Alaska Department of Environmental Conservation

Amendments to State Air Quality Control Plan

Vol. III: Appendices

Public Review Draft

March 2nd, 2012

Sean Parnell
Governor

Larry Hartig
Commissioner

The State of Alaska's State Air Quality Control Plan, Volume III, Appendix to Volume II, Section II of this plan, is amended by removing the following regulations:

• 18 AAC 50 Air Quality Control as amended through September 17, 2011; and
replacing them with the following regulations currently under public review and comment:

• 18 AAC 50 Air Quality Control as amended through {*Adoption Date of Regulations*}.

The State of Alaska's State Air Quality Control Plan Volume III, Appendix to Volume II, Section II of this plan, is amended by adding the following documents:

- **Clean Air Act Section 110 Infrastructure Certification Documentation**;

- **Alaska Administrative Code Title 2- Administration**; **Chapter 50- Alaska Public Offices Commission: Conflict of Interest, Campaign Disclosure, Legislative Financial Disclosure, and Regulations of Lobbying**; **Article 1 – Public Official Financial Disclosure** (2 AAC 50.010- 2 AAC 50.200); and

- **Alaska Administrative Code Title 9 – Law**; **Chapter 52 – Executive Branch Code of Ethics** (9 AAC 52.010 – 9 AAC 52.990).

Placeholder for:

ALASKA ADMINISTRATIVE CODE

TITLE 18- DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Chapter 50. Air Quality Control

as amended through {*Adoption Date of Regulations*}.

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Vol. III: Appendices

Clean Air Act Section 110 Infrastructure Certification Documentation

Public Review Draft

March 2, 2012

Sean Parnell
Governor

Larry Hartig
Commissioner

This page serves as a placeholder for two-sided copying.

Statement of Purpose

By statute, states are required to make State Implementation Plan (SIP) submissions to the U.S. Environmental Protection Agency (EPA) to meet the basic requirements of Clean Air Act (CAA) Section (§) 110 (a) (1) and (2) within three years after promulgation of any new or revised National Ambient Air Quality Standard (NAAQS).[1],[2] The purpose of this document is to demonstrate that the Alaska Department of Environmental Conservation (DEC) has the statutory and regulatory authority to implement CAA §110 (a) (2) (A)-(M) "infrastructure" elements for the following NAAQS:

- 1997 Ozone 8-hour NAAQS (62 FR 38856, July 18, 1997);
- 1997 PM2.5[3] annual and 24-hour NAAQS (62 FR 38652, July 18, 1997);
- 2006 PM2.5 annual and 24-hour NAAQS (71 FR 61144, October 17, 2006);
- 2008 Ozone 8-hour NAAQS (73 FR 16436, March 27, 2008); and
- 2008 Lead NAAQS (73 FR 66964, November 12, 2008).

By Consent Decree, EPA agreed to make a determination whether or not states submitted "Infrastructure SIPs" for the 1997 ozone and 1997 PM2.5 NAAQS by December 15, 2007, and October 15, 2008, respectively.[1] EPA issued the State of Alaska findings of failure to submit "Infrastructure SIPs" for the 1997 ozone and 1997 PM2.5 NAAQS by publishing the following Federal Implementation Plan (FIP) notices in the Federal Register:

- "Completeness Findings for CAA 110(a) SIP submittals pertaining to 1997 8-hour Ozone NAAQS" issued on March 27, 2008 (73 FR 16205); and
- "Completeness Findings for CAA 110(a) SIP submittals pertaining to 1997 annual & 24-hour PM2.5 NAAQS" issued on October 22, 2008 (73 FR 62902).

EPA promulgated new PM2.5, ozone and lead NAAQS in 2006 and 2008, as referenced above. On April 1, 2010, DEC adopted the 2006 PM2.5 24-hour and annual NAAQS; the 2008 ozone 8-hour NAAQS; and the 2008 lead NAAQS into Alaska Administrative Code (AAC). The promulgation of new NAAQS by EPA and their subsequent adoption by the State of Alaska superseded the 1997 PM2.5 and 1997 ozone NAAQS; however, Alaska must still address the FIP notices pertaining to the 1997 NAAQS. The primary purpose of this document is to satisfy the requirements of CAA §110 (a) (1) (2) (A)-(M) by demonstrating DEC's regulatory and statutory authority to implement the 2008 ozone 8-hour NAAQS; the 2006 PM2.5 24-hour and annual NAAQS; and the 2008 lead NAAQS. By satisfying these CAA requirements, the State of Alaska is also demonstrating compliance with EPA's FIP notices for the 1997 PM2.5 and 1997 ozone NAAQS. DEC has prepared the following narrative response to these CAA requirements which outlines both DEC's statutory and regulatory authority to implement these laws and its ability to carry out these authorities via Alaska's State Implementation Plan (SIP).

1 US EPA's "Guidance on SIP Elements Required Under Sections 110(a) (1) and (2) for the 1997 8-hour Ozone and PM2.5 NAAQS", October 2, 2007;

2 US EPA's "Guidance on SIP Elements Required Under Sections 110(a) (1) and (2) for the 2006 24-hour PM2.5 NAAQS", September 25, 2009.

3 PM2.5 is defined as particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.

DEC's Statutory & Regulatory Authority

The following section provides a brief history and description of DEC's overall, existing statutory and regulatory authority to implement CAA §110 (a) (2) (A)-(M) SIP "infrastructure" elements. DEC and its authority to control air pollution were established on July 1, 1971 in the following Alaska Statutes (AS):

- **AS Title 46. Water, Air, Energy, and Environmental Conservation**:
  - Chapter 03. Environmental Conservation (§§ 46.03.010- 46.03.900); and
  - Chapter 14. Air Quality Control (§§ 46.14.010- 46.14.990).

In 1972, the State of Alaska Department of Law determined that AS 46.03 contained the necessary legal authorities as required by the CAA to carry out the statewide air quality control plan. The State of Alaska's statutory authority to implement the CAA was described in a legal opinion written by Ralph Stemp, Alaska's former Assistant Attorney General, and is included in the original State of Alaska Air Quality Control Plan (letter dated February 29, 1972, SIP Volume II, Appendix, page 44). This legal opinion also identifies the prerequisite legal authorities for the state's air quality control program which address the legal requirements identified in the 40 Code of Federal Regulations (CFR), Part 51, Subpart L (51 FR 40673, Nov. 7, 1986).

DEC's authority to act on behalf of the State of Alaska in any matter pertaining to the state air quality control plan is explicitly stated in the following statute:

- **AS 46.14.030. State air quality plan**. The department shall act for the state in any negotiations relative to the state air quality control plan developed under 42 U.S.C. 7401 - 7671q (Clean Air Act), as amended. The department may adopt regulations necessary to implement the state plan.

Within DEC, the Division of Air Quality (DAQ) administers the CAA through regulation and the State of Alaska Air Quality Control Plan. The original plan (contained in Volumes I & II) was federally adopted in April 1972.[4] The original plan summarized the state's legal authority to control air pollution and included state and local air pollution control strategies, monitoring, and air episode plans for particulate matter, carbon monoxide and sulfur dioxide. The State of Alaska Air Quality Control Plan has since been revised and is adopted by reference in Alaska Administrative Code (AAC) in Title 18, Chapter 50, Section 030 (18 AAC 50.030).[5] The State of Alaska Air Quality Control Plan is a legally enforceable document, enforced by DEC. Portions of this control plan make up Alaska's State Implementation Plan (SIP) which addresses the requirements of the 1970 Amendments to the CAA (FR August 14, 1971), the CAA Amendments of 1990 and subsequent requirements set out by EPA. Each time EPA approves an amendment to the State of Alaska Air Quality Control Plan, those amendments become a part of the federally enforceable SIP.

[4] State of Alaska Air Quality Control Plan, Volumes I & II, adopted April 21, 1972.
[5] State of Alaska Air Quality Control Plan, Volumes II & III, as adopted in 18 AAC 50.030.

Alaska's statutes give DEC authority to promulgate regulations for implementing and enforcing the CAA and other legislation. These regulations are established within the following chapters of AAC, Title 18. Environmental Conservation:

- AAC Title 18. Environmental Conservation:
  - Chapter 50. Air Quality Control (18 AAC 50.005-50.990);
  - Chapter 52. Emissions Inspection and Maintenance Requirements for Motor Vehicles (18 AAC 52.005-18 AAC 52.990);
  - Chapter 53. Fuel Requirements for Motor Vehicles (18 AAC 53.005-53.990); and
  - Chapter 95. Administrative Enforcement (18 AAC 95.010-95.900).

Compliance with Clean Air Act Section (§) 110 (a) (2) (A)-(M) Requirements

Alaska's statutes and regulations meeting each CAA §110 (a) (2) (A)-(M) SIP infrastructure requirement are presented in the following section. This section also briefly describes DEC's current SIP programs and efforts addressing these same requirements.

