

**ALASKA DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**



**18 AAC 50 Air Quality Control
Responsiveness Summary
2016 Adoption Updates**

May 18, 2016

Introduction

The Alaska Department of Environmental Conservation (ADEC) proposed to change its air quality regulations to update adoption by reference dates of federal air quality regulations used in air quality control permits, clarify additional regulatory language, and repeal regulations no longer needed. This document provides the Department's response to public comments received during the public comment period.

ADEC proposed to adopt regulation changes in Title 18, Chapter 50 of the Alaska Administrative Code, dealing with updated adoptions by reference, clarifying language, and regulation repeals, including the following:

- Amend 18 AAC 50.010(4) to adopt the current daily maximum eight-hour standard for ozone.
- Repeal 18 AAC 50.010(7) because there are no longer any regulated sources in Alaska.
- Amend 18 AAC 50.020 to establish a minor source baseline date for the South Central Alaska Intrastate Air Quality Control region for fine particulate matter (PM-2.5).
- Amend 18 AAC 50.035(a)(3) to update the adoption by reference date of the Air Pollutant Emission Factors and provide a link to an Internet site where they can be found.
- Amend 18 AAC 50.035(a)(7) to update the adoption by reference of the modeling program user's guide.
- Amend 18 AAC 50.040(a) – (k) to update the adoption dates of federal regulations adopted by reference to maintain current, consistent permitting requirements.
- Amend 18 AAC 50.040(a) to add new paragraphs to adopt new federal rules by reference to maintain current, consistent permitting requirements.
- Repeal 18 AAC 50.055(a)(2) – (3) and (7) – (8); (b)(4) and (6); and (f) because there are no longer any regulated sources in Alaska.
- Repeal 18 AAC 50.060 because there are no longer any regulated sources in Alaska.
- Amend 18 AAC 50.215(a)(3) to adopt a cross-reference in the monitoring requirements to a previously adopted meteorological monitoring document.
- Amend 18 AAC 50.345(o) to change the number of copies of reports required.
- Amend 18 AAC 50.346(b) to update the adoption by reference date of revised standard conditions.
- Amend 18 AAC 50.410(a) to remove a reference to a repealed statute.
- Amend 18 AAC 50.410(c) to ensure emissions are properly calculated.
- Amend 18 AAC 50.502(c) to close a permitting loop-hole that allowed emissions increases below prevention of significant deterioration (PSD) level to occur without triggering minor permitting requirements.
- Amend 18 AAC 50.542(b)(5) to clarify the timing of fast track permit actions.
- Amend 18 AAC 50.542(d)(1) to clarify public notice requirements for alternative modeling approvals.
- Amend Standard Condition I to align language to match regulatory language and add language to ensure emissions are properly calculated.
- Amend Standard Condition VII to change the number of copies of reports required.

- Amend Standard Condition XV to comply with changes made in reporting requirements and for language consistency.
- Amend Standard Condition XVI to comply with changes made in reporting requirements.

Opportunities for Public Participation

The proposed regulation changes to 18 AAC 50 were described in the Department's public notice which was signed on February 17, 2016, and posted on the public notice web pages of the State of Alaska, the Department of Environmental Conservation, and the Division of Air Quality on February 18, 2016. The public notice was published in the Alaska Dispatch News on February 18 – 19, 2016. The Department accepted public comment through March 25, 2016. The Department's public notice stated that DEC would hold a public hearing on March 22, 2016, if the Department received a request for a hearing by March 17, 2016. The Department received no requests, and cancelled the hearing. The Department posted notice of the cancellation on the State, Department, and Air Permits Programs public notice web pages on March 18, 2016.

Commenters

Comments were received from:

- ConocoPhillips Alaska, Inc. (Conoco) (See Appendix I)
- Sims Duggins (See Appendix II)

Revisions to Proposed Amendments:

Revisions were made to the proposed amendments based on comments as follows:

- In 18 AAC 50.035(a)(3), the adoption date of AP-42, *Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources*, Fifth Edition with Supplements A – F and annual updates was updated to April 2015.
- Language was added to 18 AAC 50.410(c)(2) to include vendor-provided emissions factors, as part of the “other methods and calculations approved by the department”, as a method by which emission fees can be calculated. The language was also added to Standard Condition I, even though the commenter did not address the need for consistent language between the regulations and the Standard Condition.
- Language was added to 18 AAC 50.542(d)(1) to indicate that a public comment period on alternative modeling approvals would coincide with the public comment period for the draft permit for which the alternative modeling approval was proposed, to the extent practicable.
- Revisions were made to Standard Condition XV at XV.1.1 to change the date by which all permittees subject to the Standard Condition have to submit their Emission Inventory Reports from March 31 to April 30. Language was also added to the Factual Basis to explain the change in due date.
- Revisions were made to Standard Condition XVI to highlight all required information in the same color.
- Revisions were made to Standard Condition XVI to update the mandatory information required in compliance with 2015 revisions to the Air Emission Reporting Requirements (AERR).

