

Byron Mallott
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520 465.5400 Fax
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Gary Mendivil, Department of Environmental Conservation

FROM: Scott Meriwether, Office of the Lieutenant Governor - 465.4081 

DATE: November 29, 2016

RE: Filed Permanent Regulations: Department of Environmental Conservation

Regulations re: air quality, updated items adopted by reference, and excess emissions (18 AAC 50.030; 18 AAC 50.240(b))

Attorney General File:	JU2016200740
Regulation Filed:	November 29, 2016
Effective Date:	December 29, 2016
Print:	220, January 2017

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

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

This action is not expected to require an increased appropriation.

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

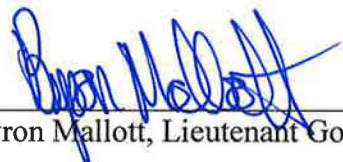
The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

DATE: October 20, 2016
Juneau, Alaska


Larry Hartig, Commissioner
Department of Environmental Conservation

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on November 29 2016, at 8:16 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.


Byron Mallott, Lieutenant Governor

Effective: December 29, 2016

Register: 220, January 2017

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
P.O. BOX 111800
JUNEAU, ALASKA 99801-1800

**LIMITED DELEGATION OF AUTHORITY
FOR ADOPTING REGULATIONS**

IN ACCORDANCE WITH AS 44.17.010, THE AUTHORITY AND RESPONSIBILITY FOR
ADOPTING REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION UNDER THE ALASKA ADMINISTRATIVE PROCEDURE ACT
DURING THE PERIOD SEPTEMBER 27, 2016 THROUGH OCTOBER 20, 2016, ARE
DELEGATED TO ALICE L. EDWARDS, DEPUTY COMMISSIONER.

SIGNED:


Larry Hartig, Commissioner

Date

Sept. 26th 2016

IntroductoryThe ~~lead-in~~ language of 18 AAC 50.030 is amended to read:ControlNOVEMBER 26, 2016

18 AAC 50.030. State air quality plan. Volumes II and III of the *State Air Quality Control Plan* for implementing and enforcing the provisions of AS 46.14 and this chapter, as amended through {effective date of the regulations} [~~DECEMBER 17, 2015~~], are adopted by reference. The plan includes the following documents which are also adopted by reference:

Added/
underlined

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

amam 11/26/2016, Register 220;

Authority: AS 46.03.020
AS 46.14.020

AS 46.14.030
AS 46.14.140

Sec. 30, ch. 74, SLA 1993

18 AAC 50.240(b) is amended to read:

(b) Excess emissions violations that the department determines [DETERMINED] to be unavoidable under this section [WILL BE EXCUSED AND] are not subject to penalty by the department. This section does not limit the department's power to enjoin the emission or require corrective action.

(Eff. 1/18/97, Register 141; am 10/1/2004, Register 171; am 12/29/2016, Register 220)

Authority: AS 46.03.020
AS 46.14.030

AS 46.14.140

AS 46.14.560

“Publisher: At the end of the editor's note that follows 18 AAC 50.030, please add a new paragraph to read as follows:”

In Register 220 (January 2017), the Department of Environmental Conservation made two updates to the State Air Quality Control Plan, adopted by reference in 18 AAC 50.030: one update dated ^{“initial”} September 7, 2016, that took effect November 26, 2016; and a later update dated October 20, 2016, that took effect ^{date} {effective date of regulations}. The text of 18 AAC 50.030 gives the effective ^{date} of the second update, and thus incorporates the effective date of the prior update. For each update, a separate effective date appears in the history note for 18 AAC 50.030.

MEMORANDUM


State of Alaska Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: November 28, 2016

File No.: JU2016200740

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Regulations re: air quality, updated
items adopted by reference, and
excess emissions (18 AAC 50.030;
18 AAC 50.240(b))

We have reviewed the attached regulations from the Department of Environmental Conservation against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated November 28, 2016 from the Regulations Attorney. The regulations update air quality requirements and procedures regarding excess emissions and related material adopted by reference.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The September 9, 2016 public notice and the October 20, 2016 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Please note that 18 AAC 50.030, as well as the new paragraph to be added to the editor's note that follows 18 AAC 50.030, contains placeholders for dates that are timed to the effective date of the regulations. Once the regulations are filed and the effective date thus established under AS 44.62.180, we request that your office make handwritten edits to substitute the correct date for the placeholder text.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2016200740

