

**Response to Public Comments**  
**Regulation Changes to Title 18, Chapter 50 of the Alaska Administrative Code**  
**Standard Conditions and *In Situ Burning Guidelines for Alaska* Rulemaking**  
**August 15, 2008**

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The Department proposed amendments to the Air Quality Control regulations in 18 AAC 50 to address the following goals:

1. update adoption by reference of revised Standard Conditions for permits;
2. add a new Standard Condition;
3. adopt language to allow the use of Standard Conditions in Minor Source Permits;
4. propose changes the *In Situ Burning Guidelines for Alaska*; and
5. update the adoption by reference date of revised documents, including the *Performance Audits for COMS* (Continuous Opacity Monitoring Systems), and the *In Situ Burning Guidelines for Alaska*.

**Public Comment Process:** The proposed regulations were public noticed on April 22, 2008, and the Department accepted public comments from April 22, 2008, through May 28, 2008. The Department held a public hearing on May 22, 2008; comments were received at the public hearing.

This document responds to comments received during the comment period.

**The Department received written comments from the following:**

- A. Gerry Guay, ADEC Monitoring Group, 12 May 2008, via e-mail, comments on *In Situ Burning Guidelines*;
- B. Jim Plosay, ADEC Operating Permit Group, 20 May 2008, via e-mail, comment on minor word change needed on Standard Condition VII;
- C. Brad Thomas, ConocoPhillips, 27 May 2008, via e-mail, comments on possible ambiguity in revision to 18 AAC 50.345(j) and on revision to Standard Condition VII;
- D. Pamela Bergmann, U.S. Dept. of the Interior (USDO I), 28 May 2008, via e-mail and fax, comments on *In Situ Burning Guidelines*, including reiteration of comments submitted to the Alaska Regional Response Team (ARRT) on January 25, 2008;
- E. John S. Devens, (e-mailed by Jennifer Fleming), Prince William Sound Regional Citizens' Advisory Council (PWSRCAC), 28 May 2008, via e-mail, comments on *In Situ Burning Guidelines* including a copy of the December 2007 version of the *Guidelines* with PWSRCAC's comments in note format;

- F. Marilyn Crockett, (e-mailed by Sami Glascott), Alaska Oil and Gas Association (AOGA), 28 May 2008, via e-mail and fax, comments on Standard Conditions proposing changes to Standard Conditions VII, IX, XIII, and XIV; and
- G. Karen Wuestenfeld, (e-mailed by Alison Cooke), BP Exploration (Alaska) Inc. (BPXA), 28 May 2008, via e-mail and mail, comments supporting AOGA's comments and proposing additional changes to Standard Condition IX to address flaring events.

The Department received oral comments at the public hearing on 22 May 2008 from:  
H. Dana Olson, Rolling Pine Tree Farm, Wasilla AK.

### **Structure of Response to Comments**

The public comments were received as written comments sent via e-mail and fax by the close of the comment period and as oral comments at the public hearing. The comments on the Standard Conditions and those on the In Situ Burning Guidelines have been separated into two sections in this document, as they are being addressed by different staff members. Comments regarding the Standard Conditions (from Commenters B, C, F, and G) will be addressed in the first section. Comments regarding the In Situ Burning Guidelines (from Commenters A, D, E, and H) will be addressed in the second section.

The department considered the proposed changes to the regulations presented. The Response to Comments addresses all comments below.

### **Comment B: Operating Permit Group Comment on Standard Condition VII:**

"The following minor change needs to be added to Standard Permit Condition VII -- at Condition 1.2b:

#### **Subject:**

Change the word "may" in "when excess emissions or permit deviations have already been reported under condition <insert cross reference to standard permit condition III - excess emissions and permit deviation reports>, the permittee may cite the date or dates of those reports" to "shall" to read:

"when excess emissions or permit deviations have already been reported under condition <insert cross reference to standard permit condition III - excess emissions and permit deviation reports>, the permittee shall cite the date or dates of those reports."

#### **Rationale:**

Removes ambiguity and possibility of error.

#### **Response B:**

The department agrees with the proposed change. The department agrees that the proposed change will reduce the possibility of errors in reporting.

***Response B: Revised Language:***

The department proposes to make the suggested change to Standard Condition VII, Condition 1.2b.

**Comment C.1: ConocoPhillips Comment on 18 AAC 50.345(j):**

“CPAI supports the change being proposed for 18 AAC 50.345(j) but believes it should be clarified. It appears the Department is modifying the language so that only applications, operating reports, excess emission/permit deviation reports, and compliance certifications need be certified by a responsible official. If this is the case, we believe this is a very good change. However, two phrases in the proposed regulation have the potential of clouding the Department’s intent and introducing confusion.

First, the proposed requirement to certify any “report” is ambiguous and could eliminate any benefit of this proposed regulation change. This regulation would be much clearer (and beneficial) if it was worded so that specific types of reports (i.e., semi-annual or quarterly operating and excess emission/permit deviation reports) be certified. Second, the requirement to certify any “affirmation” could similarly eliminate any benefit from this rule package. We’re not sure what types of submittals could be considered affirmations and believe this word could conceivably be expanded to cover just about anything. For example, pursuant to one of our permits we notify ADEC of drill rig relocations (which happen frequently) and those notifications are certified by a responsible official. We discussed with the Department previously that obtaining the certifications for these rig moves is overly burdensome and looked forward to this regulation package for relief. However, if rig move notifications are construed to fall into the “report” or “affirmation” category (not inconceivable given the lack of definition for the two words), the benefit of the rule change will be lost on us. We’re not sure the Department intends this outcome.

In summary, CPAI requests that the word affirmation be removed from this proposed rule and that the types of reports requiring certification be specified. In addition, we request that the last sentence of proposed 18 AAC 50.345(j) be worded as follows: “*All other documents requiring certification under this paragraph must be certified upon submittal.*””

***Response C.1:***

The department thinks that the proposed condition text is already specific enough. The text requires that the permittee certify any of the various mentioned reports that “...*are submitted to the Department AND required by the permit....*” Emphasis on the word “and” has been added for clarity. Reports submitted by the permittee not required by the permit would not have to be certified, but any report required by the permit and submitted to the Department would be required to be certified. That distinction in 18 AAC 50.345(j) spells out what constitutes a report under 18 AAC 50.345(j). Other items that

do not constitute a report, but are required by the permit, such as a response to a Departmental information request, would have to be certified since it is a required element of the permit under 18 AAC 50.200. The addition of the word “affirmation” brings this regulatory text in line with 18 AAC 50.205.

***Response C.1: Revised Regulations:***

The department does not propose to change the text of 18 AAC 50.345(j) as requested.

**Comment C.2: ConocoPhillips Comment on Standard Operating Permit Condition VII:**

“CPAI understands the Department’s efforts to modify Standard Operating Permit Condition VII but it is not clear why a more burdensome requirement is necessary in all cases. Specifically, it appears the proposed standard condition language will require the generation of two distinct data sets for spans when new permits are issued at some point during the reporting period. We understand that there may be circumstances where this is necessary but are compelled to request flexibility for very practical reasons.

