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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Jessalynn Rintala, Department of Environmental Conservation

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: November 8, 2024

RE: Filed Permanent Regulations: Department of Environmental Conservation
Department of Environmental Conservation regulations re: Fairbanks Air Quality SIP
(18 AAC 50)

Attorney General File:	2023200549
Regulation Filed:	11/8/2024
Effective Date:	12/8/2024
Print:	252, January 2025

cc with enclosures: Beth Parsons, Department of Law
Judy Herndon, LexisNexis



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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November 6, 2024

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *18 AAC 50 - Dept. of Environ. Conservation - Fairbanks Air Quality SIP*
Our file: 2023200549

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Environmental Conservation against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Environmental Conservation after the close of the public comment period.

The regulations concern the Air Quality State Implementation Plan (SIP) for the Fairbanks North Star Borough, to resolve nonattainment of controls for PM-2.5 fine particulate matter.

We respectfully request that these regulations be filed not later than November 14, 2024 and at least one day before the regulations contained in companion project 2024200189 (Fairbanks Serious SIP Amendments (Phase 2)).

The March 11, 2004 public notice and the November 4, 2004 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2024.11.06
11:18:17 -09'00'

RCP/SCW

CC w/enclosure: Jessalynn Rintala, Environmental Program Specialist 4
Department of Environmental Conservation

Jennifer Seely, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS
OF DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached nine pages of regulations, dealing with proposed technical amendments and new regulations to meet federal requirements in the Clean Air Act for the Fairbanks North Star Borough (FNSB), are adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 46.03 and AS 46.14 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date: 11/4/2024



Emma Pokon, Commissioner
Department of Environmental Conservation

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on November 8, 2024, at 8:36 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


for Lieutenant Governor Nancy Dahlstrom

Effective: December 8, 2024.

Register: 252, January 2025.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

The introductory language of 18 AAC 50.030(a) is amended to read:

(a) Volumes II and III of the *State Air Quality Control Plan* for implementing and enforcing the provisions of AS 46.14 and this chapter, revised as of ^{November 4, 2024} ~~adoption date of the~~ regulations [JULY 29, 2022], are adopted by reference. The plan includes the following documents that are also adopted by reference:

...

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 9/4/98, Register 147; am 1/1/2000, Register 152; am 12/30/2000, Register 156; am 9/21/2001, Register 159; am 1/27/2002, Register 161; am 3/27/2002, Register 161; am 5/3/2002, Register 162; am 2/20/2004, Register 169; am 6/24/2004, Register 170; am 10/1/2004, Register 171; am 12/14/2006, Register 180; am 12/30/2007, Register 184; am 5/17/2008, Register 186; am 7/25/2008, Register 187; am 11/9/2008, Register 188; am 5/6/2009, Register 190; am 11/4/2009, Register 192; am 4/1/2010, Register 193; am 10/29/2010, Register 196; am 4/13/2011, Register 198; am 9/17/2011, Register 199; am 8/1/2012, Register 203; am 5/8/2013, Register 206; am 2/5/2015, Register 213; am 4/17/2015, Register 214; am 3/2/2016, Register 217; am 11/26/2016, Register 220; am 12/29/2016, Register 220; am 1/12/2018, Register 225; am 9/15/2018, Register 227; am 1/8/2020, Register 233; am 11/7/2020, Register 236; add'l am 11/7/2020, Register 236; am 12/25/2020, Register 236; am 4/16/2022, Register 242; am 8/21/2022, Register 243; am 9/7/2022, Register 243; add'l am 9/7/2022, Register 243; am 12 / 8 / 2024, Register 252)

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

AS 46.14.020 AS 46.14.140

18 AAC 50.055(a) is amended by adding a new paragraph to read:

(10) 10 percent or greater averaged over any six consecutive minutes for a commercial coffee roaster within an area identified in 18 AAC 50.015(b)(3) and that emits 24 pounds or more of particulate matter in a rolling 12-month period.

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 11/4/99, Register 152; am 5/3/2002, Register 162; am 10/1/2004, Register 171; am 7/25/2008, Register 187; am 12/9/2010, Register 196; am 8/20/2016, Register 219; am 9/15/2018, Register 227; am 12 / 8 / 2024, Register 252)

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

((Publisher: At the end of 18 AAC 50.015(a)(9)(D), please change the period to a semicolon.)))

