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November 23, 2021

Rebecca Smith,
ADEC Division of Air Quality,
P.O. Box 111800
Juneau, AK 99811-1800

RE: October 20, 2021 Public Notice—18 AAC 50 proposed regulation packet comments

Dear Ms. Smith:

Enclosed is Alaska Power & Telephone's comments in response to the October 20, 2021 public notice that the State of Alaska proposes changes to Air Quality Regulations in 18 AAC 50 and to the Air Quality Control Plan.

In general, we welcome the State's plan to update federal regulations incorporated by reference to reduce or remove inconsistencies between State and federal regulations. However, the 18 AAC 50.040 rulemaking ignored our December 2019 request to update federal RICE standards by reference. We also support enhanced reporting tools for the regulated communities. However, the 18 AAC 50.270 proposal simply includes a placeholder for a yet to be developed electronic form packet. We are confused as to the basis for the proposed change to 18 AAC 50.275 regarding assessable and actual emission methodologies. Enclosed are Alaska Power & Telephone's specific comments.

If you have any questions about this packet, please contact me directly by e-mail at james.b@aptalaska.com or by telephone at 907-789-1951 extension 5.

Sincerely,

A handwritten signature in black ink that reads "James Baumgartner".

James (Jim) Baumgartner,
Manager of Permitting/Licensing/Compliance

Cc: Airreports@alaska.gov
Edward Settle, TAPIS Consulting

Enclosure (1)

ENCLOSURE

Alaska Power & Telephone is a small employee-owned company that provides utility service to remote Alaskan communities. Its operations have and remain regulated under 18 AAC 50, in part because of its reliance on diesel-electric driven equipment to provide prime and back-up power to the isolated communities that we serve. Please consider the following comments in response to the October 20, 2021 proposed public notice rulemaking.

1. Federal Standards adopted by reference: 18 AAC 50.040. As of October 4, 2019, Public Law 116-62 now exempt remote Alaskan installations from certain tiered particulate matter emission controls under federal law. U.S. Environmental Protection Agency (EPA) published updated new source performance standards on November 13, 2019 to effect these changes for remote Alaskan installations that rely upon compression ignition reciprocating engines (CI RICE) for generating capacity. See the following URL for the final federal rulemaking: <https://www.govinfo.gov/content/pkg/FR-2019-11-13/pdf/2019-24335.pdf>.

In December 2019 in response to State proposed updates to federal standards incorporated by reference, AP&T requested that RICE engine standards be updated to reflect the 2019 federal rulemaking. ADEC denied this request in their final rulemaking because the federal rulemaking postdated the state proposal. However, ADEC neglected to propose the updated federal provisions in this proposed rulemaking. Instead, ADEC proposed just to update the federal plan requirements for Municipal Waste Landfills.

For federal/State consistency, we once again respectfully request that the State adopt the federal RICE rules on or after November 13, 2019 consistent with federal Public Law and regulations.

2. 18 AAC 50.270—Electronic Submission Requirements. Alaska Air Quality Control Statute. ADEC proposes to add a new section 18 AAC 50.270. AS 46.14.140(a) states (emphasis added):

The department shall adopt regulations to address substantive and procedural elements of the emission control permit program established under this chapter that are not addressed in statute, ***except elements that relate only to the internal management of the department and do not affect the public or govern the way the department deals with the public.*** The regulations must be reasonable and adequate, and provide flexibility in the operation of a stationary source consistent with 42 U.S.C. 7401 - 7671q (Clean Air Act), as amended, and applicable federal regulations...

Although AP&T supports enhanced streamlined methods of recordkeeping and reporting developed in collaboration with the clients as envisioned in Mr. Plosay's December 14, 2017 Electronic Reporting letter, AP&T has found that air-online-service tools miss their intended mark as discussed in AP&T's December 2019 public comments on the Department's Standard Permit Condition proposal. Nor has the Department seriously

considered recommendations to improve electronic forms. For the sake of brevity, AP&T will not reiterate those discussions.

The 2021 proposed regulation, as written, merely inserts a placeholder for yet to be developed electronic forms “available within the Permittee Portal” and sets up the department’s approach to impose additional electronic submittal obligations upon the regulated community without the benefit of due process or appeal. Specifically (d), (e), (f), and (g) are deficient in that they do not comport with State rulemaking provisions.

By proposing a place holder, the department provides little substance for the public to provide meaningful review and comment on the proposed rulemaking. This approach is counter to State rulemaking manual which prohibits regulators from adopting a prospective rulemaking based on Alaska case law and counter to AS 46.14.140, cited above.

AP&T insists that ADEC develop their reporting tools collaboratively with the affected community and then, after concluding their development, go through formal rulemaking.