Given the amount of data we must handle for most of our facilities, developing a single data set is itself quite a staff-intensive effort. Data collection, collation, and review (sometimes on multiple levels) require the focus of several people in a condensed period of time. Potentially doubling this load could have a significant impact and subject a facility to unnecessary compliance risk (i.e., something could be missed in one of the sets as a result of frantically trying to generate two).

CPAI thus requests that language be added to the proposed Standard Operating Permit Condition VII that allows the newer permit reporting requirements to supersede the old permit reporting requirements if a permit is issued during a reporting period – so long as the new permit requirements can be fully complied with (i.e., the data collection mechanisms are in place to satisfy for the entire reporting period the new permit reporting requirements). We accept that, in the absence of being able to fully comply with the new permit reporting requirements, then two data sets will need to be generated. The justification for this request is that new permit reporting requirements are presumably superior to older permit reporting requirements, and for this reason, they were changed.”

***Response C.2:***

The department does not intend to produce more burdensome reporting requirement. The language change in the Standard Condition is needed to remove ambiguity and improve the clarity and accuracy of the reports submitted that occur over a permit revisions cycle. This is an infrequent reporting event that occurs every five years when a new permit is issued and supersedes an old permit. This change makes no distinction that the new permit reporting requirements are superior to the old permit reporting requirements, just

that each permit's terms and conditions must be reported for the time period that each permit is effective, regardless if that permit has recently expired.

Whenever a permit action takes place and includes new or revised permit conditions (and possibly renumbered permit conditions), the chance for error is increased. By providing one report in line with the original permit terms and conditions from the date of the beginning of the reporting period up until the date of new permit issuance, and then a second report for the new permit from the date of permit issuance until the end of the reporting period in line with the new version of the permit, the chances for clarity and accuracy are improved. This will ensure compliance while allowing the Permittee reporting options. Permittees have the option to submit one report certifying all permit terms and conditions against each permit for each period that the permit was valid or two reports (one for each division of the reporting period against the permit that was valid during that timeframe) to cover the transition from a rescinded or expired permit to a renewed permit.

If the Department were to follow CPAI's request, one of either two possibilities may occur: 1) only the permit terms and conditions would be reported against under the new permit, ignoring terms and conditions that existed up until the permit was renewed or revised since the last reporting period; or 2) the permittee may report against a condition in the new report for the entire period back to the last report under the old permit that may not cross over (or correspond) to the exact same condition in the old permit. Both of these reporting possibilities could create confusion for compliance tracking.

This revision to the Standard Condition ensures date-to-date continuity and permit condition-to-condition flow by extending the reporting obligation into areas covered by a previous permit even if that permit has been replaced by a renewal permit. This revision to the Standard Condition is increasingly important as permittees have started submitting compliance reports under the currently valid renewal permit, and they may not completely comprehend the need for full date-to-date continuity by reporting against rescinded/expired permits that were replaced by the renewal permits.

As an example, let's examine a TVP01 permit that expires on September 15 and is renewed in a timely manner by a new TVP02 permit (i.e. the TVP02 was issued before the expiration date of the TVP01 or the application was received before the expiration of the TVP01 and so the TVP02 was issued under the permit shield provisions of the regulations). The Operating Report for the TVP01 covered the period July 1 to December 31 and is due on February 1 of the next year. The Operating Report for the TVP02 is also due on February 1. When the reports are due in February, the permittee is then operating under the new renewed TVP02 permit, and its effective date only goes back to September 15. What about the reporting obligations for July 1 to September 14? They are under the old TVP01 permit, but it has expired. Can they be ignored? No, the reporting requirement still exists to report under the expired TVP01 permit *and* under the new TVP02 permit to cover the date-to-date continuity of July 1 to December 31.

Can the Permittee make one report covering the whole time period? Yes, if the terms and conditions have not changed, as stated in the Statement of Basis. If the TVP02 permit changes the numbering or the terms contained within the conditions, then two reports would best suit the reporting requirement to ensure clear alignment to the correct references in each permit.

This is one time reporting occurrence, and no subsequent dual-reporting is required. During the next Operating Report cycle the new TVP02 permit will be the only permit in effect during that reporting time frame.

No new reporting requirements or new data sets are required by this revision to the standard condition. CPAI's suggestion that "*Potentially doubling this load could have a significant impact...*" is a mistaken interpretation. The change to the standard condition only clarifies reporting requirements to ensure continuity.

***Response C.2: Revised Language:***

The department does not propose to change the language of Standard Condition VII as suggested.

**Comment F.1: AOGA Comments on Standard Operating Permit Condition VII**

"1. Standard Operating Permit Condition VII – Operating Reports

**Comment F.1.a:**

"a. Please delete Footnote 1. Footnote 1 extends the duration of certain Title V permit conditions and requirements. This extension is directly contrary to the explicit requirements in 18 AAC 50.326(j)(2) and AS 46.14.230."

***Response F.1.a:***

The department does not agree with this proposal. The footnote does not change the permit effective dates, so it is not in conflict with 18 AAC 50.326(j)(2) or AS 46.14.230. The footnote ensures that if a permit has expired before the end of a calendar year, there is still a requirement to submit operating reports for the period of time during the year when the facility was in operation prior to the expiration of the permit.

***Response F.1.a: Revised Language:***

The department does not propose to remove the Footnote 1. The footnote will remain in Standard Condition VII.

**Comment F.1.b:**

“b. Please amend Condition 1 to require the submission of one original operating report and one copy of that report. AOGA believes that one original report and one copy of that report is adequate to meet Alaska Department of Environmental Conservation (ADEC) working and recordkeeping requirements.”

***Response F.1.b:***

The department requires one original and two copies of each operating report submission to ensure that there are sufficient copies available for distribution to all necessary staff. One of these copies is allowed (and preferred) to be an electronic copy to ease Departmental distribution of the reports to staff. The remaining two paper copies (original and one other copy) are required for Departmental files and for distribution.

***Response F.1.b: Revised Language:***

The department does not propose to change the condition language text.

**Comment F.1.c:**

“c. AOGA is supportive of the option in Condition 1.1 to provide electronic copies of data reports and emission source test reports instead of hard copies. However, AOGA believes this option should be provided in a stand-alone standard permit condition because the option will be applicable to many documents, not just operating reports. Including the option in Standard Operating Condition VII could contribute to future confusion because Standard Condition VII is specific to operating reports.”

***Response F.1.c:***

The department has already provided report-specific language for each reporting element that may be submitted electronically, such as excess emissions/permit deviations reports or relocation notices. The language in Standard Condition VII is specific to the compliance reporting required by this condition. The requirement to submit data or reports electronically can differ depending on the report type, i.e. electronic notification under Standard Condition III must be done via web submittal, not through sending an electronic copy of the document. Developing one new standard condition to address all electronic submittal of reports and other information would, therefore, not be possible due to the variances in submittal format requirements across submittal types.

***Response F.1.c: Revised Language:***

The department does not propose to change the submission of electronic copies from a part of Standard Condition VII to a stand-alone standard condition.

