requires using "the most representative" to emphasize preference for what would be the most accurate method based on information available (bold text used for emphasis) representing actual emissions.

B. **Condition 2.1 and SPC I Submission Instructions** — AOGA commented that to make the Air Online System (AOS) or an alternate method viable options for submitting Assessable Emission Estimate reports to ADEC for Permittees interested in using that approach, the Department should:

1. Revise the submission instruction by not requiring "approval" to use a method other than the Air Online System (AOS). Not every Permittee who submits the reports has reliable internet access. Requiring only one form of submission (electronic) could lead to late or missing reports; and result in a violation of the permit conditions.

Response:

The intention for this requirement is to require online submissions unless technically infeasible. The workload required to continue to process paper or pdf submissions is no longer cost effective. The Department requires approval for an alternative submission method as the Permittees would have to make a demonstration of their inability to use the website.

In order to ensure adequate and efficient review, the state is moving to electronic reporting requirements. This regulations package is one of the first steps. This transition accounts for the differences in the posted online submission instructions between SPC I and the instructions for SPC III, IV, XV, XVI, and XVII conditions. Over time, more of the requirements will be changed to emphasize and/or require online submittals. The Division is committed to the goal of online submittals and will look to limit alternative methods of reporting as much as possible. This secondary option is for those who are unable to access the Department's website for emissions estimates. The Department is willing to assist in the use of AOS.

Those with unreliable internet access may contact the Division and request alternative reporting approval. However, as stated, this will be limited and addressed on a case-by-case basis. If there are internet failures, the U.S.P.S. and faxing are available for back up

with notice to the Division. Proper planning and early use of AOS should allow ample time to discover any issues with electronic submittals and allow for time to get approval for alternative methods if needed to submit the report on time. The Division is slowly transitioning in the various requirements to allow time for Permittees to become accustomed to using the system and to ensure that everything is working properly. The Division will work with Permittees, if updates to State systems inadvertently impact electronic submittals.

2. Establish a method other than a personal myAlaska account to access the AOS. The personal myAlaska account requirement is a significant deterrent to use of the AOS. Submittal of business-related documentation to ADEC by individuals using their personal accounts is not good business practice.

   Response:

   Using a myAlaska account is the State of Alaska's method for individuals to do business with the State of Alaska. A myAlaska account allows for identity verification and authentication in order to use eSignatures and does not require a user to be an Alaskan resident. When the Air Quality Division initially created AOS, concerns were raised about the personal information that is contained in the myAlaska profile. It was due to these concerns that AOS was specifically developed so an individual can store up to two separate profiles – one personal and one for business purposes. The first time one uses the AOS, a user's myAlaska information is displayed but is not stored. AOS allows users to completely delete any personal information and set up a business profile. From that point on, only the business information is used. AOS, beyond the Permittee portal, has seen users use both profiles. Some users have alerts sent to home/personal emails, while at the same time have permitting information sent to their business profile information. No personal data is stored in the Division databases that is not specifically submitted by a user. Therefore, the division will not establish another method for accessing the AOS system.

   It should also be noted that EPA has approved the AOS system as meeting the Cross-Media Electronic Reporting Rule (CROMERR). The myAlaska system is a necessary and required component of that approval and changes to the system would require EPA approval prior to implementation. At this point in time, the Division has no plans to change AOS's electronic signature process as myAlaska provides all the necessary components for authentication, identity verification, repudiation, back up, saving, and security to meet the CROMERR requirements.

   All electronic submittals are date stamped within the database and stored in myAlaska and verified with an emailed receipt after the system ensures the file is in the myAlaska storage system. If a verification notice is given, then the submittal is stored in two places, ensuring that a successful complete submittal has been received.

A. **Condition 2.2** — AOGA commented that the Department should delete this condition as it is an unreasonable requirement. Does the Department plan to verify all emission estimates? The Department can ask for details via an information request.

   Response:

The Department does not agree with the request to delete Condition 2.2. The condition requires including all the assumptions and calculations used to estimate the assessable emissions in sufficient detail with the assessable emissions report. The Department does verify emissions estimates. This requirement would allow verification of emissions estimates without having to request additional information.

I. Comments on SPCs III and IV - Excess Emissions and Permit Deviation Reports and Notification Form:

A. **SPC III, Condition 1.3** — AOGA commented that the Department should delete and split the condition into two parts, to separate each reporting requirement under Excess Emissions (new Condition 1.1d) and Permit Deviation (new Condition 1.2b), hence, providing distinction on respective citations, for clarity. In addition, AOGA is also requesting adding the following edits:

1. Use “as practical” after “whichever is sooner” at the end of new Condition 1.1d (for excess emissions), to cover cases where the requirement to submit excess emissions/permit deviation (EE/PD) may occur simultaneously with the occurrence of an EE/PD event if the deadline for submitting the operating report happens to be the same day as when the EE/PD event occurred.
2. Use discovery, instead of occurrence, of an excess emission or permit deviation as the basis for the reporting deadline in the new Conditions 1.1d (for excess emissions) and 1.2b (for permit deviation). Common sense dictates that permit deviations cannot be reported if not yet discovered.

Response:

The Department agrees with splitting the reporting requirements in Condition 1.3 for all “other excess emissions and permit deviations” to clarify distinction between “excess emissions” and “permit deviation” reporting requirements. The condition is now numbered as Conditions 1.1d and 1.2b. However, the Department declines the edits requested in items 1 and 2 above, for the following reasons:

1. Adding “as practical” at the end of new Condition 1.1d is not necessary. Operating reports due dates are February 1st for period covering July 1 to December 31 of the previous calendar year and August 1st for period covering January 1 to June 30 of the current year. In either case, Permittee should report EE/PD event that occurred during the period that each operating report covers, as specified in SPC VII (Operating Reports) Conditions 1.2 and 1.3. This ensures that any reporting is done timely within the period of concern without allowing too broad of an interpretation of when it is “practical”. For clarification, the phrase "for excess emissions (and permit deviation) that occurred during the period covered by the report" is added to the new Conditions 1.1d and 1.2b.

   To further clarify, SPC III requires the submittal due date of the EE/PD report be the earlier of “30 days after the end of the month during which the excess emissions occurred or as part of the next routine operating report.” For example, if EE/PD occurred on January 1, 2020, this event must be reported no later than March 1, 2020 (not on August 1, 2020 – the operating report due date for the 1st half of 2020). Note

that the clause "within 30 days" would also allow submittal of that EE/PD report as part of the upcoming operating report (in this case with the February 1, 2020, report due for the 2nd half of 2019) if the Permittee elects to do so, as long as it does not exceed the 30-day period from the date of occurrence. If EE/PD occurred on February 1, 2020 (the same due date for operating report for the 2nd half of 2019), this event must be reported no later than March 30, 2020, which is earlier than August 1, 2020 (the operating report due date for 1st half of 2020).

2. The Department does not agree to the addition of a "discovery" provision in these re-organized "other" permit conditions. The excess emissions identified in 18 AAC 50.240(c) and 50.235(a) are non-routine episodes such as emergencies, malfunctions, or non-routine repairs or events that cause a potential threat to human health or safety among other things, and their "discovery" will be plainly obvious. Thus the discovery provision for those types of events is warranted, and using the discovery date as basis for reporting due date is reasonable.

   All "other" excess emissions and permit deviations referred to in (new, after re-arrangement) Conditions 1.1d and 1.2b are covered under the permit terms and conditions.