The introductory language of 18 AAC 50.076(k)(1) is amended to read:

(1) may only sell clearly labeled dry wood that is

...

18 AAC 50.076(k)(1)(C) is amended to read:

(C) harvested from an inspected fire-killed source that has been split,
stacked, stored covered, and confirmed dry before [PRIOR TO] freezing;

18 AAC 50.076(k)(3) is amended to read:

(3) shall [PERIODICALLY] measure monthly, using a [TYPE OF] commercially available moisture test meter that is approved by the department for accuracy, the moisture

content of a representative sample of the wood to ensure the stock is dry **before sale** [PRIOR TO SELLING];

18 AAC 50.076(k)(4) is amended to read:

(4) shall document the measured moisture content, keep a record of the measurements over the seasoning period, and sign an affidavit in a form that the department provides attesting the wood is dry **before** [PRIOR TO] sale;

(Eff. 2/28/**2015** [15], Register 213; am 3/2/2016, Register 217; am 11/26/2016, Register 220; am 1/8/2020, Register 233; am 12 / 8 / 2024, Register 252)

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

The introductory language of 18 AAC 50.077(a) is amended to read:

(a) Except as provided in this section, a person may not install, reinstall, sell, lease, distribute, or convey the following devices [FOR USE] in an area identified in

18 AAC 50.015(b)(3):

• • •

The introductory language of 18 AAC 50.077(b) is amended to read:

(b) Notwithstanding (a) of this section, the department will approve models of pellet fueled wood-fired hydronic heaters for **operation** [USE] in an area identified in

18 AAC 50.015(b)(3) that

• • •

(Eff. 2/28/2015 [2/28/15], Register 213; am 11/26/2016, Register 220; am 1/12/2018, Register 225; am 1/8/2020, Register 233; am 11/7/2020, Register 236; am 12 / 8 / 2024, Register 252)

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

18 AAC 50.078(d) is repealed and readopted to read:

(d) Within an area identified in 18 AAC 50.015(b)(3),

(1) a commercial coffee roaster that emits 24 pounds or more of particulate matter in a rolling 12-month period

(A) shall, before commencing operations or, for an existing unit, not later than six months after December 8, 2024 {*effective date of regulations*}, install a catalytic oxidizer, thermal oxidizer, or other pollution control device or combination of devices that control PM and VOC emissions that is appropriate to the unit and approved by the department; and

(B) shall comply at all times with

(i) an emission limit of 0.12 pounds per ton of coffee roasted; and

(ii) opacity limits less than or equal to those set out in

18 AAC 50.055(a)(10);

(2) the owner and operator shall maintain the control device or devices in good working condition consistent with the manufacturer's instructions; and

(3) at least once per year the owner, operator, or certified observer conducting compliance observations shall observe visible emissions while the coffee roaster is operating, excluding startup, shutdown, and maintenance, for at least 12 consecutive minutes, using

40 C.F.R. Part 60, Appendix A, Method 22, adopted by reference in 18 AAC 50.035, and keep records of date, time, and results of field observations; and

(4) if the owner or operator observes any visible emissions during the annual survey required under (3) of this subsection, the owner or operator must investigate the cause of the emissions, repair any malfunctions in the control equipment, and keep records of such investigation and documentation; and

(5) the owner or operator of a commercial coffee roaster subject to this section shall

(A) register the device, using a form or method provided by the department; and

(B) provide annual records demonstrating compliance with the requirements of this section including maintenance records and records of visible emissions surveys under 18 AAC 50.078(d)(3), using a form or method provided by the department. (Eff. 1/8/2020, Register 233; am 12 / 8 / 2024, Register 252)

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

18 AAC 50.079(d)(2) is amended to read:

(2) that uses **a testing protocol approved for accuracy by the department not less than 30 days before conducting a test** [40 C.F.R. PART 60, APPENDIX A-3, METHOD 5, REVISED AS OF JULY 1, 2017, AND ADOPTED BY REFERENCE]; and

18 AAC 50.079(d)(3) is amended to read:

(3) for which the maximum emission rate for any individual test run does not

exceed **0.10 pounds** [18.0 GRAMS PER HOUR] of total particulate matter **per million Btu.**

The introductory language of 18 AAC 50.079(e) is amended to read:

(e) Subsections (c) and (f) of this section do not apply to the conveyance of a coal-fired heating device in an area identified in 18 AAC 50.015(b)(3) if the owner requests and receives a [TEMPORARY] waiver from the department or a local air quality program. The department or local air quality program may grant a [TEMPORARY] waiver **not to exceed one calendar year in duration** after considering

...