**Comment F.1.d:**

“d. Please delete Condition 1.4. The department explains that this change “will ensure complete reporting obligations for the entire range of reportable dates that continue over permit renewal transition periods.” While this goal seems logical, it is not supported in statute or regulation. This requirement imposes unnecessary risk associated with missed reporting on obsolete requirements. Reviewing expired reporting requirements does not serve to prevent, abate, or control air pollution.”

***Response F.1.d:***

The department does not agree. The goal of the condition is supported in federal regulation (40 CFR 71.6(a)(3)(iii) adopted by reference) and in State statute (AS 46.14.140). The revised Standard Condition text adds no new reporting requirements and ensures that reporting obligations for past and present permit effective date periods are date-to-date consistent and cover all periods of time covered by an operating permit. No new compliance risk is added to this condition since permittees are required to report on each permit term and condition throughout the effective date range of that permit, even if it has expired and a new permit has been issued. The condition clarifies that if a permit expires in the middle of a semi-annual period and is replaced with a renewed permit, then the permittee must not only report from the effective date of the new permit to the end of the reporting period, but must also report against the terms and conditions of the expired permit for those dates covered under that reporting period which occurred before the renewed permit became effective. This provides date-to-date continuity, and no “*free ride*” is issued for the period under an expired permit that is not covered by the renewed permit.

It should be noted that this is a one-time occurrence every 5 years upon the permit renewal cycle. Once the permittee has fulfilled the reporting obligations of an expired or superseded permit with the last operating report and annual compliance certification, then that expired/superseded permit has been fulfilled.

***Response F.1.d: Revised Language:***

The department does not propose to delete Condition 1.4 as suggested.

**Comment F.1.e:**

“e. If the department elects to retain Condition 1.4, it is only applicable during the first period of a renewed operating permit. The requirement is not applicable to and should not be included in an initial operating permit. Please add an instruction informing ADEC staff that this requirement should not be included in an initial operating permit.”



***Response F.1.e:***

The department agrees that the condition is only applicable as a facility transitions from an expired to a renewed permit; as written, the condition starts with the header: “Transition from expired to renewed permit.” The wording of the condition makes it clear that it is not applicable to an initial permit issuance.

***Response F.1.e: Revised Language:***

The department does not propose to change the language in Condition 1.4. The condition is specifically written to indicate that during the first reporting period of a renewed permit that the facility must provide the operating report information from the period immediately preceding the issuance of the renewed permit.

**Comment F.2: AOGA Comments on Standard Operating Permit Condition IX:**

“2. Standard Operating Permit Condition IX – Visible Emissions and Particulate Matter Monitoring Plan for Liquid-Fired Emission Units”

**Comment F.2.a:**

“a. Please delete Footnotes 1 and 2 because these footnotes are no longer necessary. In a rulemaking published in the Federal Register on August 14, 2007, the U.S. Environmental Protection Agency (EPA) approved and incorporated by reference 18 Alaska Administrative Code (AAC) 50.055, except for (d)(2)(B). This approval became effective on September 13, 2007. As a result, these footnotes are no longer necessary.”

***Response F.2.a:***

The department agrees with this proposed change. The EPA’s approval of Alaska’s State Implementation Plan changes to 18 AAC 50 in 2007 makes the footnotes moot.

***Response F.2.a: Revised Language:***

The department proposes to remove Footnotes 1 and 2 from Standard Operating Permit Condition IX – Visible Emissions and Particulate Matter Monitoring Plan for Liquid-Fired Emission Units.

**Comment F.2.b:**

“b. Please amend the first sentence of Condition 3.1a as follows to clarify that restarting the cycle of monitoring is not required per Condition 3.4.

Except as provided in Condition 3.4, for EU ID(s) < >, observe exhaust for 18 minutes within six months after the issue date of this permit.”

***Response F.2.b:***

The department agrees with this proposed change. Condition 3.4 clearly allows for an alternate monitoring frequency for renewal permits and should be referenced in Condition 3.1.a.

***Response F.2.b: Revised Language:***

The department proposes to add the suggested language to Condition 3.1.a.

***Comment F.2.c:***

“c. Please amend Condition 3.1b to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

After the first Method 9 observation, perform 18-minute observations at least one in each calendar month that an emission unit ~~a source~~ operates.”

***Response F.2.c:***

The department agrees with the proposed change from “source” to “emission unit” in the proposed location in the Standard Condition.

***Response F.2.c: Revised Language:***

The department proposes to change the word “source” to “emission unit” as proposed in the Standard Condition.

***Comment F.2.d:***

“d. Please amend Condition 3.1e as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

If a six-minute average opacity is observed during the most recent set of observations to be greater than 15 percent and one or more of the observations are greater than 20 percent, then increase or maintain the 18-minute observation frequency for that emission unit ~~source~~ to at least monthly intervals, until the criteria in Condition 3.1b for semiannual monitoring are met.”

***Response F.2.d:***

Please see *Response F.2.c*.

***Response F.2.d: Revised Language:***

Please see *Response F.2.c: Revised Language*.

**Comment F.2.e:**

“e. Please amend Condition 3.3a as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

initiate action to eliminate smoke from the emission unit source within 24 hours of the observation.”

***Response F.2.e:***

Please see *Response F.2.c*.

***Response F.2.e: Revised Language:***

Please see *Response F.2.c: Revised Language*.

**Comment F.2.f:**

“f. Please amend Condition 4.1a.(ii) as follows to remove the requirement to record sun location and operating rate. Recording these data is not an element of the Method 9 test procedure and is not related to any compliance requirement.

the time, estimated distance to the emissions location, ~~sun location~~, approximate wind direction, estimate wind speed, description of the sky condition (presence and color of clouds), and plume background, ~~and operating rate (load or fuel consumption rate)~~ on the sheet at the time opacity observations are initiated and completed;”

***Response F.2.f:***

The department does not agree. Specific positions of the sun location are specified in EPA Reference Method 9, Part 60 App. A-4, para.2.1 in order to perform a legally valid observation, and thus the requirement to record the sun location to validate part of the observation is clear. The operating rate of the stationary source verifies to the observer that the source is operating at an expected operating level consistent with normal operation of the source(s) operating under the permit.

***Response F.2.f: Revised Language:***

The department does not propose to change the language as suggested.

**Comment F.2.g:**

“g. Please amend Condition 4.2b as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

from <insert Table of Emission Units designation>, the ID of the emission unit source observed;”

**Response F.2.g:**

Please see *Response F.2.c*.

**Response F.2.g: Revised Language:**

Please see *Response F.2.c: Revised Language*.

**Comment F.2.h:**

“h. Please amend Condition 4.2e as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

if the emission unit source starts operation on the day of the observation, the start up time of the emission unit source;”

**Response F.2.h:**

Please see *Response F.2.c*.

**Response F.2.h: Revised Language:**

Please see *Response F.2.c: Revised Language*.