November 28, 2016
Page 2

We have made some technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Hon. Larry Hartig, Commissioner
Department of Environmental Conservation

Gary Mendivil, Regulations Contact
Department of Environmental Conservation

Denise Koch, Director
Division of Air Quality
Department of Environmental Conservation

Thomas E. Turner
Division of Air Quality
Department of Environmental Conservation

Rebecca Tyson Smith
Division of Air Quality
Department of Environmental Conservation

Christopher D. Peloso
Assistant Attorney General
Environmental Section

Steven E. Mulder
Chief Assistant Attorney General
Environmental Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: November 28, 2016

FILE NO.: JU2016200740

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
& Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Department of Environmental
Conservation regulations re: air
quality, updated items adopted
by reference, and excess
emissions (18 AAC 50.030;
18 AAC 50.240(b))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc:

Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General &
Assistant Regulations Attorney
Legislation/Regulations Section—Juneau

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Rebecca Tyson Smith, Environmental Program Specialist, of the Department of Environmental Conservation, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 18 AAC 50, Air Quality Control to update the excess emissions regulations has been given by being:

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chairs of the Resources Committees of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 20 Oct '16



Rebecca Tyson Smith, Environmental Program Specialist

Subscribed and sworn to before me at Juneau on

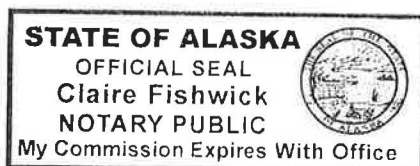
10/20/16

Date



Notary Public in and for the State of Alaska

[NOTARY SEAL]



t 18 AAC 50.240(b). Excess Emissions Regulations and Removal of 18 AAC 50.240 from SIP

Public Notices/Proposed Actions: Regulations

Status Cancelled ▼

Message

Recipients (82)

Name	Email	Status	Status Date
Schuler, Alan	alan.schuler@alaska.gov	OK	9/8/2016 2:35:43 PM
Ryan, Sally	sally.ryan@cardno.com	OK	9/8/2016 2:35:43 PM
Heil, Cindy	cindy.heil@alaska.gov	OK	9/8/2016 2:35:43 PM
Cooke, Alison	Alison.Cooke@bp.com	OK	9/8/2016 2:35:43 PM
Blackmore, Michelle	michelle.blackmore@alaska.gov	OK	9/8/2016 2:35:43 PM
SMITH, REBECCA	rebecca.smith@alaska.gov	OK	9/8/2016 2:35:43 PM
EDWARDS, ALICE	alice.edwards@alaska.gov	OK	9/8/2016 2:35:43 PM
Laster, David	david.laster@gcinc.com	OK	9/8/2016 2:35:43 PM
Buckbee, Rachel	rachel.buckbee@bp.com	OK	9/8/2016 2:35:43 PM
Fowler, Paula	paula.fowler@elmendorf.af.mil	OK	9/8/2016 2:35:43 PM
Roberts, Robert	Robert.Roberts.ctr@mda.mil	OK	9/8/2016 2:35:43 PM
Million, Travis	million@cvea.org	OK	9/8/2016 2:35:43 PM
Osler, Shawn	sosler@carlisleccm.com	OK	9/8/2016 2:35:43 PM

			PM
Osler, Shawn	sosler@carlisleccm.com	OK	9/8/2016 2:35:43 PM
Menefee, Chris	charles.menefee@teck.com	OK	9/8/2016 2:35:43 PM
Richcreek, Jennifer	jrichcreek@kodiak.coop	OK	9/8/2016 2:35:43 PM
Stringham, Katherine	katherine.stringham@us.af.mil	OK	9/8/2016 2:35:43 PM
Saran, Jennifer	jsaran@hecla-mining.com	OK	9/8/2016 2:35:43 PM
SPANO, MARK	mark.spano@awwu.biz	OK	9/8/2016 2:35:43 PM
Strang, Erin	erin.strang@kinross.com	OK	9/8/2016 2:35:43 PM
Austin, Philip	phil@hnhconsulting.org	OK	9/8/2016 2:35:43 PM
deGravelle, Margaret	margaretd@icicleseafoods.com	OK	9/8/2016 2:35:43 PM
Walker, Martin	whitt.walker@mda.mil	OK	9/8/2016 2:35:43 PM
BRENA, JEANETTE	jeanette.brena@cardno.com	OK	9/8/2016 2:35:43 PM
Newbould, Denise	denise.newbould@erm.com	OK	9/8/2016 2:35:43 PM
Trbovich, Alan	atrbovich@slrconsulting.com	OK	9/8/2016 2:35:43 PM
Blakesley, Andrea	andrea_blakesley@nps.gov	OK	9/8/2016 2:35:43 PM
Bausman, Nyree	nbausman@slrconsulting.com	OK	9/8/2016 2:35:43 PM
Lekanof, Jolene	jlekanof@tdxpower.com	OK	9/8/2016