- **CAA § 110 (a) (1)** states the following: "*Each State shall …. adopt and submit to the Administrator within 3 years after the promulgation of a NAAQS (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State.*"

- **CAA §110 (a) (2)** states that "*Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall include the following*"-

  - **§110(a)(2)(A)** ***"include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of this Act"***

DEC has promulgated regulations to implement and enforce the NAAQS and other emission limitations. These regulations include statewide ambient air quality standards, major and minor permits, transportation conformity and fees, among others which are found in the following articles of AAC Title 18 Environmental Conservation, Chapter 50. Air Quality Control:

- Article 1. Ambient Air Quality Standards (18 AAC 50.005 - 18 AAC 50.110);
- Article 2. Program Administration (18 AAC 50.200 - 18 AAC 50.250);
- Article 3. Major Stationary Source Permits (18 AAC 50.300 - 18 AAC 50.390);
- Article 5. Minor Permits (18 AAC 50.502 - 18 AAC 50.560);
- Article 7. Conformity (18 AAC 50.700 – 18 AAC 50.735); and
- Article 9. General Provisions (18 AAC 50.900 – 18 AAC 50.990).

On April 1, 2010, the State of Alaska adopted the 2006 PM2.5 24-hour and annual NAAQS; the 2008 ozone 8-hour NAAQS; and the 2008 lead NAAQS into 18 AAC 50, Article 1. Alaska's current ambient air quality standards are found in Article 1 at 18 AAC 50.010. [6]

Alaska's air quality designations, classifications and control regions are found in 18 AAC 50.015. DEC has worked with EPA regarding the PM2.5 non-attainment area boundary for the Fairbanks North Star Borough (FNSB). This boundary was finalized by EPA in November 2009 and became effective on December 14, 2009. DEC has formally commenced SIP planning activities, in cooperation with the FNSB, to update the SIP to include the FNSB PM2.5 non-attainment area and additional control measures, air monitoring and emission inventory work for PM2.5. Alaska will have three years from the above designation date to submit a SIP attainment demonstration and adopt regulations to ensure that this area will attain the 2006 PM2.5 NAAQS within five years. There are no ozone or lead nonattainment areas in Alaska at the present time (winter 2012).

- **§110(a)(2)(B)** ***"provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality, and upon request, make such data available to the Administrator"***

DEC's statutory and regulatory authority to conduct ambient air monitoring investigations is found in AS 46.03.020 (5), AS 46.14.180 and 18 AAC 50.201. On April 1, 2010, the State of Alaska adopted into Articles 1 and 2 of 18 AAC 50 the following 40 CFR Part 50 reference and interpretation methods for the 2006 PM2.5 24-hour and annual NAAQS; the 2008 ozone 8-hour NAAQS; and the 2008 lead NAAQS:

- Appendix G: Reference Method for the Determination of Lead in Suspended Particulate Matter Collected From Ambient Air;
- Appendix L: Reference Method for the Determination of Fine Particulate Matter as PM2.5 in the Atmosphere;
- Appendix N: Interpretation of the National Ambient Air Quality Standards for Particulate Matter;
- Appendix P: Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone;
- Appendix Q: Reference Method for the Determination of Lead in Particulate Matter as PM10 Collected From Ambient Air; and
- Appendix R: Interpretation of the National Ambient Air Quality Standards for Lead.

The Municipality of Anchorage (MOA) and Fairbanks North Star Borough (FNSB) both have a Memorandum of Understanding (MOU) with DEC to operate air quality control programs in their respective jurisdictions.[7,8] DEC's Air Non-Point Mobile Source Program (ANPMS) and Air Monitoring & Quality Assurance Program (AMQA) work with the MOA and FNSB to

[6] The Division of Air Quality's current regulations are found in **Title 18 AAC 50 Air Quality Control**, as amended through September 17, 2011; refer to http://www.dec.state.ak.us/regulations/pdfs/18%20AAC%2050.pdf
[7] MOU between DEC and Municipality of Anchorage for Air Quality Control, signed June 30, 2011.
[8] MOU between DEC and Fairbanks North Star Borough for Air Pollution Control, dated January 26, 2010.

prepare Alaska's annual ambient air monitoring network plan.[9] Alaska's ambient air monitoring network plan includes appropriate monitoring provisions and procedures to comply with the PM2.5 NAAQS monitoring requirements within the FNSB PM2.5 non-attainment area. Ambient PM2.5 monitoring data are collected by the MOA, the FNSB and DEC. Both the MOA and FNSB report their ambient air data to DEC on a quarterly basis. DEC collects PM2.5 data for the City and Borough of Juneau (CBJ) and the Matanuska-Susitna Valley and reports these data to EPA on a quarterly basis. Ambient air quality and meteorological data that are collected for Prevention of Significant Deterioration (PSD) purposes by permitted stationary sources are reported to DEC on a quarterly and annual basis.

DEC's revised "*Quality Assurance Project Plan for the State of Alaska Air Monitoring & Quality Assurance Program*" [10] was adopted by reference into the State Air Quality Control Plan under 18 AAC 50.030(4) on October 29, 2010. This manual includes the appropriate, federally referenced ambient air quality monitoring and analysis procedures for PM2.5, ozone and lead. As described in this plan, validated State & Local Air Monitoring Stations (SLAMS), and Special Purpose Monitoring (SPM) ambient air quality monitoring data are reported to the AMQA's database manager. This person verifies the data, and electronically reports these data to EPA through the Air Quality System (AQS) on a quarterly basis.

Ozone Monitoring: Currently (winter 2012), there are no nonattainment areas for ozone or lead in Alaska. Existing, ambient air quality data with regards to ozone and lead in Alaska are scarce. MOA, in conjunction with DEC, began monitoring for ozone at two sites starting in April 2010.[8] Ozone monitoring occurred in 2010 and 2011, April through September, at the "Garden" site located in downtown Anchorage less than 1 mile south of the Merrill Field airport. Ozone monitoring was also performed at the "Parkgate" site, located in Eagle River, during the 2010 ozone monitoring season (April through September). The ozone monitoring program was discontinued at the "Parkgate" site after review of the seasonal results. The ozone monitoring equipment was moved to Wasilla, located in the Matanuska-Susitna Valley, for the 2011 monitoring season.

Lead Monitoring: Source specific, ambient, lead monitoring related to operations at the Red Dog Mine, located in Noatak, has been initiated by DEC to address federal lead monitoring requirements. Lead monitoring in Noatak occurred from January 2010 through June 2010; and then from July through August 2011. These monitoring efforts are scheduled to start again in the spring of 2012. Also, MOA, , in conjunction with DEC and EPA, began monitoring for lead, on October 18, 2011, at the Merrill Field airport to determine if lead emissions from aviation gasoline used by piston-engine aircraft are a concern for local residents. Merrill Field airport is the largest general aviation airport in Alaska and is located within the Municipality of Anchorage. EPA is considering regulating lead in aviation gasoline.[11]

[9] Division of Air Quality's "Alaska's 2012 Air Monitoring Plan" www.dec.state.ak.us/air/am/am_airmonplan.htm.

[10] Division of Air Quality's "Quality Assurance Project Plan for the State of Alaska Air Monitoring & Quality Assurance Program" http://www.dec.state.ak.us/air/doc/ADEC_AMQA_QAPP_23FEB10-final.pdf

[11] EPA's "Advance Notice of Proposed Rulemaking on Lead Emissions from Piston-Engine Aircraft Using Leaded Aviation Gasoline", dated April 28, 2010.

- **§110(a)(2)(C)** ***"include a program to provide for the enforcement of the measures described in subparagraph (A) and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D"***

DEC's statutory authority to regulate stationary sources via an air permitting program is established in AS 46.14 Air Quality Control, Article 01, General Regulations and Classifications; and Article 02, Emission Control Permit Program. The DAQ's Air Permits Program issues air discharge permits for stationary sources according to the following regulations:

- Construction permit for new or modified construction projects (18 AAC 50.302);
- Prevention of significant deterioration (PSD) permit (18 AAC 50.306);
- Non-attainment area major stationary source permit (18 AAC 50.311); and
- Minor Permits (18 AAC 50 Article 5).

DEC's PSD and Minor New Source Review Programs were approved by EPA on August 14, 2007 (72 FR 45378). As stated previously, DEC adopted the 2006 PM2.5 24-hour and annual NAAQS on April 1, 2010 (see 18 AAC 50.010, as amended through April 13, 2011). On August 3, 2011, DEC adopted the PM2.5 Significant Impact Levels (SILs) as published in the Federal Register on October 20, 2010 (75 FR 64902); DEC also adopted the PM2.5 source testing requirements as specified in Appendix M to 40 C.F.R. Part 51. The PM2.5 SILs and source test requirement regulations became effective on September 17, 2011. A copy of these regulations and SIP amendment were forwarded to EPA Region 10 via a transmittal letter dated October 17, 2011.

On April 1, 2010, DEC adopted the 2008 ozone 8-hour NAAQS and the 2008 lead NAAQS (see 18 AAC 50.010, as amended through September 17, 2011).[5] Alaska's approved PSD/NSR program implements the 1997 and 2008 ozone 8-hour NAAQS and relevant requirements of the Phase II ozone implementation rule as required in 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005). The following regulations have been adopted by the State of Alaska, but have not been approved by EPA:

- Other permit conditions found at 18 AAC 50.346.