   Please see also the Department's Response to Comments dated September 23, 2010, provided as Attachment A at the end of this document, for comment(s) AOGA-12 through AOGA-15, as the Department's position remains unchanged. The addition of a discovery provision for the "other" excess emissions and permit deviations does not comport with the intent of a robust self-inspection scheme where these less serious excess emissions would be allowed to remain unreported until "discovered" at some undefined point that could be manipulated. While to an outside observer it would seem obvious that an "other" EE/PD cannot be reported until discovered, the Department's viewpoint differs on how often a permitted facility should conduct reasonable inquiry and discover these "other" EE/PDs as part of their obligations under the Clean Air Act.

   The Clean Air Act program is based on the due-diligence of sufficiently frequent reasonable inquiry and self-inspection conducted by the Permittee to maintain the public's faith in the credibility of the system. Therefore, the Department believes that these EE/PD should not go undiscovered for very long, and "prompt" reporting is the basis for compliance. "Prompt" was sufficiently discussed, reviewed and defined in the above noted RTC for the previous rulemaking on the same topic. The Permittee should know the compliance status of their facility at all times with frequent updates. The Department asserts that options of the two time frames provided (within 30 days after the end of the month during which the deviation occurred, or in the next routine operating report) for reporting deadline are proper and sufficient for timely reporting of EE/PDs covered under (new) Conditions 1.1d and 1.2b as none of these types of events should go undiscovered for a period in excess of this frequent and constant reasonable inquiry.

   Finally, the Department notes that our historical practices of considering the unique circumstances of each event prior to selecting a course of action (compliance discretion) have not resulted in unreasonable enforcement actions based upon prompt

discovery of "other" excess emissions and permit deviations – every event is weighed against its own unique circumstances and the Permittee is allowed to advance a reasonable discussion of the circumstances for consideration.

B. **SPC IV, Notification Form** – AOGA suggested the following edits on the form:

1. **Section 1.e (Excess Emissions)** – Remove "Failure to Monitor/Record/Report" to the excess emissions section of the notification form; this type of incident does not result in "excess emissions."

   Response: The Department agrees with this comment and has removed "Failure to Monitor/Record/Report" from the list.

2. **Section 2.a (Permit Deviation), 1st check box:** Change "Emissions Unit" to "Emissions Unit Requirements" for clarification and consistency.

   Response: The Department agrees with this comment; the text next to the first box now reads "Emissions Unit-Specific Requirements". In addition, for better organization, the Department moved up the "Stationary Source-Wide Specific Requirements" box next to "Emissions Unit-Specific Requirements."

3. **Section 2.a (Permit Deviation)**: Remove duplicative check boxes; i.e., "Failure to Monitor/Record/Report" and "Recordkeeping/Reporting/Compliance Certification." Keep the first of these two check boxes since it clarifies that the incident pertains to a failure to correctly monitor, record, or report and change the second of these two check boxes to just "Compliance Certification" or "Compliance Certification Requirements."

   Response: The Department agrees with this comment and has made the revisions as requested, except that the unnecessary words "Failure to" were deleted. In addition, "/Monitoring" was deleted from" General Source Test/Monitoring Requirements.

I. Comment on SPC V - Insignificant Emissions Units:

A. **Condition 1 and Statement of Basis (SOB)** — AOGA commented that the Department should add "*...{EU ID(s) <as applicable, insert EU ID numbers matching those referenced under SPC IX – Visible Emissions and Particulate Matter Monitoring Plan for Liquid-fired Fuel-burning equipment, Conditions 1.2 and 1.3, which qualify for this condition>* listed in Table *<insert Table of Emissions Unit Inventory> and for}...*" as an optional text for use by permit writers. Add SOB (suggested text provided in the comment) addressing these "Insignificant Emissions Units (IEUs)."

Response:

The Department does not find the suggested edits necessary. Those "Insignificant Emissions Units (IEUs)" mentioned in the comment are always included in the permit because they have specific monitoring, recordkeeping, and reporting (MR&R) requirements and are already addressed in the state standards conditions for Visible Emissions, Particulate Matter, and Sulfur Compound emissions. Condition 1, as proposed, now addresses only IEUs that are not listed in the permit.

B. **SOB, 3rd paragraph of the Factual Basis** — AOGA commented that the Department should reference both Conditions 1.4a (certification based on reasonable inquiry) and 1.4b (comply with "air pollution prohibited" requirements) in the paragraph.

Response:

The Department does not find the suggested edits necessary. The paragraph discusses the certification requirement based on reasonable inquiry and therefore references Condition 1.4a only as it specifically requires submittal of compliance certification (i.e., with the state standards and Air Pollution Prohibited requirements) for IEUs. Condition 1.4b specifically requires compliance with Air Pollution Prohibited requirements; therefore, it would be redundant and confusing to reference this condition in the paragraph.

C. **Condition 1.4.c** — Alyeska Pipeline Service Company (Alyeska) commented that the phrase "because of actual emissions less than the thresholds of 18 AAC 50.326(e) ... " should not be eliminated from the condition. Without this clarifying phrase the proposed condition could be interpreted to require reporting on emissions units that have also historically been classified as insignificant under 18 AAC 50.326(f)-(i) rather than just 18 AAC 50.326(e) as currently required.

Response:

The Department agrees with this comment and has reverted back to the condition language in the 2010 version.

II. Comment on SPC VII – Operating Reports:

A. **Condition 1** — AOGA commented that the Department should revise the condition to set a 45-day deadline for submittal of Operating Reports; i.e., August 15 and February 15. AOGA asserts that extended deadlines do not affect the submittal of EE/PD reports and would increase the accuracy of submitted operating reports. In addition, the MG 2 permit for Portable Oil and Gas Operations allows for a 45 day reporting timeline.

Response:

The Department declines to extend the submittal deadlines for Operating reports as proposed by AOGA. Extending reporting due dates to longer reporting timelines would constitute a relaxation of monitoring, recordkeeping, and reporting (MR&R) requirements and would require every permit with the SPC to require a significant permit modification under 40 CFR 71.7(e)(3)(i). The Department has long established the 30-day period as the normal operating report deadline and has no data to show that a longer submittal deadline would increase report accuracy. Most North Slope oil and gas permittees, such as BPXA and CPAI, already have 45-day reporting timelines for operating reports if operating on the quarterly report submission system. The Department established 45-day reporting timelines for those Permittees in exchange for more frequent reporting. That option is available to other permittees also. The MG-2 permit was developed with a planned 45-day reporting deadline simply because of the amount of fuel

use data required to be collected, maintained, and analyzed in the periodic report. This situation does not exist in other permits.

B. **Condition 1.2** — AOGA commented that the regulatory basis for Condition 1.2 appears to be the requirement in 18 AAC 50.240(c) to report "other excess emissions." Condition 1.2 should only reference "other excess emissions" [i.e., excess emissions described in Condition 1.1d of our proposed reorganized SPC III, per our Comment #6)], not any other type of excess emissions or permit deviation. Keep in mind that permit deviations do not necessarily result in excess emissions. In addition, AOGA commented that Conditions 1.2a and 1.2d should refer only to "excess emissions" to be consistent with the proposed language revisions shown for Condition 1.2.

Response:

Although 18 AAC 50.240(c) does not cover "other permit deviation" the Department added SPC III.1.2b (as revised, partly per AOGA's request) similar to the reporting requirement for "other excess emissions" in Condition 1.1d (new, as per AOGA's request) to gap-fill reporting requirements not covered under Condition 1.2a. The Department accepts requested revision in Condition 1.2a; i.e., by adding "excess emissions" in the condition, but retains "permit deviation." (See related response to comments on SPC III (new) Conditions 1.1d and 1.2b.)