			PM
Lekanof, Jolene	jlekanof@tdxpower.com	OK	9/8/2016 2:35:43 PM
BURKE, TIMOTHY	timothy.burke@asrcenergy.com	OK	9/8/2016 2:35:43 PM
Riste, Alana	ariste@slrconsulting.com	OK	9/8/2016 2:35:43 PM
McCausland, Heather	heather.mccausland@yahoo.com	OK	9/8/2016 2:35:44 PM
Graham, Daniel	dan@pacrimcoal.com	OK	9/8/2016 2:35:44 PM
Bloecher, Patrick	pabloecher@anthc.org	OK	9/8/2016 2:35:44 PM
Duggins, Sims	seduggins@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Andrews, Kay	cityalek@gmail.com	OK	9/8/2016 2:35:44 PM
Kimball, Courtney	ckimball@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Lowther, Sean	slowther@hilcorp.com	OK	9/8/2016 2:35:44 PM
Mason, Ann	amason@slrconsulting.com	OK	9/8/2016 2:35:44 PM
HOCHSTATTER, JENNIFER	jhochstatter@slrconsulting.com	OK	9/8/2016 2:35:44 PM
MASSEY, ROBIN	rglover@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Fairbanks North Star Borough, Air Quality Division	airquality@fnsb.us	OK	9/8/2016 2:35:44 PM
Normand, Chelsea	cnormand@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Cohen, Matthew	mcohen@stoel.com	OK	9/8/2016 2:35:44

			PM
Cohen, Matthew	mcohen@stoel.com	OK	9/8/2016 2:35:44 PM
Dick, Eric	rcjetak@gmail.com	OK	9/8/2016 2:35:44 PM
Lanning, David	lanningak@acsalaska.net	OK	9/8/2016 2:35:44 PM
ZIMMER, HEIDI	heidi@akaction.org	OK	9/8/2016 2:35:44 PM
Damiana, Thomas	thomas.damiana@aecom.com	OK	9/8/2016 2:35:44 PM
Heck, Linda	mslindaheck@yahoo.com	OK	9/8/2016 2:35:44 PM
Fish, David	dfish@usibelli.com	OK	9/8/2016 2:35:44 PM
Landsberg, Karin	karin.landsberg@alaska.gov	OK	9/8/2016 2:35:44 PM
Castano, Alejandra	alejandra.castano@bp.com	OK	9/8/2016 2:35:44 PM
Porreca, Samantha	sporreca@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Hibbard, Cristal	chibbard@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Germain, Grace	grace.germain@cardno.com	OK	9/8/2016 2:35:44 PM
hamade, ali	ali.hamade@alaska.gov	OK	9/8/2016 2:35:44 PM
Cooper, Stacey	stacey.cooper@alaska.gov	OK	9/8/2016 2:35:44 PM
Dankmeyer, Christopher	cddankmeyer@anmc.org	OK	9/8/2016 2:35:44 PM
Heymsfield, Jill	Heymsfield-jill@aramark.com	OK	9/8/2016 2:35:44