Revisions were made to the regulations based on staff review during the response to comments process as follows:

- The language in 18 AAC 50.035(a)(3) describing where to access the AP-42, *Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources*, Fifth Edition with Supplements A – F and annual updates was removed because the Editor’s Note to 18 AAC 50.035 already details how to access the files by contacting EPA.
- The revised as of date was updated in 18 AAC 50.040(d) to include a date of revision in the Federal Register that occurred before the public notice was published.
- The revised as of date was updated in 18 AAC 50.040(h) to include a date of revision in the Federal Register that occurred before the public notice was published.

- Conforming edits to the public notice package were made in 18 AAC 50.502(e)-(h) and in 18 AAC 50.540(c).

The department declined to make changes requested by commenters due to the reasons noted below:

- Request to add language to 18 AAC 50.410(c)(2) to indicate that more conservative estimates may be used to calculate projected annual rate of emissions.
 - *The Department did not add language to 18 AAC 50.410(c)(2) to allow the use of more conservative estimates. 18 AAC 50.410(c)(2) requires the use of available and representative information. “More conservative” is an ambiguous term which could result in either a higher or lower estimate of emissions than other methods. Determining whether an emission estimate is “more conservative” than another method, requires the supporting calculations and data for comparison. This is an unnecessary added burden to both the owner/ operator and the Department.*
- Request for new condition XV.1.4 in Standard Condition XV that would allow permittees required to submit reports for nine or more stationary sources have a deadline for the ninth and subsequent reports be extended to April 30.
 - *The Department changed the deadline for all reports required under condition XV.1.1 to April 30, so new condition XV.1.4 is not necessary.*
- Request to revise the first paragraph of the Factual Basis for Standard Permit Condition XV, Emission Inventory Reporting to reflect the change requested for condition XV.1.1.
 - *The Department changed the deadline for all reports required under condition XV.1.1 to April 30, so this change request is moot. However, the Department will change the language to explain the change in due date to state, “The due date for the emission inventory is being changed from March 31 to April 30. This is to help relieve the reporting burden that permittees are subject to at the end of the calendar year’s first quarter and especially for those that have to submit multiple emission inventories.”*
- Request to revise the second paragraph of the Factual Basis for Standard Permit Condition XV, Emission Inventory Reporting by removing the second sentence.
 - *The Department declined to remove the language as requested because this standard condition was created to fulfill the requirements of 40 C.F.R. 51, Subpart A, and it provides the justification for why the standard condition was developed.*
- Request to remove the data element “ID” from the Stack Detail (Release Point) section of Standard Condition XVI to eliminate redundancy.
 - *The data elements “Release Point ID” in the Emissions’ Release Point section and “ID” in the Stack Detail section provide the Department with separate information and so will remain in the Standard Condition. The Department will provide additional clarifying information in emission inventory literature or on the website to indicate that the Department uses the “Release Point ID” field to indicate which stack or stacks were used in the release for the afore mentioned emissions and uses the “ID” field to indicate that the stack parameters are associated with that particular stack ID.*

Fiscal Impact Comments:

There were no comments on fiscal impacts of the proposed regulation changes.

Appendix I

ConocoPhillips Alaska Comment
March 11, 2016



Laura Perry
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March 11, 2016

Certified Mail
Return Receipt Requested
7010 3090 0002 2170 1861

Rebecca Smith
Alaska Department of Environmental Conservation
Division of Air Quality
410 Willoughby Avenue; Suite 303
P.O. Box 111800 Juneau, AK 99811-18010

Subject: Air Quality Control: Notice of Proposed Changes in the Regulations of the Alaska Department of Environmental Conservation, ConocoPhillips Alaska, Inc. Comment

Dear Ms. Smith,

ConocoPhillips Alaska, Inc. (CPAI) is pleased to provide comment on the Alaska Department of Environmental Conservation (ADEC) proposed changes in the regulations 18 Alaska Administrative Code (AAC) 50.