**Comment F.2.i:**

“i. Please amend Condition 5.1a as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

which visible-emissions plan for Condition 3 was used for each emission unit source; if more than one plan was used, give the time periods covered by each plan;”

***Response F.2.i:***

Please see *Response F.2.c.*

***Response F.2.i: Revised Language:***

Please see *Response F.2.c: Revised Language.*

***Comment F.2.j:***

“j. Please amend Condition 5.1b as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

For each emission unit source under the Method 9 Plan,”

***Response F.2.j:***

Please see *Response F.2.c.*

***Response F.2.j: Revised Language:***

Please see *Response F.2.c: Revised Language.*

***Comment F.2.k:***

“k. Please amend Condition 5.1b.(i) as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

copies of the observation results (i.e. opacity observations for each emission unit source that used the Method 9 Plan, except for the observations the Permittee has already supplied to the department; and”

***Response F.2.k:***

Please see *Response F.2.c.*

***Response F.2.k: Revised Language:***

Please see *Response F.2.c: Revised Language.*

**Comment F.2.l:**

“l. Please amend Condition 5.1c as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

for each emission unit source under the Smoke/No Smoke Plan, the number of days that Smoke/No Smoke observations were made and which days, if any, that smoke was observed; and”

**Response F.2.l:**

Please see *Response F.2.c*.

**Response F.2.l: Revised Language:**

Please see *Response F.2.c: Revised Language*.

**Comment F.2.m:**

“m. Please delete Condition 5.2 (b) or at a minimum modify the requirement as follows to require that failure to monitor reports be submitted within three days after discovery.

if any monitoring under Condition 3 was not performed when required, report within three days of discovery that ~~of the date~~ the monitoring was required.”

**Response F.2.m:**

The department does not agree. The requested change would allow unbounded late compliance reporting by manipulation of the date of discovery. The current condition text places the burden on the Permittee to know the required compliance reporting cycle and make timely reports, or respond quickly (in advance preferably, or within three days) of a missed reporting date.

**Response F.2.m: Revised Language:**

The department does not propose to change the condition language as requested.

**Comment F.2.n:**

“n. Please amend Condition 9 as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

The Permittee shall conduct source tests on diesel engines and liquid-fired turbines, <identify emission units sources>, to determine the concentration of

particulate matter (PM) in the exhaust of an emission unit ~~a source~~ in accordance with Condition 9.”

***Response F.2.n:***

Please see *Response F.2.c.*

***Response F.2.n: Revised Language:***

Please see *Response F.2.c: Revised Language.*

***Comment F.2.o:***

“o. Please delete Condition 9.2b. ADEC does not provide a rationale for the distinction between emission units with exhaust stack diameters less 18 inches and larger diameter exhaust stacks. Condition 9.2a adequately assures compliance with the particulate matter emission standard for all diesel-fired engines and turbines, regardless of stack diameter.”

***Response F.2.o:***

The department does not agree with the request to delete Condition 9.2.b. The condition, as written, is based on Departmental experience that 20% opacity does not guarantee compliance with grain loading limits for stacks less than 18 inches in diameter. The relationship between grain loading and opacity is dependent on the thickness or depth of the plume and is, therefore, related to and dependant on stack diameter. The diameter of the stack will impact the opacity due to the volume of the plume produced and the relationship between the plume volume and how much light can pass through each plume. Dense (or darker) plumes will have a higher opacity value due to the longer path length of transmitted light through the plume. Wider stacks produce a larger plume volume which results in denser plumes. Narrower stacks will have to have a higher grain loading value to result in 20% opacity readings than larger diameter stacks. If there is the same grain loading value in a 17 inch stack and a 24 inch stack then the larger, 24 inch stack’s plume will appear “darker”, or have a higher opacity, due to the effective distance the transmitted light has to pass through to be observed. A plume that is compliant with the 20% opacity standard in a 24 inch stack will therefore look lighter (lower opacity) in a 17 inch stack. Based on existing experience, a stack with a diameter less than 18 inches can violate the particulate matter standard if the opacity is 20%; therefore, 15% opacity is more representative of compliance with the PM standard for narrow stacks. This correlation has been public information in the Statements of Basis of many pre-2003 operating permits.

***Response F.2.o: Revised Language:***

The department does not propose to delete Condition 9.2.b.

**Comment F.2.p:**

“p. Please delete Condition 10. This condition is not necessary based on the request to delete Condition 9.2b.”

***Response F.2.p:***

The department does not agree. Condition 9.2.b is not being deleted; therefore Condition 10 should not be deleted. Additionally, this is a valid request for *as-built* information for initial permits and is usually struck from renewal permitting projects once the information is reported and verified.

***Response F.2.p: Revised Language:***

The department does not propose to delete Condition 9.2.b and therefore does not propose to delete Condition 10.

**Comment F.2.q:**

“q. Please delete Condition 11.2. This condition is not necessary based on the request to delete Condition 9.2b.”

***Response F.2.q:***

Please see *Response F.2.o*. The department does not agree that Condition 9.2.b should be deleted and therefore does not agree that Condition 11.2 should be deleted.

***Response F.2.q: Revised Language:***

Please see *Response F.2.c: Revised Language*. The department does not propose to delete Condition 9.2.b and therefore does not propose to delete Condition 11.2.

**Comment F.2.r:**

“r. Please amend Condition 15.2 as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

EU ID(s) < > are subject to the liquid fuel monitoring requirements described in Condition 3 and 9 if operations exceed 400 hours per calendar year per emission unit source on a back-up liquid fuel.”

***Response F.2.r:***

Please see *Response F.2.c*.



***Response F.2.r: Revised Language:***

Please see *Response F.2.c: Revised Language*.

**Comment F.2.s:**

“s. Please amend Condition 15.3 as follows to clarify that this condition is applicable to an emission unit and to be consistent with the definitions of emission unit and stationary source in 18 AAC 50.990.

The Permittee must notify the department and begin monitoring the affected emission unit source according to Conditions 3 and 9 no later than 15 days after the end of the calendar month in which the cumulative hours of operation for the calendar year exceeded 400 hours on a back-up liquid fuel.”

***Response F.2.s:***

Please see *Response F.2.c*.

***Response F.2.s: Revised Language:***

Please see *Response F.2.c: Revised Language*.

**Comment F.3: AOGA Comments on Standard Operating Permit Condition XIII:**

“3. Standard Operating Permit Condition XIII – Coal Fired Boilers.

a. Condition 2.1b.(i) appears to contain an incorrect cross-reference to condition XIII.2.1(iii). The correct cross-reference may be to Condition XIII.2.1b.(iii).”

***Response F.3:***

The department agrees with this comment. The “b” was omitted from the references in Condition 2.1b(i).

***Response F.3: Revised Language:***

The department proposes to correct the omissions of the “b” in the reference in Condition 2.1b(i) to read “under condition XIII.2.1b(iii).

**Comment F.4: AOGA Comments on Standard Operating Permit Condition XIV:**

“4. Standard Operating Permit Condition XIV – Document Submittals and Electronic Copies”

**Comment F.4.a:**

“a. A citation at the end of this condition appears to be incorrect. The citation to 40 CFR 70.10(d)(1) may have been intended to be a citation to 40 CFR 71.10(d)(1).”

***Response F.4.a:***

The department agrees that the citation is incorrect. The citation should be to 40 CFR 71.10(d)(1).

***Response F.4.a: Revised Language:***

The department proposes to correct the citation to read 40 CFR 71.10(d)(1).