Heymsfield, Jill	Heymsfield-jill@aramark.com	OK	PM 9/8/2016 2:35:44 PM
Bruck, Emily	emily.bruck@unisea.com	OK	9/8/2016 2:35:44 PM
Webb, Scott	scott.webb.5@us.af.mil	OK	9/8/2016 2:35:44 PM
COURSEN, CATHERINE	akpoultrylover@hotmail.com	OK	9/8/2016 2:35:44 PM
Van Wyck, Rebecca	rvanwyck@slrconsulting.com	OK	9/8/2016 2:35:44 PM
EDWARDS, ALEXANDER	alex.edwards@alaska.gov	OK	9/8/2016 2:35:44 PM
Kaiser, Katharine	kkaiser@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Jacobsen, MISTY	mjacobsen@slrconsulting.com	OK	9/8/2016 2:35:44 PM
McChesney, Rashah	rashah.mcchesney@peninsulaclarion.com	OK	9/8/2016 2:35:44 PM
Kroon, Hannah	hannah.kroon@aecom.com	OK	9/8/2016 2:35:44 PM
Thomas, Bradley	bradlct@conocophillips.com	OK	9/8/2016 2:35:44 PM
Huss, Darlene	darlenehuss@yahoo.com	OK	9/8/2016 2:35:44 PM
PFEIFFER, JAMES	james.pfeiffer@exxonmobil.com	OK	9/8/2016 2:35:44 PM
Peccia, Amy	apecchia@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Fritz, Nicole	nfritz@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Fox, Debbie	dfox@mcilvainecompany.com	OK	9/8/2016 2:35:44 PM

			2:35:44 PM
Fox, Debbie	dfox@mcilvainecompany.com	OK	9/8/2016 2:35:44 PM
Perry, LAURA	laura.perry@cop.com	OK	9/8/2016 2:35:44 PM
Koch, Denise	denise.koch@alaska.gov	OK	9/8/2016 2:35:44 PM
QUINLAN, STACI	slquinlan@alaska.edu	OK	9/8/2016 2:35:44 PM
Bollinger, Catherine	cbollinger@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Brewer, Jamie	jbrewer@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Javor, Pallavi	pjavor@slrconsulting.com	OK	9/8/2016 2:35:44 PM
Orczewska, Julieanna	jorczewska@hilcorp.com	OK	9/8/2016 2:35:44 PM
Fox, Cara	cfox@barr.com	OK	9/8/2016 2:35:44 PM
Lindsey, Chris	clindsey@slrconsulting.com	OK	9/8/2016 2:35:44 PM
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18 AAC 50 240(b). Excess Emissions Regulations and Removal of 18 AAC 50 240 from SIP - SIP modu

Public Notices/Proposed Actions: State Implementation Plan (SIP)

Status: Finalized

Revert to Draft

Message

Recipients (56)

Name	Email	Status	Status Date
Ryan, Sally	sally.ryan@cardno.com	OK	9/8/2016 2:36:02 PM
Heil, Cindy	cindy.heil@alaska.gov	OK	9/8/2016 2:36:02 PM
Cooke, Alison	Alison.Cooke@bp.com	OK	9/8/2016 2:36:02 PM
SMITH, REBECCA	rebecca.smith@alaska.gov	OK	9/8/2016 2:36:02 PM
EDWARDS, ALICE	alice.edwards@alaska.gov	OK	9/8/2016 2:36:02 PM
Laster, David	david.laster@gcinc.com	OK	9/8/2016 2:36:02 PM
Buckbee, Rachel	rachel.buckbee@bp.com	OK	9/8/2016 2:36:02 PM
Roberts, Robert	Robert.Roberts.ctr@mda.mil	OK	9/8/2016 2:36:02 PM
Menefee, Chris	charles.menefee@teck.com	OK	9/8/2016 2:36:02 PM
Richcreek, Jennifer	jrichcreek@kodiak.coop	OK	9/8/2016 2:36:02 PM
Stringham, Katherine	katherine.stringham@us.af.mil	OK	9/8/2016 2:36:02 PM
SPANIO, MARK	mark.spanio@awwu.biz	OK	9/8/2016 2:36:02 PM
Austin, Philip	phil@hnhconsulting.org	OK	9/8/2016 2:36:02 PM

