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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Gary Mendivil, Department of Environmental Conservation
FROM: Scott Meriwether, Office of the Lieutenant Governor - 465.4081 
DATE: February 1, 2016
RE: Filed Permanent Regulations: Department of Environmental Conservation

Regulations re: air quality, emissions of wood smoke and other sources of PM-2.5 (fine particulate matter), air quality advisories, commercial wood sellers, woodstoves, transportation conformity, and the state implementation plan (18 AAC 50.010(1)(B)(i); 18 AAC 50.030; 18 AAC 50.065(e); 18 AAC 50.076(g)(4),(h),(i); 18 AAC 50.715(c)(8); 18 AAC 50.720(e); 18 AAC 50.735; 18 AAC 50.990(140))

Attorney General File: JU2015200337
Regulation Filed: February 1, 2016
Effective Date: March 2, 2016
Print: 217, April 2016

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

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

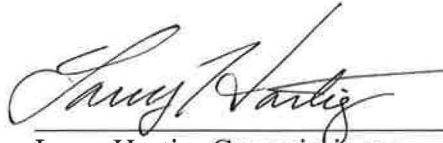
The attached seven pages of regulations, dealing with air quality adoption by reference updates are hereby adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 46.03 and AS 46.14 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken. The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action, as required by AS 46.03.024.

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

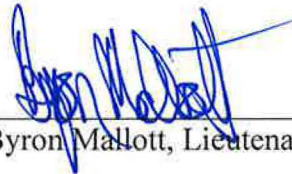
DATE: December 17, 2015
Anchorage, Alaska



Larry Hartig, Commissioner
Department of Environmental Conservation

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on February 11, 2015, at 10:51 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: March 2, 2016

Register: 217, April 2016

(i)

18 AAC 50.010(1)(B) is amended to read:

(((Publisher: Existing introductory language of 18 AAC 50.010(1)(B) is unchanged.)))

~~-(B) for PM-2.5~~

(((one more 0.5" left block indent)))

((one more 0.5" tab))) (i) an annual arithmetic mean concentration of **12.0** [15.0] micrograms per cubic meter, with this standard being attained when the three-year average of the annual arithmetic mean concentration is less than or equal to **12.0** [15.0] micrograms per cubic meter; for purposes of this sub-paragraph, a figure must be rounded to the nearest .1 microgram per cubic meter, as required in 40 C.F.R. Part 50, Appendix N, sec. 4.3(a), adopted by reference in 18 AAC 50.035(b);

align (Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 10/1/2004, Register 171; am 4/1/2010, Register 193; am 9/17/2011, Register 199; am 1/4/2013, Register 205; am 4/17/2015, Register 214; am 3/2/2016, Register 217)

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

introductory

The ~~lead in~~ language of 18 AAC 50.030 is amended to read:

18 AAC 50.030. State air quality plan. Volumes II and III of the *State Air Quality Control Plan* for implementing and enforcing the provisions of AS 46.14 and this chapter, as amended through December 17, 2015 [~~effective date of regulation~~] [MARCH 12, 2015], are adopted by reference.

The plan includes the following documents which are also adopted by reference:

...

(Eff. 1/18/97, Register 141; am 6/21/98, Register 146; am 9/4/98, Register 147; am 1/1/2000,

Register 217, April 2016 ENVIRONMENTAL CONSERVATION

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; 2/5/2015, Register 213; am 4/17/2015, Register 214; am 3/2/2016, Register 217)

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 50.065(e) is amended to read:

(e) Air Quality Advisory, ^{no local} Open burning is prohibited in an area if the department declares an air quality advisory under 18 AAC 50.245 or 18 AAC 50.246, stating that burning is not permitted in that area for that day. This advisory will be based on a determination that there is or is likely to be inadequate air ventilation to maintain the standards set by 18 AAC 50.010. The department will make reasonable efforts to ensure that the advisory is broadcast on local radio or television.

(Eff. 1/18/97, Register 141; am 2/28/2015, Register 213; am 3/2/2016, Register 217)

Authority: AS 46.03.020 AS 46.14.010 AS 46.14.030
AS 46.03.710 AS 46.14.020 Sec. 30, ch. 74, SLA 1993

18 AAC 50.076 (g)(4) is repealed and readopted to read:

(4) if marketing, selling, or providing wood as dry wood

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(A) wood that was split before freezing, may market, sell, or provide the wood as dry wood only if

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(i) the split wood is covered and stacked for ventilation;

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(ii) after splitting, covering, and stacking the wood, the

commercial wood seller tests the wood as required under (1)(A) – (D) of this subsection and the test results demonstrate that each piece of wood tested is dry wood;

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(iii) the commercial wood seller records and saves the test results and the date of the test; and

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(iv) upon actual sale, provision, or delivery, if the temperature is below 32 degrees Fahrenheit, the commercial wood seller documents the previously recorded test results and the date on the moisture content disclosure form and fully completes and signs the rest of the form;

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(B) wood that was split after freezing, may market, sell, or provide the wood as dry after freezing only if

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(i) the wood is mechanically dried; or

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(ii) the wood is manufactured as pellet logs; or

[[one more 0.5" tab]]

(iii) the source of the wood is from fire-killed trees and has been inspected by the department and found to be dry wood;

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~~(Eff. 2/28/2015, Register 213; am / / , Register)~~

~~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 50.076(h) is amended to read:

(h) In this section, "commercial wood seller"