Comment: Number (17) "Amend 18 AAC 50.542(d)(1) to clarify public notice requirements for alternative modeling approvals" remains unclear. CPAI proposes the following language changes:

(F) the department will request public comment on any alternative modeling approvals issued under 18 AAC 50.215(c)(2). This public comment period will coincide with the public comment period for the draft permit, if applicable.

Basis: The current language is ambiguous and could be interpreted to mean that there will be one public comment period for the alternative model approval and then a subsequent public comment period for the draft permit. A telephone conversation between Alan Schuler (ADEC) and Laura Perry (CPAI) on March 7, 2016 clarified that two public comment periods were not the Department's intent. This requested sentence adds clarification to potential confusion; and will insure that permits are processed in a timely manner while still maintaining the necessary public comment processes.

If you have any questions, please contact me at laura.perry@cop.com or (907) 265-6937.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laura K. Perry', written over a horizontal line.

Laura K. Perry
Coordinator - Air Quality

Appendix II

Sims Duggins Comments
March 25, 2016

Comments from Sims Duggins received via the Air On-line Services comment system:

18 AAC 50.035(a)(3):

ADEC has proposed changing the adoption date for EPA's AP-42 publication to include updates through January 2011. I suggest that ADEC consider changing the adoption date to include updates to AP-42 through April 2015. By so doing, the changes that were made to AP-42 Section 13.5 in April 2015 regarding industrial flare emission factors will be captured by the new adoption date. SLR Consulting is already using the updated AP-42 flare emission factor that pertains to estimating CO emissions from flares.

18 AAC 50.410(c):

The Department proposes to include language indicating that actual emissions estimates must be based on the most representative information available among source tests, material balance calculations, EPA's AP-42, and other methods and calculations approved by the Department. This suggests that if a source that is subject to fees happens to estimate emissions based on a method that is less representative of actual emissions, even if those estimates represent higher emission rates than another more representative method, such estimates would not be accepted by the Department. Understandably, the Department does not want actual emissions to be underestimated, but the proposed rule language change should be modified to allow more conservative estimates of actual emissions compared to more representative emissions to be made without violating the rule if evidence can be provided to show that emission factors used to estimate emissions are higher than another factor that is deemed more representative (e.g., using an AP-42 factor that is higher than a source test factor to estimate actual emissions). Of course, it seems unlikely that a source would do this, but it is possible that a source could estimate actual emissions inadvertently using more conservative emission factors.

Also, consider modifying the rule language at 18 AAC 50.410(c)(2) to include vendor-provided emissions factors on the list of specific potential resources for estimating actual emissions. At present, this is presumably included as another "method...approved by the Department", but could be specifically stated in the rule.

Standard Condition XV:

See comments provided in the attached documentation.

Standard Condition XVI:

- 1) The ADEC Reporting Form in Standard Permit Condition XVI indicates that mandatory information is highlighted. Presumably, data elements that are highlighted any color fall into this category, although this is not clear. The mandatory data elements should be highlighted a single color on the report form to eliminate confusion.
- 2) The data elements, "Release Point ID" and "ID", in the Emissions' Release Point and Stack Detail (Release Point) sections of the form, respectively, are synonymous. Removing the data element, "ID", from the Stack Detail (Release Point) section would eliminate redundancy.
- 3) The purpose of some recent revisions to the Air Emissions Reporting Requirements (AERR) as stated beginning at 80 FR 8787 (dated 2/19/15) was to simplify reporting. For example, stack coordinates (latitude and longitude) and fuel characteristics (heat content, ash content, and sulfur content) are no longer required by the EPA to be reported (see Table 2a and Table 2b to Appendix

A of 40 CFR 51 Subpart A as amended 2/19/15). These data elements should not be identified as mandatory on ADEC's form (i.e., they should not be highlighted) in order to be consistent with the current AERR in Appendix A of 40 CFR 51 Subpart A and to meet the intent of the Federal rule change to reduce the reporting burden. In addition to these specific examples of data elements that are highlighted on the ADEC Reporting Form that are actually not mandatory according to Table 2a and Table 2b to Appendix A of 40 CFR 51 Subpart A, the Department should carefully review the Federal tables and update the form in Standard Permit Condition XVI accordingly so that mandatory information identified via highlighting on the ADEC form does not conflict with the list of mandatory information as outlined in the Federal rule.