Standard and compliance conditions for stationary sources are found in 18 AAC 50.345. Owner requested limits (ORL) and plant-wide applicability limitations (PALs) are regulated according to 18 AAC 50.508, 18 AAC 50.540, and 18 AAC 50.542. Minor permit regulations requiring analysis of ambient air quality are found at 18 AAC 50.542(c). Regulations governing air pollution prohibitions are found at 18 AAC 50.045, 18 AAC 50.110, and 18 AAC 50.345(c). A violation of these prohibitions or any permit condition can result in civil actions (AS 46.03.760), administrative penalties (AS 46.03.761), or criminal penalties (AS.03.790). Regulations pertaining to compliance orders and enforcement proceedings are found in 18 AAC Chapter 95 Administrative Enforcement.

- **§110(a)(2)(D)** ***"contain adequate provisions (i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility, (ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement)"***

EPA originally approved the actions of DEC to address the provisions of the CAA **§** 110(a)(2)(D)(i)&(ii) regarding Alaska Interstate Transport of Pollution for the 1997 ozone 8-hour NAAQS; and for the 1997 PM2.5 NAAQS on October 15, 2008 (73 FR 60955).

DEC submitted Alaska's Interstate Transport of Pollution SIP for the 2006 PM2.5 24-hour and annual NAAQS; and for the 2008 ozone 8-hour NAAQS in conjunction with Alaska's Open Burn SIP and Alaska's Regional Haze SIP via a transmittal letter to EPA Region 10, dated March 29, 2010. These SIP amendments were intended to meet the regional haze program requirements found in 40 CFR §51.308; and also addressed Alaska's "Finding of Failure to Submit State Implementation Plans Required by the 1999 Regional Haze Rule" (74 FR 2392, January 15, 2009). DEC has developed Alaska's Interstate Transport of Pollution SIP for the 2008 lead NAAQS and will transmit it to EPA following public comment and adoption, which is anticipated to occur later in 2012.

Compliance with CAA §110(a)(2)(D)(i)(I)&(II) requirements is pending EPA's final approval of Alaska's ozone, PM2.5 and lead Interstate Transport SIP amendments. DEC concludes that the written SIP amendments sufficiently demonstrate that emissions from Alaska do not significantly contribute to nonattainment or interfere with maintenance of the 1997 or 2008 ozone NAAQS; the 1997 or 2006 PM2.5 NAAQS; or the 2008 lead NAAQS in another state; or interfere with measures required to be included in the SIP for any other state to prevent significant deterioration of air quality or to protect visibility. Alaska is not subject to the "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone" also called the "Interstate Air Quality Rule" (see 69 FR 4566, January 30, 2004).

Compliance with CAA §110(a)(2)(D)(ii) requirements is satisfied through the implementation of Alaska's PSD/NSR program originally approved by EPA on February 16, 1995 (60 FR 8943); and most recently approved on February 9, 2011 (76 FR 7116). Alaska's approved PSD/NSR program implements the 1997 and 2008 ozone 8-hour NAAQS and relevant requirements of the Phase II ozone implementation rule as required in 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005). For PM2.5, DEC has moved forward to implement PM2.5 requirements within its PSD program. Initially, DEC relied on EPA's interim guidance calling for the use of PM10 as a surrogate for PM2.5. DEC recently adopted the PM2.5 SILs and also adopted the PM2.5 source testing requirements as specified in Appendix M to 40 C.F.R. Part 51. The PM2.5 SILs and source test requirement regulations became effective on September 17, 2011. A copy of these regulations and SIP amendment were forwarded to EPA Region 10 via a transmittal letter dated October 17, 2011.

- **§110(a)(2)(E)(i)(ii)(iii)** ***"provide (i) necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out such implementation plan"; "(ii) requirements that the state comply with the requirements respecting state boards under section 128"; and "(iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision"***

(i) DEC has implemented CAA requirements and the State Air Quality Control Plan since its inception in 1972. DEC's statutory and regulatory authorities to implement and enforce the State of Alaska's Air Quality Control Plan are found at AS 46.14.030 and 18 AAC 50.030, respectively. The State of Alaska has adequate personnel, funding and the authority to implement the 1997 and 2008 ozone NAAQS; the 1997 and 2006 PM2.5 NAAQS; and the 2008 lead NAAQS. The statutory authority for establishing local air pollution control programs is found in AS 46.14.400—Local Air Quality Control Programs. Where local control programs are relied upon to meet SIP requirements, DEC insures that the local program has adequate resources and documents this in the appropriate SIP sections.

(ii) Alaska's regulations meeting the intent of CAA §110(a) (2) (E) and CAA §128 "conflict of interest" phrases are found in AAC Title 2- Administration; Chapter 50- Alaska Public Offices Commission: Conflict of Interest, Campaign Disclosure, Legislative Financial Disclosure, and Regulations of Lobbying (2 AAC 50.010- 2 AAC 50.920). Regulations concerning financial disclosure are found in Title 2, Chapter 50, Article 1- Public Official Financial Disclosure. A copy of Article 1 is adopted into the State Air Quality Control Plan and is included as an appendix to Volume II, Section II. Alaska's executive branch ethics regulations are found in Title 9- Law; Chapter 52- Executive Branch Code of Ethics (9 AAC 52.010-9 AAC 52.990). These regulations are also adopted into the State Air Quality Control Plan and are included as an appendix to Volume II, Section II. DEC is submitting these regulations to meet the intent of CAA §110 (a) (2) (E) and CAA §128 for this CAA §110certification and for all future CAA §110 certification amendments to the SIP.

There are no state air quality boards in Alaska, however, the DEC Commissioner, as an appointed official and the head of an executive agency, is required to file a financial disclosure statement annually by March 15th of each year with the Alaska Public Offices Commission (APOC). These disclosures are publically available through APOC's Anchorage office. Alaska's Public Officials Financial Disclosure Forms and Internet links to Alaska's financial disclosure regulations can be found at the APOC website: http://doa.alaska.gov/apoc/home.html .

(iii) As a matter of policy, DEC encourages the development of strong local air quality control programs. DEC provides technical assistance and regulatory oversight to the MOA, FNSB and other local jurisdictions to ensure that the State Air Quality Control Plan and SIP objectives are satisfactorily carried out. As mentioned, DEC has an MOU with the MOA and FNSB which allows them to operate air quality control programs in their respective jurisdictions. The South Central Clean Air Authority has been established to aid the MOA and the Matanuska-Susitna Borough in pursuing joint efforts to control emissions and improve air quality in the air-shed common to the two jurisdictions.

DEC has formally commenced SIP planning activities, in cooperation with the FNSB, to update Alaska's SIP to include the FNSB PM2.5 non-attainment area and additional control measures, air monitoring and emission inventory work for PM2.5. Alaska will have three years from the designation date (December 14, 2009) to submit a SIP attainment demonstration and adopt regulations to ensure that this area will attain the 2006 PM2.5 NAAQS within five years. The MOU may also have to be updated to reflect the changes made to the SIP.

- **§110(a)(2)(F)** ***"require, as may be prescribed by the Administrator (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection"***

DEC's general statutory authority to regulate stationary sources via an air permitting program is established in AS 46.14 Air Quality Control, Article 01, General Regulations and Classifications; and Article 02, Emission Control Permit Program. Alaska's statutes regarding stationary source permit reporting requirements, completeness determinations, administrative actions, and stack source monitoring requirements are found at AS 46.140 through AS 46.14.180. DEC's regulatory authority to determine compliance with these statutes is found in 18 AAC 50.200 Information requests; and 18 AAC 0.201 Ambient air quality investigations.

As stated previously, on April 1, 2010, the State of Alaska adopted into 18 AAC 50, Articles 1 and 2, the appropriate 40 CFR Part 50 reference and interpretation methods for the 2006 24-hour and annual PM2.5; the 2008 8-hour ozone; and the 2008 lead NAAQS. On August 3, 2011, DEC adopted the PM2.5 source testing requirements into 18 AAC 50.220(c), as required in Appendix M to 40 C.F.R. Part 51. Monitoring, reporting, and record keeping requirements for permitted stationary sources are found in the standard permit conditions for construction and operating permits at 18 AAC 50.345. Monitoring protocols and test methods for stationary sources that have been adopted by reference in the State Air Quality Control Plan are found at 18 AAC 50.030. Other documents, procedures and test methods adopted by reference, including the federal reference and interpretation methods for the new NAAQS, are found at 18 AAC 50.035. Federal standards adopted by reference are found at 18 AAC 50.040.