C. **Condition 1.2** — AOGA also commented that the reference to Condition 1.1 of SPC VII at the conclusion of Condition 1.2 is confusing. "With this reference, the condition states that if excess emissions or permit deviations are not included in the operating report, then include them in the operating report. This is a strange requirement. We believe the reference should instead be to a condition found in SPC III, similar to how the Department does in Condition 1.3... Instead of referring to Condition 1.1 of SPC VII, we propose that the condition instead refer to the applicable EE reporting condition (SPC III) in the permit..."

Response:

The Department declines to make the changes proposed by AOGA. Condition 1.2 reiterates the reporting elements required in the event that the **EE/PD are not reported, when required under Condition 1.1.** Condition 1.1 of SPC VII references **"all information** required to be in operating reports **by other conditions** of this permit (**bold** used for emphasis), for the period covered by the report". With respect to EE/PD, this information includes: (1) EE/PD reports specifically required to be included in operating reports in other permit conditions (e.g., NESHAP Subpart ZZZZ 40 C.F.R. 63.6650(b)(5) compliance report requirement); (2) **those described in SPC III** (new) Conditions 1.1d and 1.2b where the Permittee has the option to submit EE/PD via operating reports; and (3) Condition 1.3 of SPC VII which covers the scenario where EE/PDs were already reported under SPC III - thus requiring only citing the date(s) of those reports to avoid redundancy. Therefore, changing the cross-reference in Condition 1.2 from SPC VII Condition 1.1 to SPC III condition would make the condition incomplete as it would cover only the EE/PD events under SPC III (new) Conditions 1.1d and 1.2b.

III. Comment on SPC VIII – Visible Emissions and Particulate Matter Monitoring Plan for Gas Fuel-Burning Equipment:

A. **General** — AOGA commented that the Department should change "Gas Fuel-burning Equipment" to "Gas-**Fired** Fuel-Burning Equipment." It is important to retain a clear distinction of the different types of "fuel-burning equipment" that are addressed by SPC VIII (gas-fired).

Response:

The Department declines to make the changes proposed by AOGA. "Gas-**Fired** Fuel Burning Equipment" sounds superfluous and confusing. "Gas" as used in the SPC simply describes the type of fuel burned in the fuel-burning equipment (as defined in 18 AAC 50.990(39)); i.e., "Gas Fuel-burning Equipment." "Fired," as used in SPC VIII, is the same as "fuel-burning" so there is no need to be repetitive.

IV. Comment on SPC IX – Visible Emissions and Particulate Matter Monitoring Plan for Liquid Fuel-Burning Equipment:

A. **General** — AOGA commented that the Department should change "Liquid (and Dual) Fuel-burning Equipment" to "Liquid (and Dual)-**Fired** Fuel-Burning Equipment." It is important to retain a clear distinction of the different types of "fuel-burning equipment" that are addressed by SPC IX (liquid-fired and dual-fired). AOGA also requests to change the term "emissions unit(s)" to "fuel-burning equipment" in the paragraphs on page 2, which are included as part of the introduction to SPC IX.

Response:

The Department declines to make the changes proposed by AOGA. "Liquid (or Dual)-Fired Fuel Burning Equipment" sounds superfluous and confusing. "Liquid" and "Dual" as used in the SPC simply describe the type of fuel burned in the fuel-burning equipment (as defined in 18 AAC 50.990(39)); i.e., "Liquid (or Dual) Fuel-burning Equipment." "Fired," as used in SPC IX, is the same as "fuel-burning" so there is no need to be repetitive.

"Emissions Unit(s)," as used in SPC IX, generally pertains to **liquid** fuel-burning equipment or flares which are the subject affected EUs under this SPC. The Department does not find it necessary to replace the general usage of the term "emissions unit(s)" with "fuel-burning equipment" in this SPC.

B. **Introduction, 2nd Section re "Circumstances where EU…"** — Air Permits Program staff (APP) suggests adding as item 5 under the list of "Circumstances where emissions unit or stationary source specific conditions more adequately meet 18 AAC 50" the following:

"5. The Department determines that compliance with the state Visible Emission or state PM standards is assured by following a more stringent opacity or PM limit and associated MR&R requirements imposed elsewhere in the permit."

Response:

The Department agrees with this comment, for clarity on exclusions from the SPC IX conditions language, and has added item 5 as suggested.

C. **Condition 1.1** — AOGA commented that Condition 1.1 appears to be for significant units that have historically been subject to periodic visible emissions observations and are expected to continue with periodic observations. Therefore, Condition 1.1 should reference only Condition 2.3, which addresses continuation of the observation schedule that was in effect from a prior permit, instead of all of Condition 2.

Response:

Cross-referencing Condition 2 allows an option for the Permittee to reset a new visible emissions monitoring schedule under a renewed permit, as well as an option to continue a monitoring schedule from a previous permit, if the Permittee so desires. This scheme offers more flexibility for the Permittee to follow a revised monitoring schedule under a renewed permit. For this reason, the Department will maintain the cross-reference to the more generic Condition 2.

D. **Conditions 1.2 and 6.3** — AOGA commented that the Department should clarify the averaging period for the tons-per-year significant emissions thresholds listed under 18 AAC 50.326(e) and suggested using "calendar-year."

APP commented that a footnote should be added after the first "18 AAC 50.326(e)" indicating operational hours or amount of fuel burned per 12-month rolling period equivalent to the worst-case significant emissions threshold in 18 AAC 50.326(e) for each affected insignificant emissions unit (IEU). Compliance with regard to the unit's insignificant status would not be determined without including in the condition a verifiable parameter corresponding to the significant emissions threshold. Related to this, AOGA also commented that the Department should add a listing of emissions unit-specific operational thresholds in a permit table above which an emissions unit is no longer an IEU as this may ease the burden on a Permittee for tracking compliance and initiation of MR&R in a timely manner.

Response:

The Department follows the 12-month rolling period for determining significant emissions threshold, consistent with EPA's policy to ensure 'compliance as a practical matter.' [see https://www.epa.gov/sites/production/files/2015-07/documents/timefrms.pdf]. According to this guidance, "A twelve month **rolling average** (year long, on a twelve month basis) is the maximum time frame that would be accepted as federally enforceable." For clarity the words "during any consecutive 12-month period" were added in the proposed Conditions 1.2 and 6.3 (now Conditions 1.3 and 6.4).

The Department agrees to add a footnote for tracking insignificant status of affected emissions units, but only if requested by the applicant. This would ensure that the proposed significant emissions thresholds would undergo proper review and

documentation during the permitting process.

E. **Conditions 1.2, 1.3, 6.3, and 6.4** — AOGA requested the following for the Department to consider:

1. Replace the requirements in the conditions for an annual certification of compliance or for reporting under the operating report, with these same requirements as stated in PN draft SPC V Condition 1.4 (Insignificant Emissions Units, IEUs).

   Response:

   There is no need to reference SPC V Condition 1.4 in Conditions 1.2, 1.3, 6.3, and 6.4. The conditions already provide for the "certification based on reasonable inquiry" similar to SPC V. The EUs subject to these conditions are not insignificant per 18 AAC 50.326(d)(1); hence, their inclusion under SPC IX Conditions 2 and 6.

2. Include in Condition 1.2 an option to determine the IEU status of emissions units by comparing emissions unit operating parameters to a table in the permit that serves this purpose. This may ease the burden on a Permittee for tracking compliance and initiation of MR&R in a timely manner, if applicable.