**Comment F.4.b:**

“b. Item 10 in the Project Documentation and Rationale document incorrectly describes this new standard condition as directing “Permittees to send copies of required reports” directly to EPA. This condition does not encompass reports, but is instead limited to “each application for modification or renewal of this permit, including any compliance plans, or application addenda.” Please amend the Project Documentation and Rationale document to be consistent with the standard permit condition.”

***Response F.4.b:***

The department agrees that the “Project Documentation and Rationale” document wording does not have the same wording as Standard Condition XIV.

***Response F.4.a: Revised Language:***

The department proposes to change the language in the “Project Documentation and Rationale” document to reflect the wording found in Condition XIV.

**Comment G: BPXA General Comments**

“BPXA has participated in the review process with the Alaska Oil and Gas Association (AOGA), and worked with AOGA and its member companies to formulate AOGA’s comments. We fully support and endorse those comments being submitted by AOGA on needed changes to the proposed regulations. To supplement AOGA’s comments, BPXA proposes to eliminate a redundant requirement to report monitoring missed within three days of being missed and amending a requirement for visible emission surveillance of flares during scheduled maintenance.”

### **Comment G.1: BPXA Comments on Standard Operating Permit Condition IX**

“The visible emission reporting requirement to notify within three days of not performing required monitoring is redundant with provision for identifying deviations from permit conditions, including deviations from any monitoring requirements. Therefore, BPXA request deletion of this condition. At a minimum, BPXA requests modifying this requirement to require notification with three days of discovering that the required monitoring was not completed instead of within three days of not performing the monitoring....

BPXA requests the following changes to the standard conditions:

#### **1. Standard Operating Permit Condition IX – Visible Emissions and Particulate Matter Monitoring Plan for Liquid-Fired Emission Units**

- a. Please delete Condition 5.2(b) or at a minimum modify the requirement as follows to require that failure to monitor reports be submitted within three days after discovery.

In any monitoring under Condition 3 was not performed when required, report within three days of discovery ~~that of the date~~ the monitoring was required.”

#### ***Response G.1:***

The department does not agree. The intent of this condition is to enhance visible emissions monitoring by ensuring that permittees are aware of visible emissions monitoring requirements by performing more active monitoring. The requested change would allow unbounded late compliance reporting by manipulation of the date of discovery. The current condition text places the burden on the Permittee to know the required compliance monitoring and reporting cycle and make timely reports, or inform the department if a reporting deadline will not be met or within three days of a missed reporting date. Although the condition might be construed as redundant with the permit deviation reporting requirement, this condition is more specific than other conditions. Visible emissions differ from other compliance requirements in that they are one-time-and-gone events that cannot be replicated at a later date as many other requirements can. To ensure awareness of those visible emissions monitoring requirements, the Department has used this visible emissions reporting condition to ensure that permittees are actively participating in visible emissions monitoring on a daily basis, and not after-the-fact.

#### ***Response G.1: Revised Language:***

Please see *Response F.2.m: Revised Language*.

## **Comment G.2: BPXA Comments on Standard Operating Permit Condition IX**

“...The requirement to observe the first six flare events that are greater than an hour and during scheduled maintenance is problematic from a compliance standpoint with no environmental benefit. BPXA has not exceeded an opacity limit, but has had challenges getting certified readers to facilities when flaring could exceed an hour, has had personnel monitor flare events that end up lasting less than one hour and that do not count toward the first six events, and even has had difficulty interpreting what is scheduled maintenance. Our objective is to always minimize flaring and to flare less than an hour. While some maintenance is scheduled well in advance, some maintenance is done when an opportunity arises due to an unexpected shutdown. It can be confusing during our annual compliance certifications and audits to determine if the rare flaring that exceeds and hour was during “scheduled release operations.”...”

### **Comment G.2.a:**

“2. Standard Operating Permit Condition IX – Visible Emissions and Particulate Matter Monitoring Plan for Liquid-Fired Emission Units

a. Please amend Condition 6 as follows to require the observation of flaring above de minimus levels that are incidental to normal flaring operations once per calendar year. This change provides more flexibility without compromising compliance assurance. BPXA’s policy is to minimize flaring and to keep events under the preauthorized timeframe of one hour in Alaska Oil and Gas Conservation Commission regulations. In addition, some facilities never have a “flare event” as defined in Footnote 3. This change could result in both greater flare monitoring; greater flexibility; and reduced compliance risk. Please also delete Footnote 3 and 4, consistent with the request.

The Permittee shall conduct one visible emission surveillance of the flare each calendar year when the flaring volume exceeds de minimus pilot, purge, and assist gas rates. ~~observe the first six flare events<sup>3</sup> occurring during the life of this permit<sup>4</sup>.~~”

### ***Response G.2.a:***

The Statement of Basis for Standard Condition IX provides the basis for the condition. The condition is meant to ensure continued compliance over the life of the permit and will also provide data from scheduled events to allow the department to continue to refine the monitoring scheme. The condition was revised to allow the permittee to observe six flare events during the life of the permit with at least one event observed per calendar year.

### ***Response G.2.a: Revised Language:***

The Permittee shall observe six flare events<sup>1</sup> occurring during the life of this permit<sup>2</sup> including at least one event per calendar year.

(Please note that the footnote numbers have changed as a result of the deletion of Footnotes 1 and 2.)

**Comment G.2.b:**

“b. Please delete the second sentence of Condition 6.3 because the requirement is no longer necessary based on the requested change to Condition 6.”

***Response G.2.b:***

Please see *Response G.2.a*.

***Response G.2.b: Revised Language:***

Please see *Response G.2.a: Revised Language*.

## **SPAR Response to Comments on In Situ Burning Guidelines:**

### **Response to Public Comments In Situ Burning Guidelines**

**Prepared by:  
Leslie Pearson  
Bob Mattson  
Larry Iwamoto  
Gerry Guay**

The Department received written comments from the following:

- A) Alaska Department of Environmental Conservation (ADEC)
- B) Prince William Sound Regional Citizens Advisory Council (PWS RCAC)
- C) U.S. Department of the Interior (DOI)

The Department received oral testimony at the public hearing from:

Dana Olson (General Public)

The following addresses comments received from each specific organization/individual:

#### **Written Comments**

##### **A. Alaska Department of Environmental Conservation (ADEC):**

1. PM2.5 National Ambient Air Quality Standard (pg 29).

Paragraph 1: revise to read " The PM2.5 safe distance criterion in these guidelines were revised in the late 1990s to reflect ..... meter threshold to protect public health and welfare". Delete the next sentence "As noted .....requirements" and continue with the third sentence.

Paragraph 1: revise to read "These guidelines are consistent with the latest revision of the fine particulate standard. To enhance the FOSC/SOSC's understanding of fine particulate levels downstream of a burn, air monitoring (IAW the SMART protocols) must be ....."

Paragraph 3: replace  $65 \mu\text{g}/\text{m}^3$  to reflect the latest revision to the fine particulate standard at " $35 \mu\text{g}/\text{m}^3$ ".

Paragraph 4: Since the 1997 form of the standard has been replaced in 2006 I recommend we drop the next two paragraphs as they have no meaning in this discussion.