Alaska has a fully approved PSD/NSR program originally approved on February 16, 1995 (60 FR 8943), and most recently approved on February 9, 2011 (76 FR 7116). Alaska's approved program implements the 1997 and 2008 8-hour ozone NAAQS and relevant requirements of the Phase II ozone implementation rule as required in 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005). For PM2.5, DEC has moved forward to implement PM2.5 requirements within its PSD program. Initially, DEC has relied on EPA's interim guidance calling for the use of PM10 as a surrogate for PM2.5. DEC recently adopted (August 3, 2011) the PM2.5 SILs; DEC also adopted the PM2.5 source testing requirements. The PM2.5 SILs and source test requirement regulations became effective September 17, 2011. A copy of these regulations and SIP amendment were forwarded to EPA Region 10 via a transmittal letter dated

October 17, 2011. Ambient air quality and meteorological data that are collected for PSD purposes by stationary sources are reported to DEC on a quarterly and annual basis.

- **§110(a) (2) (G)** ***"provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority"***

DEC's regulatory authority to act during air episodes is found at 18 AAC 50.245. This authority is promulgated under the following statutes: AS 46.03.020; AS 46.03.820; AS 46.14.010; AS 46.14.020, AS 46.14.030 and 46.14.540.

At the present time (winter 2012), DEC is working to update its regulations found at 18 AAC 50.245 Table 6 "Concentrations Triggering an Air Episode" to include provisions at least as stringent as (or more stringent than) EPA's recommended, interim, PM2.5 Significant Harm Levels (SHLs) for triggering an Air Alert, Air Warning and Air Emergency.[12] Also in this regulations package, DEC plans to amend 18 AAC 50.245(a), (b) and (c) to give local air quality control programs, recognized by the State of Alaska, the authority to declare air quality episodes and advisories and to take action. Release of these regulations for public review is pending approval within the Department. Following public comment and legal review, these provisions will be finalized and submitted to EPA for action and inclusion in Alaska's federally approved SIP. In the interim, DEC can and does issue air advisories under 18 AAC 50.245 to address PM2.5 episodes when air quality conditions warrant action.

The three major municipalities in Alaska (MOA, FNSB, and CBJ) also have ordinances, codes, or regulations that enable them to declare emergencies in the case of poor air quality due to forest fires, volcanoes, wood smoke or other air quality problem. DEC will work with the FNSB to develop a Emergency Episode Contingency Plan for PM2.5 for the FNSB nonattainment area as outlined in 40 CFR Subpart H- Prevention of Air Pollution Emergency Episodes, and in Appendix L to Subpart 51 "Example Regulations for Prevention of Air Pollution Emergency Episodes". DEC personnel remain in close contact with each municipality when an air emergency is declared, assisting with air monitoring and analysis, and implementing safety and control measures, as needed.

- **§110(a)(2)(H)** ***"provide for revision of such plan (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements, or to otherwise comply with any additional requirements established under this Act"***

DEC's statutory authority to adopt regulations in order to implement the CAA and the state air quality control program is found in AS 46.03.020(10) (A), and AS 46.14.010(a). DEC's

[12] EPA's Attachment B: Recommended Interim Significant Harm level, Priority Levels, and Action Levels for PM2,5 Emergency Episode Plans, in EPA's "Guidance on SIP Elements Required Under Sections 110(a) (1) and (2) for the 2006 24-hour PM2.5 NAAQS", dated September 25, 2009.

regulatory authority to implement any provision of the CAA is found in 18 AAC 50.010. DEC strives to establish regulations and update Alaska's SIP in a timely fashion as new NAAQS are promulgated by EPA.

- **§110(a) (2) (J)** ***"meet the applicable requirements of section 121 (relating to consultation)"; "meet the applicable requirements of… section 127 (relating to public notification)"; and "meet the applicable requirements of … part C (relating to prevention of significant deterioration of air quality and visibility protection)"***

· **CAA Title I, Part A §121 Consultation Requirements:** DEC's statutory authority to consult and cooperate with officials of local governments, state and federal agencies, and non-profit groups is found in AS 46.030.020 (3), (8). Municipalities and local air quality districts seeking approval for a local air quality control program shall enter into a cooperative agreement with DEC according to AS 46.14.400(d). DEC can adopt new CAA regulations only after a public hearing (AS 46.14.010(a)).

· **CAA Title I, Part A §127 Public Notification Requirements:** Public notice and public hearing regulations for SIP submittals and air quality discharge permits are found at 18 AAC 15.050 and 18 AAC 15.060.

· **CAA Title I, Part C PSD & Visibility Protection:** Alaska has a fully approved PSD/NSR program originally approved on February 16, 1995 (60 FR 8943), and most recently approved on February 9, 2011 (76 FR 7116). Alaska's approved program implements the 1997 and 2008 8-hour ozone NAAQS and relevant requirements of the Phase II ozone implementation rule as required in 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005). For PM2.5, DEC has moved forward to implement PM2.5 requirements within its PSD program. Initially, DEC has relied on EPA's interim guidance calling for the use of PM10 as a surrogate for PM2.5. DEC recently adopted (August 3, 2011) the PM2.5 SILs; DEC also adopted the PM2.5 source testing requirements. The PM2.5 SILs and source test requirement regulations became effective September 17, 2011. A copy of these regulations and SIP amendment were forwarded to EPA Region 10 via a transmittal letter dated October 17, 2011.

DEC submitted Alaska's Regional Haze SIP and Open Burn SIP in conjunction with Alaska's Interstate Transport of Pollution SIP for the 2006 PM2.5 NAAQS and for the 2008 ozone NAAQS via a transmittal letter to EPA Region 10, dated March 29, 2010. These SIP amendments were intended to meet the regional haze program requirements found in 40 CFR §51.308; and also addressed Alaska's "Finding of Failure to Submit State Implementation Plans Required by the 1999 Regional Haze Rule" (74 FR 2392, January 15, 2009). Compliance with CAA Title 1, Part C requirements is pending EPA's final approval of Alaska's Regional Haze, Open Burn, and Interstate Transport (ozone, PM2.5) SIP submissions. DEC concludes that there are no new visibility protection obligations under CAA §110(a) (2) (J) as a result of the 2008 lead NAAQS. Alaska is not subject to the "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone" also called the "Interstate Air Quality Rule" (see 69 FR 4566, January 30, 2004).

- **§110(a) (2) (K)** ***"provide for: (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator"***

Air quality modeling by DEC is conducted under 18 AAC 50.215(b), ambient air quality analysis methods. Estimates of ambient concentrations and visibility impairment must be based on applicable air quality models, databases, and other requirements specified in the EPA's Guideline on Air Quality Models adopted by reference in 18 AAC 50.040(f). This regulation allows some provisions to exclude concentrations attributable to temporary construction activity for a new or modified source, or to new sources outside the United States.

DEC is currently (winter 2012) updating the baseline dates and maximum allowable increases for PM2.5, found in 18 AAC 50.020, to account for the 2006 PM2.5 NAAQS revisions. Pending Department approval, it is anticipated that the PM2.5 baseline date and maximum allowable increase regulation revisions will be released for public notice during the winter of 2012. These regulations will be finalized and submitted to EPA for action and inclusion in Alaska's federally approved SIP following public comment and legal review.

- **§110(a)(2)(L)** ***"require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V"***

DEC's statutory authority to assess and collect permit fees is established in AS 46.14.240 and AS 46.14.250. The permit fees for permitting major and minor stationary sources are assessed and collected by the Air Permits Program according to 18 AAC Article 4. User Fees (18 AAC 50.400 through 18 AAC 50.430). The Air Permits Program is required to evaluate emission fee rates at least every four years, and provide a written evaluation of the findings (AS 46.14.250(g); 18 AAC 50.410). The Division's most recent emission fee evaluation report was completed in October 2010. The Division's next emission fee review is scheduled for 2014.

- **§110(a) (2) (M)** "***provide for consultation and participation by local political subdivisions affected by the plan".***

DEC has the statutory authority to consult and cooperate with officials and representatives of any organization in the state; and persons, organization, and groups, public and private using, served by, interested in, or concerned with the environment of the state (46.03.020 (3) (A)(B)).

ALASKA ADMINISTRATIVE CODE

TITLE 2- ADMINISTRATION

Chapter 50. Alaska Public Offices Commission: Conflict of Interest, Campaign Disclosure, Legislative Financial Disclosure, and Regulation of Lobbying

Article 1. Public Official Financial Disclosure

Register 162

October 2002

with

April 2005 Supplement

Including Registers 164 through 173

Published by

Lexis Nexis

Chapter 50. Alaska Public Offices Commission: Conflict of Interest, Campaign Disclosure, Legislative Financial Disclosure, and Regulation of Lobbying.

Article
1. Public Official Financial Disclosure (2 AAC 50.010 — 2 AAC 50.200)
2. Campaign Disclosure (2 AAC 50.250 — 2 AAC 50.405)
3. Alaska Public Offices Commission Complaints and Investigations (2 AAC 50.450 — 2 AAC 50.470)
4. Regulation of Lobbying (2 AAC 50.505 — 2 AAC 50.545)
5. Legislative Financial Disclosure (2 AAC 50.705 — 2 AAC 50.890)
6. General Provisions (2 AAC 50.905 — 2 AAC 50.920)

Editor's note: As of Register 78, the Alaska Public Offices Commission regulations which were formerly located in 6 AAC 29 are now located in 2 AAC 50, in light of Executive Order No. 41 (1980). The history notes under the sections in their new location carry forward the history of those provisions from their old location.