   Response:

   To address this issue, the Department added a footnote in Conditions 1.2 and 6.3 (now Conditions 1.3 and 6.4) with the following text: *<If requested by Permittee, add operational hours or amount of fuel burned per 12-month rolling period equivalent to the worst-case significant emissions threshold in 18 AAC 50.326(e) for each affected emissions unit.>* This would serve as a place holder for the permit writer to include an operational parameter to indicate the affected emissions unit's equivalent significant status threshold, per the Permittee's request.

3. Include an option in Condition 1.3 to track actual emissions against a listing of emissions unit-specific operational thresholds in a permit table to make a calendar year by calendar year determination whether an emission unit is no longer an IEU. There are examples of emissions units that are still insignificant based on actual emissions even if they exceed an operational limit in a calendar year. AOGA proposed splitting Condition 1.3 into two parts: The first part includes the requirements that apply as long as the operational limit(s) that ensure that the EUs are IEUs based on emissions are being met; and the second part applies if any of the limit(s) are exceeded and the Permittee elects to confirm actual emissions compared to the thresholds in 18 AAC 50.326(e) to determine the IEU status of an EU. This is done by referring to the requirements of Condition 1.2.

   Response:

   The Department understands AOGA's concerns expressed in the comment above. To simplify and capture the intent of the proposed revisions, the conditions are revised by merging the EUs under Condition 1.3 (and 6.4), with the EUs under Condition 1.2 (and 6.3) and adding a requirement to comply with Condition 1.2 (and 6.3) in Condition 1.3 (and 6.4) should the emissions from the EUs listed in Condition 1.3 (and 6.4) exceed the operational limits that keep the EUs from reaching the tons-per-year significant emissions thresholds in 18 AAC 50.326(e). In addition, for better flow of conditions, the

Department revised the conditions sequence by switching the order of Condition 1.2 with Condition 1.3 and Condition 6.3 with Condition 6.4. The conditions now read as follows (**bold and underlined** text indicates areas where changes were made):

> Condition **1.2 (and 6.3)** ~~1.3 (and 6.4)~~. For each of EU ID(s) *<insert EU ID numbers of emissions units subject to conditions that keep the EUs from reaching the significant emissions thresholds in 18 AAC 50.326(d)(1)>*, as long as the emissions unit does not exceed the limits in... monitoring shall consist of an annual compliance certification ... Otherwise, **comply with Condition 1.3 (and 6.4).**
>
> Condition **1.3 (and 6.4)** ~~1.2 (and 6.3)~~. For each of EU ID(s) *<insert EU ID numbers of emissions units that are significant per 18 AAC 50.326(d)(1) but are otherwise insignificant based on historical actual emissions per 18 AAC 50.326(e),* ***and EU ID numbers of emissions units subject to conditions that keep the EUs from reaching the significant emissions thresholds in 18 AAC 50.326(e)*****>**, as long as actual emissions from the emissions unit does are **less than** the significant emissions thresholds listed in 18 AAC 50.326(e)[1] **during any consecutive 12-month period**, monitoring shall consist of an annual compliance certification under Condition ... The Permittee shall report in the operating report ... if any of EU ID(s) *<insert EU ID number(s)>* **reaches** any of the significant emissions thresholds and monitor, record, and report in accordance with Conditions 2 through 5 (7 through 9 **and/or Conditions 10 through 12 <*as applicable*>**) for the remainder of the permit term for that emissions unit.
>
> **Footnote 1: <If requested by Permittee, add operational hours or amount of fuel burned per 12-month rolling period equivalent to the worst-case significant emissions threshold in 18 AAC 50.326(e) for each affected emissions unit.>**

F. **Conditions 2.1 and 2.4a(iii)** – APP recommended switching places of "In the event of replacement of any of EU IDs *<insert EU IDs from Conditions 1.1 through 1.3>*" and "For any unit replaced" in these conditions, for better organization.

Response:

Condition 2 has been modified and reorganized for better flow of condition requirements, to address AOGA's and APP's comments. See responses to AOGA's comments on proposed Conditions 2.1 and 2.4a(iii) and the revised version of Condition 2 below.

G. **New Conditions** – AOGA commented that the Department should add new subconditions addressing EUs that have been added to the permit and have never undergone visible emissions observations, and replaced EUs that fall under Condition 1.1 category. AOGA also requests replacing Condition 2.4a(ii) with new conditions that are outside the periodic monitoring schedule outlined in Condition 2.4. The six-month deadline in this condition contradicts everything else in Condition 2.

Response:

The Department did not include the requested new conditions. The proposed new conditions would be redundant for the following reason: new and replaced EUs are

already addressed in the proposed Conditions 1.1 and 2.4a(ii) – these are "other EUs" not specified in Conditions 1.2 through 1.5 and Conditions 2.4a(iii) & (iv). Note that lead Condition 2 introductory phrase "when required by any of Conditions 1.1 through 1.3" means monitoring is contingent upon triggers in Conditions 1.1 through 1.3; and the exception to Condition 2.3 (ongoing monitoring schedule) in Condition 2.4a (First Method 9) excludes those EUs that the Permittee elects to resume monitoring from the previous permit schedule.

However, the Department did revise Condition 2 for clarity in consideration of the concerns expressed in the comments above. To improve clarity, the conditions are revised to read as follows (**bold and underlined** text indicates areas where changes were made; ~~strikeout~~ means deleted text):

2. **Visible Emissions Monitoring.** When required by any of Conditions 1.1 through 1.3, **or in the event of replacement[2] during the permit term,** the Permittee shall observe the exhaust of EU ID(s) <insert EU ID numbers> for visible emissions using either the Method 9 Plan under Condition 2.3 or the Smoke/No-Smoke Plan under Condition 2.4.

~~2.1. In the event of replacement[2]...~~

~~2.2~~**2.1**. The Permittee may change the visible emissions monitoring plan for an emissions unit at any time unless prohibited from doing so by Condition 2.5.

~~2.3~~**2.2**. The Permittee may, for each unit, elect to continue the visible emissions monitoring schedule specified in Conditions 2.3.b through 2.3.e or Conditions 2.4.b through 2.5 <*as applicable*> that remains in effect from a previous permit.

~~2.4~~**2.3**. **Method 9 Plan.** For all observations in this plan, observe the emissions unit exhaust following 40 C.F.R. 60, Appendix A-4, Method 9 for 18 minutes to obtain 72 consecutive 15-second opacity observations.[3]

a. First Method 9 Observation. Except as provided in Condition 2.**2**~~3~~ or Condition 2.**5**~~6~~.c(ii), observe the exhaust(s) of EU ID(s) <*insert EU ID number(s) from Conditions 1.1 through 1.3*> according to the following criteria:

(i) For any unit, observe emissions unit exhaust within 14 calendar days after changing from the Smoke/No-Smoke Plan of Condition 2.5.

(ii) Except as provided in Condition 2.**3**~~4~~.a(iii) ~~and 2.4.a(iv)~~, for any of EU IDs <*insert EU IDs from Conditions 1.1 through 1.3*>, observe exhaust within six months after the effective date of this permit.

~~(iii)For any unit replaced, observe exhaust within 30 days of startup[3] of the newly installed emissions units.~~

(iii)For any unit replaced, observe exhaust within 60 days of the newly installed emissions unit becoming fully operational.[4]

Except as provided in Condition 2.3.e, after the First Method 9 observation:

(A) For EU ID(s) <*insert EU IDs from Condition 1.1*>, continue with the monitoring schedule of the replaced emissions unit; and

(B) For EU ID(s) <*insert EU IDs from Condition 1.2 and 1.3* > comply with Conditions 1.2 and 1.3 <*as applicable*>.