2. Table 6 - Air Quality Standard (page 34) lists the state/federal air quality standards in two different units of measure for several of the criteria air pollutants. I recommend the department either chose one unit (either ppm or

ug/m<sup>3</sup>) or show both units. The current format can be confusing to those who do not understand that there are two sets of values representing the same level of impact. The state standard for CO is not different from the federal standard, but to the inexperienced person it looks that way. While either of my options is acceptable, I believe the best way to display this information would be to show both units. For CO, both the state and federal standard would read 10 µg/m<sup>3</sup> (9 ppm). I chose to list µg/m<sup>3</sup> first because the particulate standards are in µg/m<sup>3</sup>.

3. Table 7 - Pollution Standard Index Values and Associated Health Affects (page 35) lists the values and action levels for the old form of the fine particulate standard which was replaced in December 2006. I recommend we update this information to be consistent with EPA's Air Now program guidance. First, the Pollution Standard Index has been replaced in name by the "Air Quality Index". Second, the table does not list the Air Quality Index (AQI) for fine particulates which were established as a standard in 1997 (65 µg/m<sup>3</sup>) and revised in December 2006 to 35 µg/m<sup>3</sup>. I believe it would be prudent to revise the AQI to reflect this updated information. While the standard has changed, EPA is still negotiating at what level the "Significant Harm" advisory would be made. I recommend the Department list the values EPA has tentatively identify for the revised AQI and footnote them as being proposed. This way, at the least, we would be proactive in protecting the public. EPA staff seem pretty confident in the values identified for level's 1-4. The sticking point seems to be where to set the "significant harm level". Under this scheme, Level 1 would be set at the standard (35 µg/m<sup>3</sup>), Level 2 would be set at 55 µg/m<sup>3</sup>, Level 3 would be set at 140 µg/m<sup>3</sup>, Level 4 would be set at 210 µg/m<sup>3</sup> and the significant harm level would get set at 280 µg/m<sup>3</sup> or higher? Using these concentrations to set AQI action levels is consistent with the way Air Advisories are issued for smoke from Wildland Fires.

**Responses to the specific comments as they pertain to the ISB Guidelines are as follows:** The Department concurs. The suggested changes have been incorporated into the latest version of the document.

## **B. Prince William Sound Regional Citizens Advisory Council (PWS RCAC)**

1. On page 3 it states, "These guidelines were initially updated to meet the National Ambient Air Quality Standard (NAAQS) of PM<sub>2.5</sub> and 65 µg/m<sup>3</sup> for public health and safety requirements. In 2006, the standard was revised to 35 µg/m<sup>3</sup>. These guidelines are consistent with the revised national air quality standard." As noted above, this is not quite true as the values are the same as in the last guideline using the higher standards.

**Response:**

The Department has considered the effects of the change in the National Ambient Air Quality Standard (NAAQS) from a 24-hour average of 65  $\mu\text{g}/\text{m}^3$  to a 24-hour average of 35  $\mu\text{g}/\text{m}^3$  on the In Situ Burning Guidelines, revision 1. The Department has concluded that this change does not impact the protection for public health and safety afforded by the overall conservative nature of the In Situ Burn Guidelines.

The NAAQS PM2.5, 24-hour average 35  $\mu\text{g}/\text{m}^3$  standard has not yet been formally adopted for the State of Alaska. The Department will continue to evaluate future changes in the NAAQS as well as the formal adoption of the 35 $\mu\text{g}/\text{m}^3$  or other relevant standards and will evaluate and propose appropriate updates to the guidelines to ensure ongoing consistency with any new standards or requirements.”

Additional text requiring air monitoring (for burns that may impact populated areas) was added to an earlier draft of the ISB Guidelines to provide further measures to ensure public health and safety.

2. On page 3 the link to SMART is given as “SMART Protocols for in Situ burning can be accessed at:  
[http://response.restoration.noaa.gov/gook\\_shelf/648\\_SMART](http://response.restoration.noaa.gov/gook_shelf/648_SMART). This link no longer works.

**Response:** Concur. The weblink has been updated to read:  
[http://response.restoration.noaa.gov/book\\_shelf/648\\_SMART](http://response.restoration.noaa.gov/book_shelf/648_SMART)

3. On page 7, again it is stated, “These guidelines are consistent with the revised national air quality standards (35  $\mu\text{g}/\text{m}^3$  for PM2.5).” As noted in our note 1 above, this is not quite true.

**Response:** Noted. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

4. On page 10, the reference (ASTM 1997) should be 2007. ASTM standards expire every 5 years and they are either withdrawn, re-written, or renewed with minor changes. The latter is the case and the reference is now ASTM 2007. However, the correct reference is also [F2152 \(2007\)](#) In Situ Burning of Spilled Oil: Fire-Resistant Boom. This is not listed in the references.

**Response:** The Department concurs. The recommendation has been incorporated into the latest version of the document.

5. On page 14 it is stated “The Unified Command should consider additional safeguards when appropriate such as use of the NRT’s SMART protocols for



monitoring burns. (See [http://response.restoration.noaa.gov/gook\\_shelf/648\\_SMART.pdf](http://response.restoration.noaa.gov/gook_shelf/648_SMART.pdf).)”

This link does not work. The SMART Protocols state that there should be monitoring teams in place in order to evaluate effects downwind. This is important as it provides for the protection of public health and safety for both the general public as well as the spill responders who could be downwind from a burn. The only way to evaluate this is to have the teams ready, as ISB operations generally happen quickly within the first hours or first day of a spill.

**Response:** The Department concurs. The weblink has been updated to read: [http://response.restoration.noaa.gov/book\\_shelf/648\\_SMART](http://response.restoration.noaa.gov/book_shelf/648_SMART)

Additionally, plans are to mobilize DEC Air Quality staff immediately in the event of an oil spill where ISB may be employed. Appendix 5 provides a listing of federal and state air monitoring equipment assets that are available for this purpose.

6. Page 17 “A computer model has predicted the greatest downwind distance at which the smoke plume’s particulate matter of 2.5 microns or less in diameter (PM2.5) diminishes to 65 micrograms per cubic meter averaged over one hour at ground level in flat terrain.” This statement is clear but shows the old modeling was brought forward – 65  $\mu\text{g}/\text{m}^3$  was used. See our above comments.

**Response:** Noted. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

7. Page 18 – there are several references to the conflict between 65  $\mu\text{g}/\text{m}^3$  and 35  $\mu\text{g}/\text{m}^3$  standards and what actually took place in this guideline. This page apparently makes the statement that the modeling was done before, e.g. under the 65  $\mu\text{g}/\text{m}^3$ . As per the reference “Incorporated here by reference is “In Situ Burning Safe Distance Predictions with ALOFT-FT Model” (Bronson 1998),” Either this needs to be updated or the guidelines should state as in #1 above, that the modeling was done on the old guidelines. See our overall comment summary above.

**Response:** Noted. The reference to 65  $\mu\text{g}/\text{m}^3$  has been changed to reflect 35  $\mu\text{g}/\text{m}^3$  for the first paragraph on this page. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

8. Page 19 the table for safe distances does not note that these values do not consider burn size or type of oil being burned.

**Response:** Noted. Table 4 refers the reader to Table 5 on page 30, where the size of the burn is provided in the first column. The type of oil used in the modeling is crude oil.