Article 1. Public Official Financial Disclosure.

Section
10. Reporting sources of income from retail businesses
15. (Repealed)
20. Reporting interests in real property
25. Reporting sources of income from rental property
30. Duty to report family member financial affairs
35. Duty to report concluded business interests
40. Loans, loan guarantees, and indebtedness
50. (Repealed)
60. Write-in candidates
70. Income
75. Reporting sources of income from gifts
80. Controlling interest in a corporation
90. Municipalities as instrumentalities of the state
95. Reporting sources of income from self-employment
100. Exemption from reporting name of individual as a source of income
102. Commission consideration of exemption requests
105. Filing
107. Taking office
108. Notice of filing requirement
110. Civil penalty for late or incomplete statements from filers other than municipal officers
112. Dispute as to amount of civil penalty
115. Procedures for late statements from executive branch public officials
120. Procedures for late statements from judicial officers
125. (Repealed)
126. (Repealed)
127. Procedures for incomplete statements from candidates for state elective office
130. (Repealed)
135. Civil penalty assessments for late filing by municipal officers
140. Procedures for incomplete statements from condidates for elective municipal office
143. Corrected incomplete statements
145. (Repealed)
200. Definitions

2 AAC 50.010. Reporting sources of income from retail businesses. For the purposes of reporting a source of income under

AS 39.50.030(b), a filer shall report the name

(1) and address of a source of income that is a retail business; and

(2) of a customer of a retail business that is a source of income, if the customer

(A) conducted business with the retail business through a line of credit that extended through two or more billing cycles;

(B) had an ongoing contract to purchase goods or services from the retail business; or

(C) paid the retail business more than $1000 for a good or service after receiving a discount that was not available to the general public. (Eff. 8/20/75, Register 55; am 5/16/76, Register 58; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.015. Reporting sources of income from political campaigns and gifts for office expenses. Repealed. (Eff. 1/26/86, Register 97; am 7/20/95, Register 135; repealed 1/1/2001, Register 156)

2 AAC 50.020. Reporting interests in real property. For the purposes of reporting the identity and nature of an interest in real property under AS 39.50.030(b), a filer shall report a description of the nature of the interest held in the property and the address or other legal description of the property. (Eff. 5/16/76, Register 58; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.025. Reporting sources of income from rental property. For the purposes of reporting a source of income under AS 39.50.030(b) from rental property located

(1) within the state, a filer shall report the name of a person that paid more than $1000 in rent during the preceding calendar year; and

(2) outside the state and managed by a

(A) filer or the filer's family member, the filer shall report the name of a person that paid more than $1000 in rent during the preceding calendar year; or

(B) person other than a filer or the filer's family member, the filer shall report the name of the manager. (Eff. 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.030. Duty to report family member financial affairs. For the purposes of reporting information on the financial affairs of a filer's family member, the filer shall

(1) make an affirmative good faith effort to ascertain the information; and

(2) report the information that the filer knows. (Eff. 5/16/76, Register 58; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.035. Duty to report concluded business interests. For the purposes of reporting information under AS 39.50.030(b) on a business ownership interest that is no longer held but was held during the preceding calendar year by a filer or the filer's family member, the filer shall

(1) make an affirmative good faith effort to ascertain the information; and

(2) report the information that the filer knows. (Eff. 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.040. Loans, loan guarantees, and indebtedness. (a) For the purposes of reporting a creditor under AS 39.50.030(b), a filer need not report a retail charge account creditor, revolving charge account creditor, or credit card creditor.

(b) As used in AS 39.50.030(b) and this section, "loan or loan guarantee" includes a business or personal

(1) loan signed or cosigned by a filer or the filer's family member; and

(2) loan guarantee made on behalf of a filer or the filer's family member. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.050. Retail charge accounts. Repealed. (Eff. 5/16/76, Register 58; repealed 7/20/95, Register 135)

Editor's note: As of Register 135, October 1995, the substance of former 2 AAC 50.050 is included in 2 AAC 50.040.

2 AAC 50.060. Write-in candidates. A public statement by an individual not appearing on the ballot that he will seek elective office constitutes a declaration of candidacy under AS 39.50.020. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74)

Authority: AS 15.13.030(10) AS 39.50.020

2 AAC 50.070. Income. As used in AS 39.50 and 2 AAC 50.010 — 2 AAC 50.200, "income" includes money or anything of value received

(1) in exchange for labor or services;

(2) from the sale of goods or property;

(3) as profit from a financial investment;

(4) as alimony;

(5) as child support;

(6) as a government entitlement;

(7) as an honorarium; or

(8) as a gift. (Eff. 5/16/76, Register 58; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.075. Reporting sources of income from gifts. For the purposes of reporting a source of income under AS 39.50.030(b), a filer shall report the name of the donor of a gift or a series of gifts if the

(1) value of the gift or the cumulative value of the series of gifts from the donor is over $250;

(2) gift or series of gifts is received by the filer or the filer's family member; and

(3) donor is not related to the recipient as a spouse, spousal equivalent, parent, child, sibling, grandparent, aunt, uncle, niece, or nephew. (Eff. 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.080. Controlling interest in a corporation. As used in AS 39.50 and 2 AAC 50.010 — 2 AAC 50.200, "controlling interest" in a corporation means ownership of more than 50 percent interest or more than 50 percent of the outstanding shares at any time during the preceding calendar year. (Eff. 5/16/76, Register 58; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.050 AS 39.50.200

2 AAC 50.090. Municipalities as instrumentalities of the state. In AS 39.50.200(5), "instrumentality of the state" includes municipalities. (Eff. 5/16/76, Register 58)

Authority: AS 15.13.030(10) AS 39.50.200(5)

2 AAC 50.095. Reporting sources of income from self-employment. For the purposes of reporting a source of income under AS 39.50.030(b) from self-employment, a filer shall list the name of a non-retail customer, client, or patient of a

(1) sole proprietorship, partnership, or professional corporation in which the filer or the filer's family member is an owner, partner, or shareholder; or

(2) corporation in which the filer, the filer's family member, or a combination of these individuals owns a controlling interest. (Eff. 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.050 AS 39.50.200
AS 39.50.030

2 AAC 50.100. Exemption from reporting name of individual as a source of income. (a) A filer who seeks an exemption from the requirement to report the name of a source of income under AS 39.50.030(b) or 2 AAC 50.010 — 2 AAC 50.200 shall request the exemption from the commission.

(b) To request an exemption under (a) of this section, a filer shall file a written request for exemption with the statement for which the exemption is requested. The written request for exemption must be on a form prescribed by the commission and must, for a name for which an exemption is requested,

(1) state the facts that support the exemption; and

(2) identify the exemption circumstances under (c) — (j) of this section that applies to the request.

(c) A filer may request a mental health practice exemption if during the preceding calendar year the

(1) filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation in which a mental health practitioner, including a psychiatrist, psychologist, or therapist, worked;

(2) source of income was an individual who received mental health services from the mental health practitioner; and

(3) income was received as payment for the mental health services.

(d) A filer may request a sensitive medical practice exemption if during the preceding calendar year

(1) the filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(2) at least 67 percent of the patients of the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation consisted of individuals who

(A) received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(B) were minors, and who, unknown to their parents or legal guardians, received medical services from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; or

(C) were married, and who, unknown to their spouses, received medical services from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(3) the source of income was an individual who received medical services of any nature from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; and

(4) the income was received as payment for the medical services.

(e) A filer may request a sensitive medical procedure exemption if during the preceding calendar year the

(1) filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(2) source of income was an individual who received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; and

(3) income was received as payment for the medical services.

(f) A filer may request an embarrassing medical procedure exemption if during the preceding calendar year

(1) the filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(2) the source of income was a

(A) minor who, unknown to a parent or legal guardian of the minor, received medical services from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; or

(B) married individual who, unknown to the individual's spouse, received medical services from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(3) the income was received as payment for the medical services; and

(4) reporting the name of the source of income would tend to cause a reasonable person in the situation of the source of income substantial concern, anxiety, or embarrassment.

(g) A filer may request a legal services practice exemption if during the preceding calendar year

(1) the filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability

partnership, professional corporation, or corporation where an attorney worked;

(2) at least 67 percent or more of the clients of the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation consisted of individuals who were

(A) minors, and who, unknown to their parents or legal guardians, received professional legal services from the attorney; or

(B) married, and who, unknown to their spouses, received professional legal services from the attorney;

(3) the source of income was an individual who received legal services of any nature from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; and

(4) the income was received as payment for the professional legal services.

(h) A filer may request a legal services exemption if

(1) the filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation where an attorney worked;

(2) the source of income was a

(A) minor who, unknown to a parent or legal guardian of the minor, received professional legal services from the attorney; or

(B) married individual who, unknown to the individual's spouse, received professional legal services from the attorney;

(3) the income was received as payment for the professional legal services; and

(4) reporting the name of the source of income would tend to cause a reasonable person in the situation of the source of income substantial concern, anxiety, or embarrassment.