(iv) For each of EU IDs <*insert EU IDs from Conditions 1.2 and 1.3*>, observe the exhaust of the emissions unit within 30 days after the **end of the** calendar month during which **monitoring was triggered under** ~~any of the significant emissions thresholds in 18 AAC 50.326~~(e) ~~or operational limit(s) in~~ Condition(s) **1.2 or 1.3** ~~<*insert the referenced condition(s) in Condition* 1.3> was exceeded~~; or for an emissions unit with intermittent operations, within the **first** 30 days **during** the unit's next scheduled operation.

Footnotes:

[2] "*Replacement*," as defined in 40 C.F.R. 51.166(b)(32).

[3] Visible emissions observations are not required during emergency operations.

[4] "*Fully operational*" means upon completion of all functionality checks and commissioning after unit installation. "*Installation*" is complete when the unit is ready for functionality checks to begin.

H. **Condition 2.4a(iv)** — AOGA commented that the Department should extend the Method 9 observation due date, from 30 days to 45 days after the calendar month during which monitoring was triggered for EUs under Conditions 1.2 and 1.3, and to revise the condition as follows:

"For each of EU IDs <*insert EU IDs from Conditions 1.2 and 1.3*>, observe the exhaust of the emissions unit within ~~30~~**45** days after the calendar month during which **monitoring under Condition 3 was triggered under Condition 1.2 or 1.3**~~any of the emissions thresholds in 18 AAC 50.326(s) or operational limit(s) in Condition(s) <insert the referenced condition(s) in Condition 1.3> was exceeded~~; or for an emissions unit with intermittent operations, ~~within 30 days of~~ **during** the unit's next scheduled operation."

AOGA's basis for this request is that operational data for a given month are not received until approximately the 15th of the following month. Allowing a Method 9 observation triggered by operational data to be conducted 45 days after the month in which the unit operated actually allows approximately 30 days to conduct a Method 9 observation on an intermittently operated unit that triggers an observation in a given month. The requirement is clarified to mean that the observation is to be done during the next scheduled operation of the affected emissions unit if scheduled operation does not occur within the first (30-day) deadline period.

Response:

The Department did not extend the monitoring due date for EUs under Conditions 1.2 and 1.3. The TPY significant emissions thresholds are based on a rolling 12-consecutive month period, so there should be a continuous and more efficient operational data reporting strategy established by the Permittee to ensure compliance with the monitoring requirements. Note that for intermittently operated EUs, the condition also allows monitoring during the first 30 days of the next scheduled operation.

The Department also does not agree with the proposed revision on the monitoring due date for an intermittently operated EU. The revision requested does not provide a definite monitoring due date during the period that the EU is in operation, which would make enforcement of the requirement vague. For clarity, Condition 2.4a(iv) (now 2.3a(iv)) is revised as shown below:

2.**3**~~4~~a(iv) For each of EU IDs *<insert EU IDs from Conditions 1.2 and 1.3>*, observe the exhaust of the emissions unit within 30 days after the **end of the** calendar month during which **monitoring was triggered under** ~~any of the significant emissions thresholds in 18 AAC 50.326(e) or operational limit(s) in~~ Condition(s) **1.2 or 1.3** ~~*<insert the referenced condition(s) in Condition* 1.3> was exceeded~~; or for an emissions unit with intermittent operations, within the **first** 30 days **during** the unit's next scheduled operation.

I. **Conditions 2.4c(i) & (ii) and 2.4d(i) & (ii)** – AOGA commented that the Department should revise these conditions to address "deadline creep" by allowing semi-annual and annual observations to be a little longer than the standard 6-month and 12-month periods typically associated with these terms. AOGA suggested the following revisions:

For Semiannual (Condition 2.4c):

(i) **on a semiannual basis (i.e., no more than seven calendar** ~~within six~~ months after the preceding observation**)**; or

(ii) for an emissions unit with intermittent operations, during the next scheduled operation immediately following **seven** ~~six~~ months after the preceding observation.

For Annual (Condition 2.4d):

(i) **on an annual basis (i.e., no more than 14 calendar** ~~within twelve~~ months after the preceding observation**)**; or

(ii) for an emissions unit with intermittent operations, during the next scheduled operation immediately following **14** ~~twelve~~ months after the preceding observation.

Response:

The Department accepted AOGA's intent and agrees to establish specific timeframes for monitoring to resolve these deadline issues. For intermittently operated EUs, the Department agrees to adopt the language proposed by AOGA for Conditions 2.4c(ii) and 2.4d(ii). However, for regularly operated EUs, the Department revised Conditions 2.4c(i)

and 2.4d(i) such that semiannual monitoring shall be conducted "no later than seven months, but not earlier than five months, after the preceding observation" and annual monitoring shall be conducted "no later than 12 months, but not earlier than 10 months, after the preceding observation." These timeframes will ensure that Method 9 observations are conducted within reasonable lapse of time between two observations, as required for semiannual and annual observations, for regularly and intermittently operated EUs.

J. **Conditions 2.5a and 2.5b (Initial and Reduced Monitoring Frequency under Smoke/No Smoke Plan), and 2.6c(i)(A)** – AOGA commented that these conditions should both be referenced by Condition 2.6c(i)(A); Condition 2.5a, by itself, does not include an "observation period."

Response:

The Department notes that the commenter is correct in stating that Condition 2.5a (Initial Monitoring) does not include an "observation period." The intent of the conditions is to initially conduct at least 30 consecutive days of observations under Smoke/No Smoke. If all observations during that 30-day period show No Smoke, then observation frequency is reduced to at least once in every calendar month (Condition 2.5b). For clarity, the Department revised Condition 2.5a by adding "for a minimum of 30 days" at the end of Condition 2.5a, and cross-referencing Condition 2.5a in Condition 2.5b. With these revisions, there is no need to cross-reference Condition 2.5b in Condition 2.6c(i)(A).

K. **Conditions 4.1a and 4.2b** (**Visible Emissions Reporting)** – AOGA commented that these conditions should be revised to make them consistent with related comments in item E above (adding new conditions to address new EUs that have never undergone visible emissions observations and replaced EUs).

Response:

See the Department's response to Item E. As the Department did not include the requested new conditions as requested in item E, those revisions requested in this comment are not necessary.

L. **Condition 5.1** (**Flare Visible Emissions Monitoring)** – AOGA proposed the following revisions to address their concerns regarding deadlines for flare visible emissions observations, to expand the scope of flare events that can be observed to comply with the requirement of this condition, to add clarity, and to correct a grammatical error.

5.1 Observe ~~at least one~~ flare events**[4], [5]** on EU ID(s) <*insert flare EU ID numbers*> for visible emissions following 40 C.F.R. 60, Appendix A-4, Method 9 for 18 minutes to obtain 72 consecutive 15-second opacity observations **according to the following schedule:**~~.~~

a. Conduct an initial **flare event** visible emission observation on EU ID(s) <*insert EU IDs of flares that have not been observed*> within 12 months of the effective date of this permit.

b. Conduct subsequent daylight flare event **observations at least once per calendar year** ~~within 12 months of the preceding flare event observation~~

c. If there are no flare events ~~within the 12-month period t~~**hat meet the requirements of Conditions 5.1a and 5.1b**, the Permittee shall observe the next daylight flare event.