9. Page 19 “the expectation of PM<sub>2.5</sub> less than 65 µg/m<sup>3</sup> micrograms per cubic meter, 1-hour average in populated areas. (See “Notification Levels”)” this statement is clear that the modeling is based on 65 µg/m<sup>3</sup> and not 35 µg/m<sup>3</sup> as stated other places.

**Response:** Noted. The reference to 65 µg/m<sup>3</sup> has been changed to reflect 35 µg/m<sup>3</sup> for the paragraph on the red zone distance. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

10. Page 21 – Figure 1 - This figure is based on 65 µg/m<sup>3</sup> and not 35 µg/m<sup>3</sup> and requires updating - further it does not consider oil type or burn size.

**Response:** Noted. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

11. Page 23 – Figure 2 - This figure is based on 65 µg/m<sup>3</sup> and not 35 µg/m<sup>3</sup> and requires updating - it does not consider oil type or burn size. In fact the key at the bottom shows this.

**Response:** Noted. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

12. Page 25 - Figure 3 – as above

**Response:** Noted. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

13. Page 27 - Figure 4 - as above

**Response:** Noted. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

14. Page 29 - this page is full of conflicting information – although it states the 35 µg/m<sup>3</sup> guideline - it goes on to talk about the 65 µg/m<sup>3</sup>. Which is being used and why?

**Response:** Noted. The last paragraph on page 29 has been changed to reflect the 35 µg/m<sup>3</sup> standard. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

15. Page 30 - Table 5 – this table contains obvious errors. The downwind distances for burning are the same for 2,500 Sq. Ft., 5,000 Sq. Ft. and 10,000 Sq. Ft. burns. The ratio of emissions for these should be about 1, 4, and 16 respectively. The distances should definitely increase with burn area and appears to be an obvious mistake. Further, the error is not on the side of caution.

**Response:** DEC Air Quality staff reviewed the information in Table 5 and found the information to be consistent with the findings of the previous review which was performed to look at how the smaller, PM<sub>2.5</sub> size particles would be dispersed. The latest review was performed to assess a change in the level of the standard and not the size of the particle PM<sub>10</sub>. For this reason the department felt that the downwind concentrations would be more a function of plume rise with the larger, hotter burns actually sending fine particulate (PM<sub>2.5</sub>) higher into the atmosphere. This action will tend to cause the particulates to remain aloft longer and disperse further downwind of the ignition point. While a modeled smoke plume will see a slightly larger PM<sub>2.5</sub> isopleths aloft based on the new standard being set at 35ug/m<sup>3</sup>, the ground level concentrations should remain pretty much unchanged and below the current standard. Note: Because there are very few models which assess smoke dispersion from the burning of oil on water and fewer data sets evaluating the actual impact from a burn, the Department has placed a higher emphasis on collecting fine particulate (smoke) monitoring data during any future burns. At the same time, data collection has been made easier with the development of new portable fine particulate samplers which can operate on DC power. If monitoring data indicates that these models are not performing adequately, the use of these models may be suspended until further evaluations can be performed.

Reference the table provided showing the safe level (calculated 35 µg/m<sup>3</sup>) based on actual burns. This table will be in the new ASTM guidelines. Also reference the graph provided for safe distance prediction.

**Response:** Recommendations to use empirically-based data (to include the proposed figure and table) will be considered for the next planned revision to the document. Based on the current timeline for adopting the ISB guidelines into the Air Quality regulations, resources (time and personnel) are not available to conduct a thorough review of the data.

16. Page 30 - the bottom paragraph “Thus, at a point in Kenai where the smoke’s PM<sub>2.5</sub> concentration equals 65 micrograms per cubic meter, the plume’s short

duration there brings the 1-hour average exposure well below 65 micrograms per cubic meter” is clearly outdated.

**Response:** The Department concurs. The text should have indicated the level of the standard is set at 35  $\mu\text{g}/\text{m}^3$  and not 65  $\mu\text{g}/\text{m}^3$ . This was a proof reading oversight and has been corrected.

17. Page 34 - Table 6 – this table needs updating for the 35  $\mu\text{g}/\text{m}^3$  and 65  $\mu\text{g}/\text{m}^3$  change.

**Response:** The Department concurs. This change has been incorporated.

18. Page 57 – graph again is based on old, incorrect modeling.

**Response:** Noted. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in this section, specifically the response to paragraph B.1.)

### C. U.S. Department of the Interior (DOI)

1. Inconsistencies in explaining the process for authorizing an ISB and conditions for authorization.

**Response:** The Department does not concur. This statement provides the basic justification for employing ISB. While an ISB operation will result in air pollution, it may be a necessary tactic to supplement mechanical recovery methods in an overall effort to mitigate the effects of an oil spill.

2. Inconsistencies in requirements for visual monitoring and monitoring via the use of SMART protocols.

**Response:** The Department does not concur. As written, the guidelines are intended to provide flexibility to the State and Federal On-Scene Coordinators to manage this process of an ISB operation. Visual monitoring may not be practicable during night operations and limited visibility conditions (e.g., during the predominant winter months in the Arctic and elsewhere in Alaska). Inclement weather may also preclude visual monitoring.

3. Inconsistencies in requirement to collect burn residue.

**Response:** The Department does not concur. Again, the guidelines are intended to provide flexibility to the State and Federal On-Scene Coordinators to accomplish this task. The recommendation to make this a mandatory task under all conditions is not practicable, especially under broken ice conditions.

4. Lack of requirement for conducting a trial burn to verify predicted plume projection and dispersion operations.

**Response:** The Department does not concur. Again, the guidelines are intended to provide flexibility to the State and Federal On-Scene Coordinators to manage an ISB operation. The recommendation to make this a mandatory requirement under all conditions is not practicable, especially under broken ice conditions or if the spill response involves less than multiple burns (i.e., the initial burn serves as the trial burn).

5. Inadequate information demonstrating that the revised *ISB Guidelines* (1) are based on the best available scientific knowledge on smoke plume trajectory modeling, and (2) are in regulatory compliance with the latest Clean Air Act and Alaska State Air Regulations, and that safe distances required to protect human health are in conformance with the 2006 National Ambient Air Quality Standards (NAAQS).

**Response:** The Department does not concur. DEC Air Quality staff provided additional clarification on this issue (see ADEC comments in the previous section of this document). Additional text requiring air monitoring (for burns that may impact populated areas) was added to the ISB Guidelines to provide another measure to ensure public health and safety.

6. Insufficient information included in notification/warning levels for the public.

**Response:** The Department does not concur. Again, the guidelines are intended to provide flexibility to the State and Federal On-Scene Coordinators to accomplish this task. Redundancy has been built into the guidelines as a reminder to the on-scene coordinators to account for public notification and warning. The FOSC/SOSC Review Checklist (Appendix 2) specifically includes a section on “Notifications and Warnings,” and the Sample Unified Command Decision Document (Appendix 3) also addresses this specific concern.

7. Inaccurate statements regarding environmental trade-offs.

**Response:** Recommendations #2 and #3 were previously addressed and partially adopted in the March 2008 version of the guidelines.

8. Conclusion that an ISB will be conducted even if “environmental and other considerations” are not adequately addressed.