(i) A filer may request a filer prohibition exemption if the filer is prohibited by law from reporting the name of a source of income.

(j) A filer may request a right of source exemption if the filer believes that reporting the name of a source of income would violate a right of the source under the state or federal constitution. (Eff. 9/9/78, Register 67; am 5/14/80, Register 74; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.035 AS 39.50.050
AS 39.50.030

2 AAC 50.102. Commission consideration of exemption requests. (a) For an exemption circumstance under 2 AAC 50.100(c), (d), (e), (g), or (i), and no later than 30 days after the commission receives a written exemption request that complies with 2 AAC 50.100(b), the staff of the commission shall

(1) grant the request, if the facts stated in the request satisfy the exemption circumstance upon which the request relies; and

(2) send to the filer, at the address on file with the commission, a written notice of the staff's decision to grant or deny the exemption.

(b) If under (a) of this section the staff of the commission grants a request, the filer need not report the name of the source of the income for which the request is made. If the staff denies the request, the filer shall, no later than 30 days after the date of the staff's written notice under (a) of this section,

(1) report the name of the source of income as required under AS 39.50.030; or

(2) file with the commission a notice of appeal, which

(A) must contain the information described in 2 AAC 50.100(h);

(B) must explain why the filer believes that the staff erred in denying the filer's request for exemption; and

(C) may include additional information that the filer considers appropriate.

(c) If the filer does not file a timely written notice of appeal under (b) of this section, the decision by the staff of the commission is final, and may not be appealed to the commission.

(d) If the filer files a timely notice of appeal under (b) of this section, the commission will hear the appeal at the next scheduled meeting of the commission, unless the commission, in its discretion, finds good cause to hear the appeal at a different meeting. At the hearing, an attorney may represent the filer. Unless the commission provides otherwise, the filer shall present the filer's case first, and the staff of the commission shall present its case next. After the hearing, the commission will grant or deny the request for an exemption.

(e) For an exemption circumstance under 2 AAC 50.100(f), (h), or (j), and no later than 30 days after the commission receives a written exemption request that complies with 2 AAC 50.100(b), the staff of the commission shall

(1) determine whether the facts stated in the request satisfy the requirements of the exemption circumstance upon which the request relies;

(2) make a preliminary finding, which recommends that the commission grant or deny the request;

(3) send to the filer, at the address on file with the commission, a written notice of the preliminary finding; and

(4) submit the preliminary finding to the commission for action under (f) of this section.

(f) After the staff of the commission has submitted a preliminary finding made under (e) of this section, the commission will

(1) review the preliminary finding at the next scheduled meeting of the commission, unless the commission, in its discretion, finds good cause to review the finding at a different meeting; and

(2) accept, reject, or modify the preliminary finding.

(g) No later than 30 days after reviewing a notice of appeal under (d) of this section or a preliminary finding under (f) of this section, the commission will send to the filer, at the address on file with the commission, written notice of the commission's final decision and an order granting or denying the request for exemption.

(h) If under (g) of this section the commission

(1) grants a request for exemption, the filer need not report the name of the source of income; and

(2) denies a request for exemption, the filer shall

(A) report the name of the source of income as required under AS 39.50.030 no later than 30 days after the date of the commission's order; or

(B) file a notice of appeal under AS 44.62.560.

(i) If while considering a request for exemption the commission or the staff of the commission determines that information that the commission or the staff has received is protected by a state or federal constitutional right or is legally privileged, the commission and the staff will keep the information confidential, without regard to whether the filer claims the right or privilege.

(j) A filer does not violate AS 39.50 or 2 AAC 50.010 — 2 AAC 50.200 for failure to report the name of a source of income if the filer has requested an exemption under 2 AAC 50.100 and

(1) the commission has not issued a written final decision and order regarding a preliminary finding that the staff of the commission has submitted under (e) of this section; or

(2) a notice of appeal that the filer has submitted under (b) or (h) of this section is under review. (Eff. 7/20/95, Register 135)

Authority: AS 15.13.030 AS 39.50.035 AS 39.50.050
AS 39.50.030

2 AAC 50.105. Filing. (a) The public officials named in AS 39.50.200(a) who are required to file a statement under AS 39.50.020 shall file the statement with an office of the commission by hand delivery, mail, or facsimile.

(b) A candidate for state elective office who is required to file a statement with the director of elections under AS 39.50.020 shall file the statement as the director of elections provides.

(c) A municipal officer or a candidate for elective municipal office who is required to file a statement with the municipal clerk or another municipal official under AS 39.50.020 shall file the statement as the clerk or municipal official provides.

(d) If an individual who is subject to (a) of this section files a statement by hand delivery or facsimile, the date of filing is the date on which an office of the commission receives the statement. If the individual files a statement by mail, the date of filing is the date of the

postmark. If a statement filed by mail has a postmark on which the date is missing or illegible, the date of the postmark is rebuttably presumed to be 10 calendar days before the date on which the statement is received.

(e) If a filer is required to file more than one statement under AS 39.50.020, the filer shall file a statement at each place designated in AS 39.50.020. A filer may file a copy of a current statement. The filer shall sign the copy. (Eff. 9/9/78, Register 67; am 5/14/80, Register 74; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.020 AS 39.50.050

2 AAC 50.107. Taking office. As used in AS 39.50.020(a), "within 30 days after taking office" means within 30 days after the earlier of the following days:

(1) the day on which the filer first earns compensation for work;

(2) the day on which the filer takes the oath of office. (Eff. 7/20/95, Register 135)

Authority: AS 15.13.030 AS 39.50.020 AS 39.50.050

2 AAC 50.108. Notice of filing requirement. (a) If the staff of the commission determines that an executive branch public official or a judicial officer must file a statement under AS 39.50.020, the staff shall send a written notice to the individual at the address on file with the commission.

(b) The staff of the commission shall provide each municipality a copy of the statement form and instruction manual for each municipal officer and candidate subject to AS 39.50. (Eff. 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.020 AS 39.50.050

2 AAC 50.110. Civil penalty for late or incomplete statements from filers other than municipal officers. (a) Except as provided under 2 AAC 50.143, the staff of the commission shall assess a civil penalty under AS 39.50.135 against a filer other than a municipal officer on each day that the filer's statement is late. A statement is late or incomplete if it is not complete and filed

(1) 30 days after the commission sends notice under 2 AAC 50.108, for an initial statement from an executive branch public official or judicial officer; and

(2) March 15, for an annual statement.

(b) For a statement required because a filer is an executive branch public official, candidate for state elective office, or judicial officer, the

staff of the commission shall assess the civil penalty against the filer as follows:

(1) $5 per late day through the first 15 days of lateness;

(2) $10 per late day for the 16th and subsequent days of lateness.

(c) Notwithstanding (b) of this section, the staff of the commission may recommend that the commission assess $10 per day for each day that a statement is late if a filer other than a municipal officer has

(1) failed to comply substantially with AS 39.50 or 2 AAC 50.010 — 2 AAC 50.200 by failing to report in the filer's statement a major source of income, interest in real property, business interest, loan, trust, or other substantial financial interest; or

(2) continuously failed to comply with AS 39.50 or 2 AAC 50.010 — 2 AAC 50.200 by failing to respond fully and within the time prescribed to a written request from the commission or the staff for further information.

(d) A civil penalty assessed under (b) or (c) of this section is due each day that it is assessed. (Eff. 9/9/78, Register 67; am 5/14/80, Register 74; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.050 AS 39.50.135
AS 39.50.020

2 AAC 50.112. Dispute as to amount of civil penalty. (a) If a filer disputes the amount of a civil penalty assessed under 2 AAC 50.110(b) or 2 AAC 50.135(e), the filer may submit to the commission an affidavit stating facts in mitigation within 30 days of the date of the notice described in 2 AAC 50.115(e), 2 AAC 50.120(e), or 2 AAC 50.135(e). At its next meeting after the filer submits the affidavit, the commission will consider the affidavit and other evidence relevant to the amount of the civil penalty, unless the commission, in its discretion, finds reason to consider the affidavit at a different meeting. The commission will permit the filer to speak at the meeting. After considering the affidavit and other evidence, the commission will

(1) affirm the civil penalty if the commission determines that the statement was late without good cause; or

(2) reduce or waive the civil penalty if the commission determines that the statement was late for good cause.

(b) No later than 60 days after a meeting described in (a) of this section, the staff of the commission shall send a written notice of the decision by the commission to the filer at the address on file with the commission.