(1) means a person who sells wood for use in space heating;

(2) does not include a person whose sales of wood consist wholly of

~~one more 0.5" tab~~ (A) wood products permissible under (a)(1)(B) or (b)(2) of this section;

[OR]

~~one more 0.5" tab~~ (B) bundles of split dry wood that are sized not more than 0.75 cubic feet

a bundle; or

~~one more 0.5" tab~~ (C) logs or rounds intended for resale, where the resale of the wood

and measurement and documentation of their moisture content will be

addressed by a commercial wood seller.

the period should be normal font, not boldface or underlined.

by adding

subsection to read:

18 AAC 50.076 is amended to add a new section:

(i) A commercial wood seller is not required to meet the requirements of (g) of this

section for any portion of its sales that are

~~one more 0.5" tab~~ (1) (A) wood products permissible under (a)(1)(B) or (b)(2) of this section;

~~one more 0.5" tab~~ (2) (B) bundles of split dry wood that are sized not more than 0.75 cubic feet

per bundle; or

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(G) logs or rounds intended for resale, where the resale of the wood and measurement and documentation of their moisture content will be addressed by another commercial wood seller.

(Eff. 2/28/2015, Register 213; am 3/2/2016, Register 217)

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 50.715(c)(8) is amended to read:

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(8) notify staff of participating agencies of any revision or amendment to a transportation plan or transportation improvement program that merely adds or deletes an exempt project listed in 40 C.F.R. 93.126 ~~and 40 C.F.R. 93.127~~, revised as of July 1, 2013 and adopted by reference; and



(Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am 4/1/2010, Register 193; am 4/17/2015, Register 214; am 3/2/2016, Register 217)

Authority: AS 46.03.020 AS 46.14.030

18 AAC 50.720 is amended by adding a new subsection to read:

(e) Charges imposed for inspection and copying of information, emissions data, analyses, models, and modeling assumptions used to perform a conformity determination or transportation related state implementation plan revision must be consistent with AS 40.25.110 and AS 40.25.115.

↑ (((move history note so it starts on same line where last subsection ends.)))
5

Register 217, April 2016 ENVIRONMENTAL CONSERVATION

(Eff. 1/4/95, Register 133; am 9/4/98, Register 147; am 4/1/2010, Register 193; am 4/17/2015, Register 214; am 3/2/2016,

Register 217)

Authority: AS 46.03.020 AS 46.14.030

18 AAC 50.735 is repealed:

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lowercase lowercase lowercase
18 AAC 50.735. Frequency of Transportation Conformity Determinations.

Repealed.

~~[(A) THE CONFORMITY STATUS OF A FEDERAL ACTION LAPSES FIVE YEARS AFTER THE DATE THAT A FINAL CONFORMITY DETERMINATION IS REPORTED TO THE DEPARTMENT UNLESS~~

~~(1) THE FEDERAL ACTION IS COMPLETED BEFORE FIVE YEARS HAS ELAPSED; OR~~

~~(2) THE FEDERAL AGENCY HAS COMMENCED A CONTINUOUS PROGRAM TO IMPLEMENT THE ACTION WITHIN A REASONABLE TIME.~~

~~(B) CONFORMITY DETERMINATIONS AND CONFORMITY REDETERMINATIONS FOR TRANSPORTATION PLANS, TRANSPORTATION IMPROVEMENT PROGRAMS, AND OTHER FHWA OR FTA PROJECTS MUST BE MADE IN ACCORDANCE WITH THE REQUIREMENTS OF 40 C.F.R. 93.104, REVISED AS OF JULY 1, 2013, AND ADOPTED BY REFERENCE.]~~

(Eff. 1/4/95, Register 133; am 4/17/2015, Register 214; repealed 3/2/2016; Register 217)

18 AAC 50.990(140) is amended to read:

*(add one more
0.5" Tab))* (140) "woodstove" has the meaning given in "wood heater" in 40 C.F.R. 60.531; the definition of "wood heater" in 40 C.F.R. 60.531, as revised as of July 1, **2015** [2014], is adopted by reference § 2[.]

(Eff. 1/18/97, Register 141; am 6/14/98, Register 146; am 6/21/98, Register 146; am 9/4/98, Register 147; am 11/4/99, Register 152; am 1/1/2000, Register 152; am 2/2/2002, Register 161; am 5/3/2002, Register 162; am 11/15/2002, Register 164; am 8/8/2003, Register 167; am 10/1/2004, Register 171; am 12/3/2005, Register 176; am 12/30/2007, Register 184; am 7/25/2008, Register 187; am 4/1/2010, Register 193; am 12/9/2010, Register 196; am 9/17/2011, Register 199; am 9/14/2012, Register 203; am 10/6/2013, Register 208; am 11/9/2014, Register 212; am 2/28/2015, Register 213; am 4/17/2015, Register 214; am 3/2/2016, Register 217)

Authority:	AS 44.46.025	AS 46.14.140	AS 46.14.250
	AS 46.03.020	AS 46.14.150	AS 46.14.255
	AS 46.03.710	AS 46.14.160	AS 46.14.280
	AS 46.14.010	AS 46.14.170	AS 46.14.285
	AS 46.14.020	AS 46.14.180	AS 46.14.290
	AS 46.14.030	AS 46.14.210	AS 46.14.300
	AS 46.14.120	AS 46.14.230	AS 46.14.560
	AS 46.14.130	AS 46.14.240	Sec. 30, ch. 74, SLA 1993