AP&T respectfully requests that the Department withdraw this proposal from the packet, engage in collaborative approach to electronic form development as envisioned in their 2017 notice to the regulated community, and after completion of the process, go through proper rulemaking to publish a proposal to incorporate the forms and procedures into the program’s regulations, and, if necessary, imposing their use.

3. 18 AAC 50.275—Consistency of Reporting Methodologies--The Department proposes to add a new Section to 18 AAC 50. Its supporting description simply states “ADEC is adding a new section to establish requirements for consistency in reporting methodologies for emissions.” It is challenging for the reviewer to acknowledge and appreciate the basis for the change.

18 AAC 50.275(a) is redundant and superfluous to one of the underlying statutes cited in the proposal. AS 46.14.020(b) states: “

(b) The department or a local air quality control program authorized under AS 46.14.400 may require an owner and operator of a stationary source or emissions unit classified under this section to report information to the department or the authorized local program concerning location, size, and height of stacks or area emissions units, processes employed, fuels used, the nature and time periods or duration of emissions, and other information relevant to air quality that is available or reasonably capable of being calculated and compiled.

There is no need or benefit to create additional regulation that simply paraphrases the statute. Therefore, Paragraph (a) should be removed from the proposal and the department should simply rely on its existing statutory authority to collect records from owners and operators to complete the State’s own reporting requirement under 40 C.F.R. Subpart 51, Subpart A.

Regarding the remaining paragraph 50.275(b) It is unclear why ADEC is requiring use of consistent pollution-specific factors and calculation methods for all reporting requirements and for assessable emissions. For example, AP&T’s major sources are required to submit a triennial inventory—the next of which will be due in 2024. The permittee, at their discretion may submit an assessable emission estimate each spring.

Estimating tools continue to evolve as U.S. EPA updates its published AP-42 emission factors, clients revise site-specific emission factors based upon subsequent emission source test records, and agencies improve emission estimating tools.

The term “Actual” is used in 18 AAC under several different context. In 18 AAC 040 the context is NSR/PSD under 40 CFR 51.165 and 40 CFR 52.21(aa); in 18 AAC 50.100--for non-road engines, in 18 AAC 50.225--for owner requested limits, in 18 AAC 50.311--for non-attainment area major stationary sources (40 CFR 51 and 52), In 18 AAC 50.326--for operating permits (40 CFR 71 &72), 18 AAC 50.410 for emission fees—underlying authority being AS 46.14.250—emission fees, 18 AAC 50.502 for Minor Permits for air quality protection (40 CFR 52.21 and AS 46.14.120 & .130), 18 AAC 50.540--for Minor Permit: application (40 CFR 52.21 and AS 46.14.120 & .130).

40 C.F.R Subpart 51 Subpart A is not incorporated by reference for any of these 18 AAC 50 citations listed above, nor have we located it directly referenced in 18 AAC 50. Instead, the reference is buried in an operating permit Standard Permit Condition incorporated by reference which requires Title V sources to submit periodic emission inventories dependent upon source size.

In other words, there are multiple underlying federal and State programs tied to the federal regulatory term of art “Actual Emissions.” PSD pre-construction review (PAL), Nonattainment new source review, Operating permits, Minor Permits, and State emission fees as well as the requirement for Alaska to prepare and submit an emission inventory to U.S. EPA. Each program has a different basis and reason for estimating actual emissions. Emission estimating tools and information change over time warranting flexibility to change emission factors and methodologies between estimates. Therefore, the client should not be compelled to use consistent factors and methods.

Specific permit terms also dictate reporting methodology(ies). If adopted, this proposed regulation may conflict with dozens of existing minor, construction and operating permits which require use of specific emission factor(s) and methodology(ies).

Because of this, AP&T requests that the Department withdraw its proposal to add subparagraph (b) and withdraw its mandate to use consistent methodologies and emission factors for all reports.

If AP&T’s request to remove Subparagraph 50.275(b) is rejected, AP&T respectfully requests additional consideration to remove assessable emissions from the subparagraph.

18 AAC 50.410(c) allows a client to project the annual rate of emissions each year based on the most representative information available—at that time. AS 46.14.250(h)(1)(B) also allows the actual rate of emissions through monitoring, modeling, calculations, or other methods acceptable to the Department.

In other words, the emission fee section and its underlying Alaska Statute provides latitude for the client to use alternative methods to calculate their accessible emissions. Please remove the clause “...and assessable...” from the proposal.

18 AAC 50.275...

(b) For the purposes of reporting actual and assessable emissions under any requirement of 18 AAC 50, stationary sources shall use consistent pollutant-specific emissions factors and calculation methods for all reporting requirements.