(c) If the commission decides to impose some or all of a civil penalty assessed under 2 AAC 50.110(b) or 2 AAC 50.135(e), the filer shall

(1) pay the penalty no later than 30 days after the date of the notice described in (b) of this section; or

(2) file a notice of appeal under AS 39.50.135 or AS 44.62.560. (Eff. 7/20/95, Register 135)

Authority: AS 15.13.090 AS 39.50.020 AS 39.50.050 AS 39.50.135

2 AAC 50.115. Procedures for late statements from executive branch public officials. (a) If the annual statement of an executive branch public official is late for eight days, the staff of the commission shall send a written notice to the executive branch public official at the address on file with the commission. The notice must state

(1) that the statement has not been filed;

(2) the date on which the statement was due;

(3) that refusal or failure to file

(A) is punishable as a misdemeanor offense; and

(B) on or before the 30th day of lateness will cause the commission to

(i) request the governor to remove the executive branch public official from office under AS 39.50.060 — 39.50.080, if the executive branch public official is not the governor or the lieutenant governor;

(ii) request the state agency that administers the salary, per diem, and travel expenses of the executive branch public official to withhold those payments under AS 39.50.070, 39.50.080, or 39.50.130;

(iii) request the attorney general to initiate misdemeanor proceedings under AS 39.50.060 — 39.50.080 or 39.50.130; and

(iv) take other action as appropriate to carry out AS 39.50.060 — 39.50.080 or 39.50.130;

(4) the amount of the civil penalty assessed to date under 2 AAC 50.110;

(5) that the civil penalty assessed under 2 AAC 50.110 increases until the statement is filed; and

(6) the right of appeal under AS 39.50.135 and 2 AAC 50.112.

(b) If the annual statement of an executive branch public official is late for 22 days, the staff of the commission shall send a written notice to the executive branch public official at the address on file with the commission. The notice must include the information included in a notice sent under (a) of this section.

(c) If the annual statement of an executive branch public official has been late for 30 days, the staff of the commission shall

(1) send a written notice to the executive branch public official at the address on file with the commission; the notice must include the information included in a notice sent under (a) of this section;

(2) notify the commission that the statement has been late for 30 days; and

(3) under the direction of the commission, take other action as appropriate to carry out AS 39.50.060 — 39.50.080 and 39.50.130.

(d) If the annual statement of an executive branch public official is late for 30 days, the commission will

(1) request the governor to remove the official from office under AS 39.50.060 — 39.50.080, unless the official is the governor or lieutenant governor;

(2) request the state agency that administers the salary, per diem, and travel expenses of the executive branch public official to withhold those payments under AS 39.50.070, 39.50.080, or 39.50.130;

(3) request the attorney general to initiate misdemeanor proceedings under AS 39.50.060 — 39.50.080 or 39.50.130; and

(4) take other action as appropriate to carry out AS 39.50.060 — 39.50.080 or 39.50.130.

(e) If an executive branch public official files a statement after the date applicable to that official under AS 39.50.020(a), the staff of the commission shall send a written notice to the executive branch public official at the address on file with the commission. The notice must state the

(1) amount of the civil penalty assessed under 2 AAC 50.110; and

(2) right of appeal under AS 39.50.135 and 2 AAC 50.112. (Eff. 9/9/78, Register 67; am 10/18/81, Register 80; am 1/26/86, Register 97; am 7/20/95, Register 135)

Authority: AS 15.13.030 AS 39.50.020 AS 39.50.050 AS 39.50.060 AS 39.50.070 AS 39.50.080 AS 39.50.130

2 AAC 50.120. Procedures for late statements from judicial officers. (a) If the annual statement of a judicial officer is late for eight days, the staff of the commission shall send a written notice to the judicial officer at the address on file with the commission. The notice must state

(1) that the statement has not been filed;

(2) the date on which the statement was due;

(3) that refusal or failure to file

(A) is punishable as a misdemeanor offense; and

(B) on or before the 30th day of lateness will cause the commission to

(i) request the administrator of the court system to withhold salary, per diem, and travel expense payments to the judicial officer under AS 39.50.110;

(ii) request the Commission on Judicial Conduct to refer the matter to the supreme court with a recommendation that the judicial officer be removed from office under AS 39.50.110;

(iii) request the attorney general to initiate misdemeanor proceedings under AS 39.50.060 or 39.50.110; and

(iv) take other action as appropriate to carry out AS 39.50.060 or 39.50.110;

(4) the amount of the civil penalty assessed to date under 2 AAC 50.110;

(5) that the civil penalty assessed under 2 AAC 50.110 increases until the statement is filed; and

(6) the right of appeal under AS 39.50.135 and 2 AAC 50.112.

(b) If the annual statement of a judicial officer is late for 22 days, the staff of the commission shall send a written notice to the judicial officer at the address on file with the commission. The notice must include the information included in a notice sent under (a) of this section.

(c) If the annual statement of a judicial officer is late for 30 days, the staff of the commission shall

(1) send a written notice to the judicial officer at the address on file with the commission; the notice must include the information included in a notice sent under (a) of this section;

(2) notify the commission that the statement has been late for 30 days; and

(3) under the direction of the commission, take other action as appropriate to carry out AS 39.50.060 and 39.50.110.

(d) If the annual statement of a judicial officer is late for 30 days, the commission will

(1) request the administrator of the court system to withhold salary, per diem, and travel expense payments to the judicial officer under AS 39.50.110;

(2) request the Commission on Judicial Conduct to refer the matter to the supreme court with a recommendation that the judicial officer be removed from office under AS 39.50.110;

(3) request the attorney general to initiate misdemeanor proceedings under AS 39.50.060 or 39.50.110; and

(4) take other action as appropriate to carry out AS 39.50.060 or 39.50.110.

(e) If a judicial officer files a statement after the date applicable to that officer under AS 39.50.020(a), the staff of the commission shall send a written notice to the judicial officer at the address on file with the commission. The notice must state the

(1) amount of the civil penalty assessed under 2 AAC 50.110; and

(2) right of appeal under AS 39.50.135 and 2 AAC 50.112. (Eff. 9/9/78, Register 67; am 10/18/81, Register 80; am 1/26/86, Register 97; am 7/20/95, Register 135)

Authority: AS 15.13.030 AS 39.50.050 AS 39.50.110
AS 39.50.020 AS 39.50.060

2 AAC 50.125. Procedures followed upon a refusal or failure by a state elected official to file the conflict-of-interest statement when due. Repealed 10/18/81.

2 AAC 50.126. Procedures for failure or refusal of an incumbent state elected official to file the annual conflict-of-interest statement by the April 15 due date. Repealed. (Eff. 10/18/81, Register 80; repealed 7/20/95, Register 135)

2 AAC 50.127. Procedures for incomplete statements from candidates for state elective office. (a) Seven days before the primary election withdrawal date set in AS 15.25.055 and seven days before the general election withdrawal date set in AS 15.25.200, the staff of the commission shall provide to the commission a list of the candidates for state elective office whose statements are incomplete.

(b) Upon receipt of a list described in (a) of this section, the commission will schedule a meeting to consider the list. The staff of the commission shall notify a candidate for state elective office who is on the list about the time, date, and place of the meeting.

(c) If, at or after the meeting scheduled under (b) of this section, the commission determines that a candidate for state elective office has not supplied required information on a major source of income, interest in real property, business interest, loan, or trust, the commission will recommend that the lieutenant governor remove the candidate's name from the ballot. If the candidate's name cannot be removed from the ballot, the commission will recommend that the lieutenant governor not certify the candidate's nomination for office or election to office.

(d) If information discovered after the withdrawal-of-candidacy deadline indicates that a candidate for state elective office has failed to comply substantially with the requirements of AS 39.50 or 2 AAC 50.010 — 2 AAC 50.200, the staff of the commission shall undertake a preliminary investigation under 2 AAC 50.460. The staff shall report its findings to the commission. The commission will determine the appropriate penalty. (Eff. 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority:	AS 15.13.030	AS 39.50.060	AS 39.50.130
	AS 39.50.020	AS 39.50.120	AS 39.50.135
	AS 39.50.050		

2 AAC 50.130. Filing by a municipal officer. Repealed. (Eff. 9/9/78, Register 67; am 5/14/80, Register 74; repealed 7/20/95, Register 135)

2 AAC 50.135. Civil penalty assessments for late filing by municipal officers. (a) The statement of a municipal officer is delinquent if the municipal clerk or designated municipal official does not receive the statement on or before March 15, for an annual statement.

(b) The statement continues to be delinquent and subject to a civil penalty until received by the municipal clerk or designated official.

(c) The municipal clerk or designated official shall notify the commission within five days

(1) by telegram or telephone of the name and address of any municipal officer who has refused or failed to file a statement by the due date; and

(2) verify that all other municipal officers have filed.

(d) Within five days after receiving a notification under (c) of this section, the staff of the commission shall send a written notice to the municipal officer. The notice must state

(1) that the statement has not been filed;

(2) the date on which the statement was due;

(3) that refusal or failure to file

(A) is punishable as a misdemeanor offense; and

(B) on or before the 30th day of lateness will cause the commission to

(i) request the attorney general to initiate misdemeanor proceedings under AS 39.50.060; and

(ii) take other action as appropriate to carry out AS 39.50.060;

(4) the amount of the civil penalty assessable to date under (e) of this section;

(5) that the civil penalty assessable under (e) of this section increases until the statement is filed; and

(6) the right of appeal under AS 39.50.135 and 2 AAC 50.112.