Footnotes:

[4] For purposes of this permit, a *"flare event"* is flaring of gas during daylight for greater than one hour as a result of scheduled release operations; i.e., maintenance or well testing activities. It does not include non-scheduled release operations, i.e. process upsets, emergency flaring, or de-minimis venting of gas incidental to normal operations.

[5] Observation of unscheduled flare events is acceptable, but not required. In addition, observation of any flare event (scheduled or unscheduled) that meets or exceeds 18 consecutive minutes and lasts one hour or less is acceptable, but not required.

Response:

The Department agrees with the proposed revisions, except for the following:

1. Footnote 5 – The Department does not agree to add Footnote 5 as it would contradict Footnote 4 and Condition 5.1. Footnote 4 already defines what a "flare event" constitutes. The proposed Footnote 5 adds confusion as it implies acceptability of Method 9 observations for a flare event that is unscheduled and lasts one hour or less. Nothing in the condition prohibits the Permittee to conduct Method 9 observations during a flare event that does not meet the definition of "flare event" in Footnote 4; therefore, there is no need to specify that in the permit. However, that does not imply that such monitoring can replace the monitoring specified by Condition 5.1.
2. Conditions 5.1a and 5.1b - The Department does not agree to adding "flare event" in Condition 5.1a to avoid redundancy; lead Condition 5.1 already states "flare events" with a footnote that defines "flare event." For consistency, the Department also deleted "daylight flare event" but added "visible emissions observation" in Condition 5.1b.
3. Condition 5.1b - The Department does not agree to using "calendar year" as it allows the source to do one observation on December 31, and the next on January 1 during a well cleanout or system purge and thus go potentially two years in between observations if they schedule the next set the same way. The Department revised the condition to establish specific time frames for Method 9 observations to allow reasonable time lapse between two observations considering irregular flaring events schedule; i.e., within 14 months of, but not earlier than three months after, the preceding flare event. This is consistent with revisions made on Conditions 2.4c and 2.4d (now 2.3c and 2.3d).

M. **Condition 6.3** — APP commented that the Department should add "and/or Conditions 10 through 12 <*as applicable*>" at the end of the condition, for completeness.

Response:

The Department agrees with this comment and has made the revision as suggested.

N. **Condition 7.1** – AOGA and APP commented that the Department should add "or if the Method 9 observation conducted under Condition 13.3 for EU ID(s) <*insert EU ID numbers of dual fuel-burning equipment*> exceeds the standard in Condition 1," to account for the PM monitoring required for dual fuel-fired emissions units in Condition 13.

Response:

The Department agrees with this comment and has made the revision as suggested.

O. **Conditions 7.3 and 10.2** (**PM Monitoring)** – AOGA commented that these conditions should be deleted; the requirement to obtain Method 9 results is superfluous when PM testing is being conducted to determine the PM content of the exhaust.

Response:

The Department does not agree with this comment. Since the PM source testing trigger was reached because of RM-9 observations, it is important to reconfirm those observations while doing the PM source test. This helps establish and verify correlation between visible emissions and PM emissions.

P. **Conditions 7 (PM MR&R for turbines and engines) and 10** (**PM MR&R for boilers and heaters)** — AOGA commented that the Department should make Condition 7 and Condition 10 consistent to the extent possible with respect to deadlines and allowance for corrective action to be taken. Aside from the special stack diameter and 15 percent opacity PM source test trigger under Condition 7.2b that applies only to turbines and engines, we suggest that there is no need for the MR&R to be different between these types of emissions units.

Response:

For consistency and simplicity, the Department agrees with this comment and has revised the PM MR&R under Conditions 7 and 10 to closely reflect the same MR&R scheme and language, where applicable. See revised SPC IX.

Q. **Conditions 10.1 and 10.1a** — APP commented that the Department should replace the conditions with the original language in the September 27, 2010, version of SPC IX.12.1. With the proposed revision language, it is possible that there will never be 2 consecutive 18-minute Method 9 observations that exceed 20% opacity, or 2 consecutive 18-minute Method 9 observations less or equal to the 20% opacity threshold, during the same six-month period, which means neither PM source testing nor exemption would be triggered at all. Keeping the original language would mean exceeding the 20% opacity threshold two times within a six-month period does not have to be consecutive, thus, establishing a trigger without conflicting

the exemption in Condition 10.3.b.

Response:

Condition 10 (for liquid fuel-fired boilers and heaters) was modified to more closely reflect the same PM MR&R for liquid fuel-fired engines and turbines in Condition 7. This is in agreement with AOGA's request for revisions on Conditions 7 and 10, for consistency.

V. Comment on SPC XI – SO2 Emissions From Liquid Fuel-Burning Equipment:

A. **Title and footer** — AOGA commented that the Department should change "Liquid Fuel-Burning" to Liquid-**Fired** Fuel-Burning"

Response:

The Department declines to make the changes proposed by AOGA. "Liquid-Fired Fuel Burning Equipment" sounds superfluous and confusing. "Liquid," as used in the SPC simply describe the type of fuel burned in the fuel-burning equipment (as defined in 18 AAC 50.990(39)); i.e., "Liquid Fuel-burning Equipment." "Fired," as used in SPC XI, is the same as "fuel-burning" so there is no need to be repetitive.

B. **Conditions 2.1b, 2.3, 3.1, 3.2b, 3.2c and 4.2** — AOGA commented that the Department should delete the monitoring requirements in Conditions 2.1b and 2.3 and the reporting requirements under Conditions 3.1, 3.2b, 3.2c, and 4.2 because they are outdated and no longer necessary. With EPA's phase-in regulations to lower the amount of sulfur in diesel fuel since 2006, it is now impossible for a shipment of diesel fuel to contain greater than 0.5% or 0.75% sulfur by weight (5,000 or 7,500 ppmw). If the Department agrees, then SPC XII will also no longer be necessary and should be revoked.

Response:

The Department did not delete Conditions 2.1b, 2.3, 3.1, 3.2b, 3.2c and 4.2 as proposed by AOGA. Although the use of ULSD fuels is widespread and in some cases mandated by regulation, there remain many legacy permits that allow a higher fuel sulfur content to be used as well as certain areas where ULSD is not required. Owners and operators of pre-2014 model year stationary Compression Ignition Internal Combustion Engines (CI ICEs) and existing stationary CI Reciprocating Internal Combustion Engines (RICE) located in remote Alaska are exempt from the fuel requirements of NSPS Subpart IIII and NESHAP Subpart ZZZZ, respectively. Many "old" legacy preconstruction permits still allow higher levels of fuel sulfur to be used (e.g. AQ0109TVP03 Condition 10 from 9331-AA006 Amendment 4). The 0.75% sulfur content criterion is a reporting trigger only; it is very seldom used but is still valid and should be maintained.

VI. Comment on SPC XII – SO2 Material Balance Calculations:

A. AOGA commented that the Department should revoke SPC XII. The requirement to confirm compliance with the sulfur compound emissions standard under 18 AAC

50.055(c) for liquid fuel that contains greater than 0.75 percent by weight sulfur content is outdated.

Response:

The Department declines to revoke SPC XII as proposed by AOGA. 18 AAC 50.055(c) remains a State-standard and is valid for all permit action. The State routinely streamlines this regulation when compliance with a more strict standard such as the use of ULSD is mandated.

VII. Comment on SPC XV – Emission Inventory Reporting:

A. **Condition 2.1** — AOGA commented that the Department should move the requirements of Condition 2.1 to new Condition 3 since Condition 2 contains information about the data elements to include in the EI report required by Condition 1.