**Response:** The Department does not concur. The FOSC and SOSC have statutory and regulatory authorizations to direct all response activities to an oil spill and at critical times may need to make timely decisions without having

all available information. Use of ISB during emergency response to uncontrolled oil spills is often time sensitive depending upon “windows of opportunity”. Emergency response by nature is a mitigation of a situation that is creating a multitude of damages and threats to the public and the environment. Delaying a decision during emergency response operations until all of the “potentially affected” parties are consulted may prevent effective incident mitigation and allow the oil spill incident to escalate to unacceptable levels.

9. Statement that the DOI and DOC ARRT representatives will be consulted, only “when practicable” when an in-situ burn is being considered.

**Response:** This recommendation was previously addressed and incorporated in the March 2008 version of the guidelines. The statement now reads “Consultation as per the NCP” which clearly addresses this requirement.

#### **D. Oral Testimony (Dana Olson): Comments specific to the ISB Guidelines.**

- 1. Transcript, Page 10, line 11.** “This is a problem because, in Alaska, the Situ burning is basically a document for the lower 48. Because, it fails to consider that Alaska has darkness.”

**Response:** The ISB Guidelines is not a lower 48 document, and was created in Alaska by a group consisting of federal, state, industry, regional citizens’ advisory councils, and other entities. These work group members are well aware of the unique situations in Alaska (extended periods of darkness during the winter, extreme cold, tidal fluctuations, spill response during broken ice conditions, etc.)

- 2. Transcript. Page 14, lines 3-10.** “These people have a right to address this, not DEC. And, by going in and rationalizing Sitsu Burning Guidelines for Alaska. Now, one of the things that I find is that it presumes that there is unlikelihood of forest fires. And, having addressed Miller's Reach, and having been impacted, this burn -- feasibility from burning, really does not address how the disabled get in and out of one of these forest fires.

**Response:** The ISB Guidelines do not presume that there is an unlikely potential for forest fires. There are several inherent safety mechanisms built into the guidelines, including consultation with federal, state, and local agencies with regard to ensuring public health and safety prior to and during any approved ISB operation.

- 3. Transcript, Page 14 (lines 24-25) and Page 15 (lines 1-7).** “It's inadequate because it does not address how -- it has no capacity to address how the disabled and the elderly basically are able to escape these disasters, whether it be air emission from some release, whether it be a railroad that might go to an oil facility and have a release of some chemical. The safety plan is just not adequate. It's not adequate in the whole nation. So it certainly can't be adequate and infer that a Burn Plan is going to have presumption. I'm rebutting the operational criteria.”

**Response:** The established warning and notification system in the ISB guidelines account for notifying all people that may be impacted by an in situ burn operation. Table 7 on page 35 of the guidelines addresses cautionary statements for the elderly and those with physical ailments. If there is a danger of impacting the population, or the populated area cannot be effectively evacuated, the decision to burn will not be made.

- 4. Transcript, Page 15, lines 17-21.** “Safe distance is inapplicable Standard because it depends what is growing on the fuel source. So, in order to have a

fire we need combustion. And we need air. And we need fuel. And we need oxygen. Obviously, this safe burning distance is not an applicable Standard.”

**Response:** The safe distances noted in the ISB Guidelines are scientifically based on the potential exposure of people downwind of the burn to particulate matter generated by the burn. Additional safety measures are definitely considered throughout the decision-making process by the unified command established for the incident.

- 5. Transcript, Page 16, Lines 4-9 and Lines 15-21.** “On page 55, it talks about review of consultants and request for authorization. I don't know who NCP is. I don't know DOI- ARRT representative. I don't know these things. But, I do understand that there is no transportation whatsoever -- that the Mat-Su Bowl has now asked for five commuter vans in the Valley.”

**Response:** The NCP is the National Oil and Hazardous Substances Pollution Contingency Plan. For any In Situ Burn operation (as part of an oil spill response), it directs that approval is required from the State and EPA, and the U.S. Department of the Interior and the U.S. Department of Commerce must be consulted, as practicable. Public evacuation during an in situ burn operation will be closely coordinated. The burn will not occur unless everyone has been safely removed from the potential hazard zone.

- 6. Transcript, Page 17, Lines 2-9.** “There's no housing in Knik, in case your house burns down. There's no housing to live in Knik. There's nothing. No coordination, nothing. And I suspect that in most Indian villages, there are'nt. So in other words, if people get burned out, they're out of luck. There isn't any housing for them to go to. So, that needs to be in there. It says for a burn that may affect, threaten, or endanger species and their critical habitat.”

**Response:** In the event there is property lost during an in situ burn operation, the responsible party (i.e., the party responsible for the oil spill) will establish procedures to settle all claims for property damage or loss. In all likelihood, if there is a potential for an in situ burn operation to cause loss of property or homes, the burn will not be approved.

- 7. Transcript, Page 17, Lines 17-21.** “Now, I want to bring up the issue of collecting residue, which is one of DEC's Burn Plan requirements. This is non- enforceable. It's a premise out there -- it's kind of a wild wish. Because, in Miller's Reach there -- all the log notes got burned up.”

**Response:** Residue collection related to an in situ burn is directed at collecting any burned oil residue that may remain in the water column or elsewhere. The primary purpose is to remove any potentially harmful residue from the environment. This element of residue collection is not related to



wildland fires, but specific to an in situ burn during an oil spill response operation.

- 8. Transcript, Page 19, Lines 8-10.** “I opposed the Sitsu Burning Guidelines on the basis of, the Coast Guard is maritime. The Alaska Department of Environmental Consideration is landlocked, primarily.”

**Response:** The Alaska Department of Environmental Conservation is not landlocked. The ADEC’s area of jurisdiction extends to a point 3 miles offshore of any landmass in Alaska. The in situ burn guidelines also have applicability to inland burns, and are not strictly for marine oil spills.

- 9. Transcript, Page 22, Lines 13-21.** “It presumes everybody’s urban. This is what I said -- this book, Sitsu Burning Guidelines for Alaska, is written as if Alaska was one big urban community and all one big city. There are differences between Chickaloon and there are differences between Knik. There are differences between the North Slope and the climate, and the response time, and the zoning. These are all different and the general guideline for permit standards is not adequate for the Sitsu Burning Guidelines for Alaska.”

**Response:** The in situ burn guidelines were developed for use throughout the state, and not just for urban areas. The guidelines are applicable for inland spills, as well as spills in remote areas of the state. Climate differences (including temperature inversions, wind speed and direction) and weather patterns are also addressed prior to any in situ burn operation taking place.

- 10. Transcript, Page 24, Lines 19-24.** “National Ambient Air Quality Standards. So, I’m trying to stay to the Sitsu Burning Guide. Consideration of the luring (ph) source. There again, page 30 of the Sitsu Burning Guide does not consider the effect of the upper atmospheric climatic things, because NOAA has not even assessed this. There’s no NOAA stamp here on this guideline.”

**Response:** A NOAA staff member has been an integral part of the work group developing these guidelines. As mentioned earlier, the U.S. Department of Commerce (which NOAA is a part of) is one of two federal agencies that must be consulted with prior to commencing with an in situ burn operation during an oil spill response.