18 AAC 50.079(f) is amended to read:

(f) Except as provided under (d) or (e) of this section, the owner of an existing coal-fired heating device shall render the device inoperable by the **earliest** [EARLIER] of

(1) December 31, 2024;

(2) [OR] before the device is sold, leased, or conveyed as part of an existing building; **or**

(3) **upon expiration of any waiver granted under (e) of this section.**

18 AAC 50.079 is amended by adding a new subsection to read:

(h) In an area identified in 18 AAC 50.015(b)(3), a person who owns a device that under this section may not be reinstalled within the area shall

(1) ensure that the device is rendered inoperable when it is removed; or

(2) submit to the department a certified affidavit, in a form the department

provides, stating that the device has been removed and will not be reinstalled in an area identified in 18 AAC 50.015(b)(3); the affidavit must be certified by including the following statement: "Based on information and belief formed after reasonable inquiry, I certify that the statements and information in and attached to this document are true, accurate, and complete." and, upon sale of the existing building or other property, inform the buyer in writing that a device that under this section may not be reinstalled within the area and may not be installed in the existing building or on the property. (Eff. 1/12/2018, Register 225; am 9/15/2018, Register 227; am 1/8/2020, Register 233; am 12 / 8 / 2024, Register 252)

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

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

18 AAC 50.081. Real estate transaction requirements; weatherization and energy efficiency. (a) In an area identified in 18 AAC 50.015(b)(3), the following requirements apply:

(1) after December 31, 2025, a residential building owner must have an energy rating completed by an energy rater before listing the building or property for sale; the residential building owner shall pay for the costs of the energy rating; the energy rater shall provide information about weatherization resources as part of the energy rating report; the residential building owner must give the energy rating report to the buyer simultaneously with the seller's *Residential Real Property Transfer Disclosure Statement* from the Real Estate Commission; the residential building owner must submit the energy rating report to the department in a format provided by or approved by the department;

(2) the owner of any building being sold in which a wood-fired heating device is

located must register the device, using a form or method provided by the department unless the wood-fired device previously has been registered under 18 AAC 50.077(h);

(3) the buyer of any building in which a wood-fired heating device is located must submit a change of ownership notification to the department for any device previously registered under 18 AAC 50.077(h) or (2) of this subsection and must register any previously undisclosed wood-fired heating devices, using a form or method provided by the department;

(4) the owner, seller, and buyer of any building being sold in which a wood- or coal-fired heating device is located must comply with all applicable requirements under 18 AAC 50.077(h) and (l) - (n) and 18 AAC 50.079(b) and (f) - (h).

(b) An agent shall ensure compliance with all requirements of this section. To ensure compliance, the agent must

(1) inform the seller or buyer, as applicable, of the seller's or buyer's obligations under this section, 18 AAC 50.077, and 18 AAC 50.079; and

(2) ensure during a real estate transaction that the seller or buyer, as applicable, has performed all activities required under 18 AAC 50.077(h) and (l) - (n) and 18 AAC 50.079(b) and (f) - (h) or must personally ensure compliance with those requirements.

(c) If the agent has complied with (b)(1) of this section, the agent may not be liable for the failure to disclose to a buyer the presence of a noncompliant wood-fired heating device known by a seller but not disclosed to the agent.

(d) In this section,

(1) "agent" means any party who enters into a contract with an owner, seller, or buyer, including any party who enters into a contract with a representative of the seller or buyer, for the purpose of selling or buying any building;

(2) "energy rater" means a person authorized to perform energy ratings by the Alaska Housing Finance Corporation under 15 AAC 155.530, revised as of June 14, 2010, and adopted by reference;

(3) "energy rating" has the meaning given in 15 AAC 155.990, revised as of April 3, 2013, and adopted by reference;

(4) "residential building" has the meaning given in 15 AAC 155.990, revised as of April 3, 2013, and adopted by reference. (Eff. 12 / 8 / 2024, Register 252)

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

AS 46.14.010 AS 46.14.030