			PM
Austin, Philip	phil@hnhconsulting.org	OK	9/8/2016 2:36:02 PM
Siroky, Mary	mary.siroky@alaska.gov	OK	9/8/2016 2:36:02 PM
BRENA, JEANETTE	jeanette.brena@cardno.com	OK	9/8/2016 2:36:02 PM
Newbould, Denise	denise.newbould@erm.com	OK	9/8/2016 2:36:02 PM
Trbovich, Alan	atrbovich@slrconsulting.com	OK	9/8/2016 2:36:02 PM
Blakesley, Andrea	andrea_blakesley@nps.gov	OK	9/8/2016 2:36:02 PM
Bausman, Nyree	nbausman@slrconsulting.com	OK	9/8/2016 2:36:02 PM
Lekanof, Jolene	jlekanof@tdxpower.com	OK	9/8/2016 2:36:02 PM
BURKE, TIMOTHY	timothy.burke@asrcenergy.com	OK	9/8/2016 2:36:02 PM
Riste, Alana	ariste@slrconsulting.com	OK	9/8/2016 2:36:02 PM
McCausland, Heather	heather.mccausland@yahoo.com	OK	9/8/2016 2:36:02 PM
Graham, Daniel	dan@pacrimcoal.com	OK	9/8/2016 2:36:02 PM
Duggins, Sims	seduggins@slrconsulting.com	OK	9/8/2016 2:36:02 PM
Elleman, Robert	elleman.robert@epa.gov	OK	9/8/2016 2:36:02 PM
Kimball, Courtney	ckimball@slrconsulting.com	OK	9/8/2016 2:36:03 PM
Mason, Ann	amason@slrconsulting.com	OK	9/8/2016 2:36:03

Mason, Ann	amason@slrconsulting.com	OK	9/8/2016 2:36:03 PM
MASSEY, ROBIN	rglover@slrconsulting.com	OK	9/8/2016 2:36:03 PM
Fairbanks North Star Borough, Air Quality Division	airquality@fnsb.us	OK	9/8/2016 2:36:03 PM
Cohen, Matthew	mcohen@stoel.com	OK	9/8/2016 2:36:03 PM
Dick, Eric	rcjetak@gmail.com	OK	9/8/2016 2:36:03 PM
Adkins, Celeste	aniaklnp@arctic.net	OK	9/8/2016 2:36:03 PM
Lanning, David	lanningak@acsalaska.net	OK	9/8/2016 2:36:03 PM
ZIMMER, HEIDI	heidi@akaction.org	OK	9/8/2016 2:36:03 PM
Damiana, Thomas	thomas.damiana@aecom.com	OK	9/8/2016 2:36:03 PM
Heck, Linda	mslindaheck@yahoo.com	OK	9/8/2016 2:36:03 PM
Fish, David	dfish@usibelli.com	OK	9/8/2016 2:36:03 PM
Amundson, Gordon	gordon.amundson@alaska.gov	OK	9/8/2016 2:36:03 PM
Landsberg, Karin	karin.landsberg@alaska.gov	OK	9/8/2016 2:36:03 PM
Hibbard, Cristal	chibbard@slrconsulting.com	OK	9/8/2016 2:36:03 PM
Germain, Grace	grace.germain@cardno.com	OK	9/8/2016 2:36:03 PM
hamade, ali	ali.hamade@alaska.gov	OK	9/8/2016 2:36:03 PM

			PM
hamade, ali	ali.hamade@alaska.gov	OK	9/8/2016 2:36:03 PM
Cooper, Stacey	stacey.cooper@alaska.gov	OK	9/8/2016 2:36:03 PM
Webb, Scott	scott.webb.5@us.af.mil	OK	9/8/2016 2:36:03 PM
EDWARDS, ALEXANDER	alex.edwards@alaska.gov	OK	9/8/2016 2:36:03 PM
McChesney, Rashah	rashah.mcchesney@peninsulaclarion.com	OK	9/8/2016 2:36:03 PM
Thomas, Bradley	bradict@conocophillips.com	OK	9/8/2016 2:36:03 PM
Huss, Darlene	darlenehuss@yahoo.com	OK	9/8/2016 2:36:03 PM
SLATTER, TRIENA	uniquers3@hotmail.com	OK	9/8/2016 2:36:03 PM
Perry, LAURA	laura.perry@cop.com	OK	9/8/2016 2:36:03 PM
Koch, Denise	denise.koch@alaska.gov	OK	9/8/2016 2:36:03 PM
Bollinger, Catherine	cbollinger@slrconsulting.com	OK	9/8/2016 2:36:03 PM
KOHL, BREHAN	brehan.kohl@alaska.gov	OK	9/8/2016 2:36:03 PM
Orczewska, Julieanna	jorczewska@hilcorp.com	OK	9/8/2016 2:36:03 PM
Lindsey, Chris	clindsey@slrconsulting.com	OK	9/8/2016 2:36:03 PM

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AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Rebecca Tyson Smith, Environmental Program Specialist, of the Department of Environmental Conservation, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Environmental Conservation has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Environmental Conservation regulations on 18 AAC 50, Air Quality Control to update the excess emissions regulations. The Department of Environmental Conservation did not receive any factual or other substantive information that was submitted orally as public comment and that was relevant to the accuracy, coverage, or other aspect of Department of Environmental Conservation regulations on 18 AAC 50, Air Quality Control to update the excess emissions regulations.