In addition, AOGA also commented that the Department should delete the citations 40 CFR 51.30(a)(1) & (b)(1) because they are unnecessary as they pertain to the reporting deadline for the Department.

Response:

The Department understands the direction of AOGA's comment but has made differing changes. Because the topic covered by this SPC pertains to a reporting requirement only, for better organization and consistency the conditions are reorganized such that Condition 2 becomes a subcondition under Condition 1. Therefore Condition 2 is now re-numbered as 1.4, and Condition 2.1 re-numbered as 1.5.

As for the citations 40 C.F.R. 51.30(a)(1) & (b)(1), the Department retains these citations because they provide the basis for the annual and triennial inventory reporting requirements of the condition. The Department knows that those requirements are reporting requirements for the state, but since the State relies on inputs from every permitted stationary source in order to make the report that is the State's obligation, that input request is now incorporated into a Title V permit as a standard permit condition (SPC XV) for Permittees to comply with. This is discussed and clarified in the Statement of Basis.

B. **New Footnote** — AOGA commented that the Department should add the following footnote that provides information regarding other options for obtaining a copy of the EI instructions in the event that the AOS system is unavailable: "Instructions and the current reporting form can also be obtained by contacting the Department at <insert contact information – i.e., phone #, general email associated with the title of the department that handles Emission Inventory Reporting, etc.>"

Response:

The Department does not find that the footnote proposed is necessary. The Department's AOS system has not proven to be that unreliable such that long outages have been experienced. Condition 2.1 references the SPC XV webpage that details all submittal instructions. Of course, unique situations may occur but the Department would issue

general guidance to those affected. The EI submission contact information may vary from time to time, therefore, the Department will provide more frequent updates to the webpage that provides correct and current contact information.

VIII. Comment on SPC XVI – Emission Inventory Reporting Form:

A. **Condition 2.1** — AOGA commented that the Department should revoke Standard Permit Condition XVI and maintain the use of a single version of the EI report form that is linked to the EI Instructions on the Point Source Emission Inventory website to eliminate confusion and to streamline the reporting process.

Response:

The Department agrees with the request for revocation of Standard Permit Condition XVI to maintain a single version of the EI reporting form. All references to SPC XVI have been removed. The Department also plans to update the EI reporting form on the webpage (taking into consideration comments received) and the online EI instructions (dated 2017) once these regulations are final.

IX. Comment on SPC XVII – Reporting Requirements:

B. **Condition 2** — AOGA proposed revision to Condition 2 by adding the following sentence at the end of the condition: "A copy of each application to amend, modify, or renew this operating permit shall also be submitted to EPA as required under Condition *<insert cross reference to SPC XIV – Permit Application and Submittals>*."

Response:

The Department does not find that the proposed revision is necessary. Condition 2 already includes the phrase "unless otherwise directed by the Department or this permit" in the beginning of the condition to indicate any exceptions, as well as, "other submittals required by this permit" at the end to indicate all documents covered. Details of permit renewals and amendments are already addressed in a separate condition (SPC XIV – Permit Application and Submittals) and therefore do not need to be repeated with this general submittals condition.

Comments that are Out of Scope for these Proposed Regulation Revisions

Comment on *Air Quality Compliance Certification Procedure for Volatile Liquid Storage Tanks, Delivery Tanks, and Loading Racks*

AOGA provided comments requesting that the Department update ADEC-specific documentation required for use in 18 AAC 50.540(e), *Air Quality Compliance Certification Procedure for Volatile Liquid Storage Tanks, Delivery Tanks, and Loading Racks*, to eliminate confusion, as the document has not been updated to reflect current State and federal regulations.

Response:

The Department declines to update *Air Quality Compliance Certification Procedure for Volatile Liquid Storage Tanks, Delivery Tanks, and Loading Racks* at this time. Although a change to 18 AAC 50.540(e) was proposed as part of this regulations package, no changes were proposed to *Air Quality Compliance Certification Procedure for Volatile Liquid Storage Tanks, Delivery Tanks, and Loading Racks* nor to 18 AAC 50.030, where the document is adopted by reference. Therefore AOGA's proposed revisions to the document are outside the scope of the changes proposed in the public notice and cannot be addressed at this time. The Department will consider revising the document in the future.

Attachment A

From the Department's Response to Comments on Adoption by Reference Regulations 2010, dated September 23, 2010

Comment AOGA-10:
10) **18 AAC 50.544(a)(4)** – the period at the end of the sentence here should be changed to a semi-colon. This change will be identical to the change proposed by the Department for 18 AAC 50.544(a)(5).

Response AOGA-10:
The department agrees with the proposed change. The correction will be made.

Response AOGA-10: Revised Regulations—
The regulations have been corrected.

Comment AOGA-11:
11) **18 AAC 50.990 –** We suggest that the definitions found in this section be reorganized to maintain an alphabetical listing in the subsection. As currently drafted, the definitions are in alphabetic order through 50.990(123). It would be less confusing to the general reader if the definitions now found in (124) through (130) were inserted into the list of definitions in alphabetical order. However, in order to make this feasible, the air regulations would have to be revised so that any citation to the definitions in 18 AAC 50.990 would not include the specific list number in the citation. See, for example, our proposed edit presented in comment 7).

Response AOGA-11:
The department does not agree with the proposed change. See Response AOGA-7.

Response AOGA-11: Revised Regulations—
No changes will be made to the regulations as a result of these comments.

Comments AOGA-12—AOGA-15 (Standard Permit Condition III – Excess Emissions and Permit Deviation Reports):

Comment AOGA-12:
12) Revise **Standard Permit Condition (SPC) III.1.1** and create a **new SPC III.1.2** to read as follows:

"1.1 **Excess Emissions**. Except as provided…
<…>

c. report all other excess emissions ~~and permit deviations~~

(i) within 30 days ~~of~~after the end of the month ~~in~~during which the emissions occurred or were discovered, or; ~~except as provided in condition III.1.1c(iv); or~~

~~(ii) for a permit deviation not classified as also resulting in~~ also defined as ~~excess emissions under III.1.1(a)~~ 18 AAC 50.990, ~~then report the earlier of:~~

~~(A) within 30 days of~~after ~~the end of the month in~~during ~~which the deviation is discovered; or~~

~~(B) no later than the date required by~~ for submittal of ~~the next Annual Compliance Certification, Condition <*insert cross link to ACC reporting date condition*>~~, ~~after the event occurred~~.~~; or~~

(~~ii~~ii) ~~Or~~, if a continuous or recurring excess emissions is not corrected within 48 hours of discovery, within 72 hours of discovery unless the department provides written permission to report under condition III.1.1c(i).~~; and~~

~~(iv) for failure to monitor, as required in other applicable conditions of this permit~~.

1.2 **Permit Deviations**. For a permit deviation not ~~classified as also resulting in~~ also defined as excess emissions under ~~III.1.1(a)~~18 AAC 50.990, then report ~~the earlier of~~:

a. according to the required deadline for failure to monitor, as specified in conditions <*insert cross link to standard permit condition IX.5.2b and/or IX.11.1b, as applicable*>; or

b. no later than 30 days after the end of the month during which the deviation is discovered, or the date for submittal of the next Annual Compliance Certification, Condition <*insert cross link to ACC reporting date condition*>, covering the period when the event occurred, whichever is sooner."

Basis: 1) We request that the language in SPC III.1.1c(i) match the language found in the rules under 18 AAC 50.240 (including the requested revision to 50.240 to include a discovery provision per our comment 2). Please note that the Department has also included a discovery provision in SPC III.1.1c(iii) for continuous or recurring excess emissions. We believe this further justifies our assumption that exclusion of a discovery provision from 18 AAC 50.240 was an oversight when the rule was written per our comment 2).