- 1) Revise **Standard Permit Conditions XV.1, XV.1.1, XV.1.2**, and create a **new Condition XV.1.4** as follows:

- “1. Emission Inventory Reporting.** The Permittee shall submit to the Department reports of actual emissions, by emission unit, of CO, NH₃, NO_x, PM₁₀, PM_{2.5}, SO₂, VOCs and Lead (Pb) (and lead compounds) for the previous calendar year using the form in Section 15 of this permit, as follows:
- 1.1 Each year by March 31, if the stationary source’s potential to emit for the ~~previous calendar reporting~~ year equals or exceeds: ...
 - 1.2 Every third year by March 31, if the stationary source’s potential to emit for the ~~previous calendar reporting~~ year equals or exceeds: ...
 - 1.3 For reporting under Condition 1.2, the Permittee shall report in 2015 for calendar year 2014, 2018 for calendar year 2017, 2021 for calendar year 202, etc., in accordance with the Environmental Protection Agency set schedule.
 - 1.4 For a Permittee that is required to submit reports for nine or more stationary sources, the deadline for the ninth and subsequent reports is extended to April 30.”

Basis: 1) The first proposed edit, pertaining to Condition XV.1, is intended to clarify the period of record that is to be covered by the reports and removes the reference in Conditions XV.1.1 and XV.1.2 to the potential to emit “for the previous calendar year” as such language could lead to confusion as to whether the basis for reporting is based on the PTE of the source (which is generally fixed from year to year) or based on actual emissions (which generally fluctuates from year to year).

2) The proposed new condition to extend the deadline to April 30 for the ninth and higher reports will allow for more time to complete the reports when many are required to be submitted. March 31 is the deadline for submitting fees information, certification reports, greenhouse gas reports, etc., as well as these emission inventory reports. Some Permittees are required to prepare numerous reports for sources with numerous emission units. Permittees have complied with the March 31 deadline for the past few years, but when many reports are required to be submitted by a Permittee the level of effort to generate the reports is an unreasonable regulatory burden. The requested one month extension for the ninth and subsequent reports is reasonable since it would still provide ADEC with up to eight reports from each Permittee by March 31 to work on in order to meet the Department’s reporting deadline to EPA. Because so many are due by March 31, certainly submittal of a relatively few additional reports by April 30 will not slow down the Department’s process of preparing the reports for EPA.

- 2) Revise the **1st paragraph** of the **Factual Basis** for **Standard Permit Condition XV, Emission Inventory Reporting**, as shown:

“Factual Basis: The emission inventory data is due to EPA 12 months after the end of the reporting year... A due date of March 31 corresponds with sources reporting

actual emissions for assessable emissions purposes and provides the Department sufficient time to enter the data into EPA's electronic reporting system. However, the Department recognizes the burden associated with preparing these reports when many are due simultaneously. Therefore, for Permittees required to submit nine or more emission inventory reports in a given year, the deadline for submittal of the ninth and subsequent reports is April 30."

Basis: The proposed language to be added to the Factual Basis addresses the proposed new Standard Permit Condition XV.1.4 per my previous comment.

- 3) **Revise the 2nd paragraph of the Factual Basis for Standard Permit Condition XV, Emission Inventory Reporting, as shown:**

~~"The air emissions reporting requirements under 40 C.F.R. Part 51 Subpart A apply to states; however, states rely on information provided by point sources to meet the reporting requirements of Part 51 Subpart A. In the past, the Department has made information requests to point sources, to which the point source is obligated to reply under 18 AAC 50.200. The information requests occur on a routine basis as established by Part 51 Subpart A and consume significant staff resources. To increase governmental efficiency and reduce costs associated with information requests that occur on a routine basis, it has been determined that a standard permit condition best fulfills the need to gather the information needed to satisfy the requirements of Subpart A of 40 C.F.R. 51."~~

Basis: The language deleted above is an editorial discussion that the Department has inserted in the Factual Basis for the condition to justify the creation of Standard Permit Condition XV. This discussion is not pertinent to the Statement of Basis for a Title V permit and should not be written into the Factual Basis for Standard Permit Condition XV. I suggest that the Department move the deleted language shown above to become an introductory paragraph to the standard permit condition. In this way, the justification language will not be carried into Title V operating permits, but is still available for the information of those reading the condition as presented in the rules.