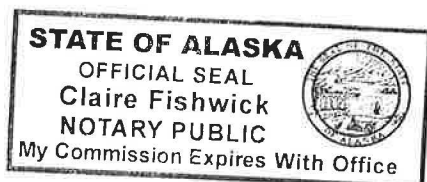
Date: 20 Oct '16

Rebecca Tyson Smith
Rebecca Tyson Smith, Environmental Program Specialist

Subscribed and sworn to before me at Juneau on
10/20/16
Date

Claire Fishwick
Notary Public in and for the State of Alaska

[NOTARY SEAL]



AFFIDAVIT OF CANCELLATION OF ORAL HEARING

I, Rebecca Tyson Smith, Environmental Program Specialist, of the Department of Environmental Conservation, being sworn, state the following:

The Department of Environmental Conservation tentatively scheduled an oral hearing, available upon request as stated in the notice of proposed regulations, for October 11, 2016, at 1200 - 1330, at the ADEC Building, 555 Cordova St., First Floor Small Conference Room A, Anchorage, AK 99501. No member of the public requested an oral hearing, and the public hearing was cancelled and noticed as stated in the notice of proposed regulations.

Date: 20 Oct '16

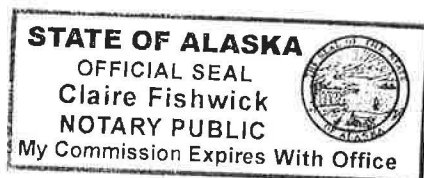

Rebecca Tyson Smith, Environmental Program Specialist

Subscribed and sworn to before me at Tuneau on

10/20/16
Date


Notary Public in and for the State of Alaska

[NOTARY SEAL]



AIR QUALITY CONTROL: NOTICE OF PROPOSED CHANGES
IN THE REGULATIONS OF THE
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation (ADEC) proposes to change its air quality regulations to update the excess emissions regulations.

ADEC proposed to adopt regulation changes in Title 18, Chapter 50 of the Alaska Administrative Code, dealing with excess emissions as follows:

- (1) amend 18 AAC 50.240(b) to address changes in requirements for excess emissions.
- (2) amend 18 AAC 50.030 to update the adoption date of the State Air Quality Control Plan.

In addition, ADEC is proposing to request that the U.S. Environmental Protection Agency (EPA) remove 18 AAC 50.240 from the approved State Implementation Plan (SIP).

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Rebecca Smith, ADEC Division of Air Quality, 410 Willoughby Avenue, Suite 303, P.O. Box 111800, Juneau, AK 99811-1800; or by e-mail to rebecca.smith@alaska.gov. Additionally, ADEC will accept comments by facsimile at (907) 465-5129; through the Air Quality Division's electronic comment submission web page at <https://dec.alaska.gov/Applications/Air/airtoolsweb/FormalComments>; and by electronic mail to the Air Quality Comments Docket at dec.aq.airdocket@alaska.gov. **The comments must be received not later than 5:00 p.m. on Friday, October 14, 2016.**

ADEC has tentatively scheduled a public hearing for these proposed regulations, on Tuesday, October 11, 2016, from 12:00 p.m. to 1:30 p.m. at the ADEC Building, 555 Cordova St., First Floor Small Conference Room A, Anchorage, AK 99501. The public hearing will be held only if a request to hold a public hearing is received by ADEC by 5:00 p.m. on Thursday, October 6, 2016. You may request a public hearing by calling Rebecca Smith at 907-465-5121 between 9:00 a.m. and 5:00 p.m., Monday through Friday or by e-mailing a request to rebecca.smith@alaska.gov. If no request for a public hearing is received, the public hearing will be cancelled. ADEC will announce the cancellation of the public hearing by publishing a public notice, by 5:00 p.m. on Friday, October 7, 2016, on these websites: <http://dec.alaska.gov/air/ap/regulati.htm>, <http://dec.alaska.gov/Applications/Air/airtoolsweb/AirPermitsApprovalsAndPublicNotices>, and http://dec.alaska.gov/commish/public_notices.htm. Oral or written comments may be submitted at the hearing, if a public hearing is conducted. If the public hearing occurs, there will be a call-in number if you are not able to attend the meeting in person. The call-in number will be 1-800-315-6338, and the Meet Me Code will be 81231#. If held, the hearing may be extended if

necessary to accommodate those present before 1:00 p.m. who did not have an opportunity to comment.