2) We agree with the concept that the Department has proposed for revisions to SPC III.1.1c. We propose to take the same general concept and break the condition into two conditions, the first addressing the reporting requirements for "other" excess emissions, and the second to address the reporting requirements for permit deviations that are not excess emissions. In our proposed edits above, we have shown how we propose to reorganize the Department's proposed language and we have also shown where we propose to edit the language after splitting it into two conditions using double underlines.

3) We believe it is appropriate for the new SPC III.1.2 (originally SPC III.1.1c(ii)) to clarify that permit deviations that are not also considered to be any type of "excess emissions" are allowed to be reported under this

provision (e.g., late, missing, or incomplete reports, etc.). We suggest citing the definition in 18 AAC 50.990(34) as part of the permit condition.

4) Spelling out which conditions of the permit are subject to the requirement of our proposed SPC III.1.2a (originally SPC III.1.1c(iv)) provides greater clarity for the Permittee and a permit that is more enforceable. We believe that the conditions that the Department is referring to that have non-standard reporting deadlines are those found in Standard Operating Permit Condition IX for Visible Emissions and Particulate Matter Monitoring as identified in our comment above.

5) The provision in our proposed condition III.1.2b (originally III.1.1c(ii)(B)) that requires that a permit deviation is to be potentially reported as part of the annual compliance certification report should be revised to state that this applies to deviations that are discovered during the compliance review and that occurred during the period covered by the compliance certification. The deadline associated with an annual compliance review should only pertain to a deviation that is discovered during the review. For example, if a deviation is discovered in March of a certain year that follows the period covered by an annual compliance certification, it should be subject to the regular "30-day" deadline, not the certification report deadline since it would not have occurred during the period covered by the certification report.

6) The remainder of our proposed edits are to provide additional clarity to the condition.

Response AOGA-12:

The department followed the guidance of 18 AAC 50.240 when developing the original SPC III, and thus lays out the development of the condition:

(a) 18 AAC 50.240(c) requires that the owner, operator or permittee report excess emissions that present a potential threat to human health or safety or that the owner, operator or permittee believes to be unavoidable must be reported as soon as possible. This is presented as conditional language in SPC III.1.1(a)(i)-(ii).

(b) In the case of a technology-based emission standard, excess emissions are to be reported within two working days after the event occurred or was discovered, consistent with 18 AAC 50.240(a) as set forth in SPC III.1.1(b).

And finally (c), 18 AAC 50.240(c) defines "other" excess emissions which must be reported within 30 days after the end of the month during which the emissions occurred or as part of the next routine emission monitoring report, whichever is sooner.

The department agrees with the editorial changes suggested to SPC III.1.1(c) to replace "of" with "after" and "in" with "during" as the exact text of the rule in 18 AAC 50.240 is thus brought into the condition text. The department accepts these edits and will make the suggested change.

As discussed below, the department does not agree to add a discovery provision as presented by the commenter in SPC III.1.1(c) by adding the text "or were discovered" as that change would conflict with 18 AAC 50.240(c). The rule contains the requirement to notify "within 30 days after the end of the month during which the emission occurred."

The proposed discovery clause is inconsistent with the regulation. Making substantive changes to 18 AAC 50.240 are outside the scope of this proposed rulemaking and would require due process to promulgate as a separate regulation package. The department cannot, in good faith promulgate a standard condition revision at further variance from the plain language of the underlying regulatory provisions.

Although the department proposed to add a discovery clause for permit deviations, the department has decided to remove this clause. As explained below, relaxing the notification timeframe for permit deviations can be construed as a relaxation of prompt beyond the minimum required for Federal approvability of the State's operating permit program. Further, having divergent notice deadlines for certain additional types of events adds unnecessary complexity to this permit element.

Background

Permit deviations, including excess emissions are required to be reported within a "prompt" timeframe as set forth in 40 CFR 71.6(a)(3)(iii)(B) (adopted by reference in 18 AAC 50.040(j)(4) except for those provisions in 40 CFR 71.6(a)(3)(iii)(B)(1)-(4) which are replaced by this SPC) and the department lays out the underlying definition of "prompt" to be within 30 days of the end of the month in which the deviation occurred. The responsibility is thus on the owner, operator or permittee to conduct sufficient reasonable inquiry and due diligence to discover other excess emissions within this stipulated timeframe defined as prompt.

Since the permitting program places the Air Quality Control responsibilities upon the emitter (permittee), it is incumbent for each permittee to know the compliance status of their activities and to provide prompt notice. Further the department is authorized to run an operating permit program no less stringent of that set out in 40 CFR 70 for EPA's approval of Alaska's Operating Permit Program. Although EPA allows for other types of permit deviations to be reported up to six months after the occurrence, EPA does not base that notification upon discovery in 40 CFR 71.6(a)3)(iii), but instead upon occurrence.

For an approvable operating permit program, EPA does provide latitude for each agency to define "prompt" for permit deviation notification. As discussed above, the department elected to define prompt as 30 days after the month in which the event occurred. Notwithstanding that latitude, the greatest duration allowed for an approvable program is up to six months after the occurrence of the permit deviation. See 40 CFR 70.6(a)(3)(iii). In the real world, in the event where a client has not exercised the degree of diligence necessary, discovery occurs months or years after the occurrence. For such a scenario, the suggested change would create a permit content defect that fails to meet the minimum federal program requirements. This provides further basis to reject the commentator's requested change to add a clause for notification after discovery.

Although the department acknowledges the apparent inconsistencies between 18 AAC 50.235 and 240 discovery clauses and EPA's expectation for prompt notification, as mentioned above, changes to the underlying regulations are outside the scope of this standard permit condition rulemaking.

In the event a client discovers a permit deviation after the notification due date, the department intends to continue its historical practice to consider the circumstances of the event in order to select the proper course of action.

The commenter also proposed a general re-arrangement of excess emissions and permit deviations in SPC III.1.1(c)(ii)-(iv) to separate the two applicable requirements into separate terms. The department acknowledges the improved clarity provided by this general re-arrangement and agrees to make the change as proposed in the strike-out terms, and addition of new condition SPC III.1.1.2 and re-numbering of the additional subparagraphs. In addition, the department agrees to add the excess emission definition of 18 AAC 50.990(34) to the citations box for the excess emission notification term.

Comment AOGA-13:

13) Revise the notes to **SPC III.1** as follows:

> "1. The permit will include condition ~~III.1.1c(iii)~~III.1.2a only if the permit also contains another condition which has an emission unit specific schedule for reporting the failure to monitor emissions.
>
> 2. Construction permits will not include condition III.1.2~~the phrase "and permit deviations" in condition III.1.1c~~, but where necessary will use stationary source specific conditions for reporting failure to test or monitor."
>
> *Basis:* 1) Our proposed change to Note 1 is simply to point out the need to update the permit condition number in the note.
>
> 2) Note 2 should be revised to clarify for the permit writers that since construction permits do not include the phrase "and permit deviations", the standard conditions that specifically address the permit deviation reporting requirements (i.e., proposed SPC III.1.1c(ii) and (iv) or SPC III.1.2 as proposed above) are also not applicable to construction permits. (Note: we believe that missing a deadline for reporting like the one found in original SPC III.1.1c(iv) or SPC III.1.2a proposed above is a permit deviation, not an excess emission.)

Response AOGA-13:

The department agrees that the text change above clarifies the intent of the condition and will make the suggested change.