You may submit written questions relevant to the proposed action to ADEC using the electronic question form at <http://dec.alaska.gov/air/ap/18AAC50240QuestionsAndAnswers.htm> or by electronic mail to dec.aq.airdocket@alaska.gov or by sending the questions to Rebecca Smith, ADEC Division of Air Quality, 410 Willoughby Avenue, Suite 303, P.O. Box 111800, Juneau, AK 99811-1800. The questions must be received at least 10 days before the end of the public comment period; the question deadline is Tuesday, October 4, 2016. ADEC will aggregate its response to substantially similar questions and make the questions and responses available on <http://dec.alaska.gov/air/ap/18AAC50240QuestionsAndAnswers.htm>.

If you are a person with a disability who may need a special accommodation in order to participate in this public process, please contact Natalie Wolfe at (907) 269-0291 or TDD Relay Service 1-800-770-8973/TTY or dial 711 seven days prior to any open house or a public hearing to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Rebecca Smith at rebecca.smith@alaska.gov or (907) 465-5121.

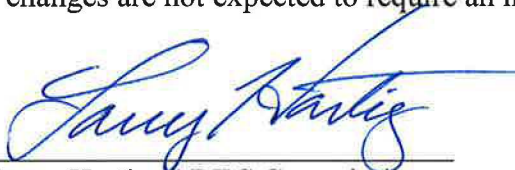
After the public comment period ends, the ADEC will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED. Written comments received are public records and are subject to public inspection.

Statutory authority: AS 46.03.020; AS 46.14.020; AS 46.14.030; AS 46.14.140; AS 46.14.560; Sec. 30, ch. 74, SLA 1993

Statutes being implemented, interpreted, or made specific: AS 46.03.020; AS 46.14.020; AS 46.14.030; AS 46.14.140; AS 46.14.560

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: September 7, 2016


Larry Hartig, ADEC Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))¹

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: 18 AAC 50 is being amended to: 1) revise 18 AAC 50.240; and 2) update the adoption date in 18 AAC 50.030.
3. Citation of regulation (may be grouped): 18 AAC 50.030 and 18 AAC 50.240
4. Department of Law file number, if any: JU2016200740

5. Reason for the proposed action:

(X) Compliance with federal law or action (identify): Clean Air Act
() Compliance with new or changed state statute
() Compliance with federal or state court decision (identify): _____
() Development of program standards
() Other (identify): _____

6. Appropriation/Allocation: Air Quality Division/Air Permits Program

7. Estimated annual cost to comply with the proposed action to:

A private person: None. There are no direct costs to the public. The proposed revisions update the regulations to make it clear that the department is making the decisions on excess emissions violations and penalties.

Another state agency: None.

A municipality: None.

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2016 __	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>

Other (identify) \$ 0 \$ 0

9. The name of the contact person for the regulation:

Name: Thomas Turner
Title: Section Manager
Address: 555 Cordova St.
 Anchorage, AK 99501
Telephone: 907-269-8123
E-mail address: thomas.turner@alaska.gov

10. The origin of the proposed action:

_____ Staff of state agency
 X Federal government
_____ General public
_____ Petition for regulation change
_____ Other (identify): _____

11. Date: September 7, 2016

Prepared by: _____

Name: Rebecca Tyson Smith

Title: Environmental Program Specialist

Telephone: 907-465-5121

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SEP 16 2016

ADEC AQ

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

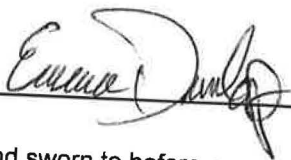
Emma Dunlap

being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

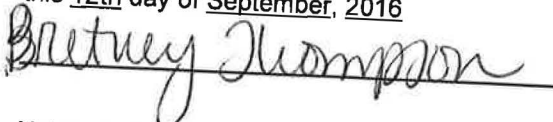
September 09, 2016, September 10, 2016

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed



Subscribed and sworn to before me
this 12th day of September, 2016



Notary Public in and for
The State of Alaska.
Third Division

Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019
BRETNEY L. THOMPSON
State of Alaska

My Commission Expires Feb 23, 2019

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