(e) The municipal clerk or designated official shall notify the commission by telegram or telephone of the name and address of any municipal officer who filed a delinquent statement and the date on which the late statement was received by the clerk or designated official. Upon notification of the receipt of a delinquent statement, commission staff shall

(1) assess a civil penalty of

(A) $1 a day for the first seven days a statement is delinquent; and

(B) $5 a day for the eighth day and subsequent days of delinquency; and

(2) within five days after notification by the municipal clerk or designated official of receipt of a delinquent statement, send a notice of the civil penalty assessed against the municipal officer and a form for appealing the assessment.

(f) If a municipal officer disputes the amount of a civil penalty assessed under (e) of this section, the municipal officer, using the affidavit appeal form provided under (e) of thia section, may submit to the commission an affidavit stating facts in mitigation within 30 days of the date of the notice described in (e) of this section. The commission will review the affidavit under the procedures set out at 2 AAC 50.112.

(g) Repealed 7/20/95.

(h) Repealed 7/20/95.

(i) Repealed 7/20/95.

(j) Notwithstanding (e) of this section, the staff of the commission may recommend that the commission assess $10 per day for each day that a statement is late if a municipal officer has

(1) failed to comply substantially with AS 39.50 or 2 AAC 50.010 — 2 AAC 50.200 by failing to report in the officer's statement a major source of income, interest in real property, business interest, loan, trust, or other substantial financial interest; or

(2) continuously failed to comply with AS 39.50 or 2 AAC 50.010 — 2 AAC 50.200 by failing to respond fully and within the time prescribed to a written request from the commission or staff for further information. (Eff. 9/9/78, Register 67; am 5/14/80, Register 74; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.050 AS 39.50.135
AS 39.50.020

2 AAC 50.140. Procedures for incomplete statements from candidates for elective municipal office. (a) Seven days before the deadline for withdrawal of candidacy, the staff of the commission shall provide the commission a list of the candidates for elective municipal office whose statements are incomplete.

(b) Upon receipt of the list described in (a) of this section, the commission will schedule a meeting to consider the list. The staff of the commission shall notify a candidate for elective municipal office who is on the list about the time, date, and place of the meeting.

(c) If, at or after a meeting scheduled under (b) of this section, the commission determines that a candidate for elective municipal office has not supplied required information on a major source of income, interest in real property, business interest, loan, or trust, the commission will recommend that the appropriate municipal clerk or designated municipal official refuse or return the candidate's filing fees and filing for office and remove the candidate's name from the filing records.

(d) If information discovered after the withdrawal-of-candidacy deadline indicates that a candidate for elective municipal office has failed to comply substantially with the requirements of AS 39.50 or 2 AAC 50.010 — 2 AAC 50.200, the staff of the commission shall undertake a preliminary investigation under 2 AAC 50.460. The staff shall report its findings to the commission. The commission will determine the appropriate penalty. (Eff. 9/9/78, Register 67; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.050 AS 39.50.060
AS 39.50.020

2 AAC 50.143. Corrected incomplete statements. If the staff of the commission discovers an obvious deficiency on the face of a statement, the staff shall notify the filer of the deficiency. If the filer corrects the deficiency by filing a statement that contains the required information no later than 15 days after the date of the staff's notice, the staff

(1) shall consider the correction to be a fact in mitigation as described in AS 39.50.135; and

(2) may not assess a civil penalty under 2 AAC 50.110 or 2 AAC 50.135. (Eff. 7/20/95, Register 135)

Authority: AS 15.13.030 AS 39.50.050 AS 39.50.135
AS 39.50.030

2 AAC 50.145. Substantial or continuing noncompliance. Repealed. (Eff. 1/26/86, Register 97; repealed 7/20/95, Register 135)

Editor's note: As of Register 135, October 1995, the substance of former 2 AAC 50.145 is located at 2 AAC 50.110(c) and 2 AAC 50.135(j).

2 AAC 50.200. Definitions. As used in AS 39.50 and 2 AAC 50.010 — 2 AAC 50.200, unless the context requires otherwise,

(1) "candidate" means a candidate for

(A) state elective office; and

(B) elective municipal office;

(2) "child" has the meaning given in AS 39.50.200(a);

(3) "commission" means the Alaska Public Offices Commission created under AS 15.13.020(a);

(4) "executive branch public official" means a public official within the definition given in AS 39.50.200(a), except for a judicial officer or a municipal officer;

(5) "filer" means a public official as defined in AS 39.50.200(a);

(6) "gift"

(A) means a payment or item to the extent that consideration of equal or greater value is not received;

(B) includes

(i) forgiveness of a loan, payment of a losn by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received;

(ii) the provision of accommodations;

(iii) the provision of a ticket for travel or for an entertainment event;

(iv) the provision of food or beverages other than food or beverages for immediate consumption;

(v) the granting of a discount or rebate not extended to the public generally for a good or service; and

(vi) the provision or loan of goods or services for personal or professional use, including office expenses connected with hold-

ing public office, unless made in exchange for consideration of equal or greater value; and

(C) does not include

(i) a political contribution;

(ii) a commercially reasonable loan made in the ordinary course of business in exchange for consideration of equal or greater value; or

(iii) an inheritance;

(7) "judicial officer" has the meaning given in AS 39.50.200(a), but does not include a judicial officer who holds a judicial office for less than 30 days;

(8) "municipal officer" has the meaning given in AS 39.50.200(a);

(9) "source of income" has the meaning given in AS 39.50.200(a);

(10) "spousal equivalent" has the meaning given in AS 39.50.200(a);

(11) "statement" means a statement or report of income sources and business interests required under AS 39.50;

(12) "family member" means a spouse, spousal equivalent, or dependent child, or the filer's nondependent child who lives with the filer;

(13) "public official" has the meaning given in AS 39.50.200(a). (Eff. 9/9/78, Register 67; am 7/20/95, Register 135; am 1/1/2001, Register 156)

Authority: AS 15.13.030 AS 39.50.050

ALASKA ADMINISTRATIVE CODE

Title 2

Administration

APRIL 2005 SUPPLEMENT
INCLUDING REGISTERS 164 THROUGH 173

LexisNexis®

40456-46

Chapter 50. Alaska Public Offices Commission: Conflict of Interest, Campaign Disclosure, Legislative Financial Disclosure, and Regulation of Lobbying.

Article

1. Public Official Financial Disclosure (2 AAC 50.010 — 2 AAC 50.200)
2. Campaign Disclosure (2 AAC 50.250 — 2 AAC 50.405)
3. Alaska Public Offices Commission Complaints and Investigations (2 AAC 50.450 — 2 AAC 50.470)
5. Legislative Financial Disclosure (2 AAC 50.705 — 2 AAC 50.890)
6. General Provisions (2 AAC 50.905 — 2 AAC 50.920)

Article 1. Public Official Financial Disclosure.

Section

10. Reporting sources of income from retail businesses
25. Reporting sources of income from rental property
75. Reporting sources of income from gifts
100. Exemption from reporting name of individual as a source of income
102. Commission consideration of exemption requests
200. Definitions

2 AAC 50.010. Reporting sources of income from retail businesses. For the purposes of reporting a source of income under AS 39.50.030(b), a filer shall report the name

(1) and address of a source of income that is a retail business; and

(2) of a customer of a retail business that is a source of income, if the customer

(A) conducted business with the retail business through a line of credit that extended through two or more billing cycles;

(B) had an ongoing contract to purchase goods or services from the retail business; or

(C) paid the retail business more than $5,000 for a good or service after receiving a discount that was not available to the general public. (Eff. 8/20/75, Register 55; am 5/16/76, Register 58; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.025. Reporting sources of income from rental property. For the purposes of reporting a source of income under AS 39.50.030(b) from rental property located

(1) within the state, a filer shall report the name of a person that paid more than $5,000 in rent during the preceding calendar year; and

(2) outside the state and managed by a

(A) filer or the filer's family member, the filer shall report the name of a person that paid more than $5,000 in rent during the preceding calendar year; or

(B) person other than a filer or the filer's family member, the filer shall report the name of the manager. (Eff. 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.075. Reporting sources of income from gifts. For the purposes of reporting a source of income under AS 39.50.030(b), a filer shall report the name of the donor of a gift or a series of gifts if the

(1) value of the gift or the cumulative value of the series of gifts from the donor is over $250;

(2) gift or series of gifts is received by the filer or the filer's family member; and

(3) donor is not related to the recipient as a spouse, domestic partner, parent, child, sibling, grandparent, aunt, uncle, niece, or nephew. (Eff. 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.050

2 AAC 50.100. Exemption from reporting name of individual as a source of income. (a) A filer who seeks an exemption from the requirement to report the name of a source of income under AS 39.50.030(b) or 2 AAC 50.010 — 2 AAC 50.200 shall request the exemption from the commission.

(b) To request an exemption under (a) of this section, a filer shall file a written request for exemption with the statement for which the exemption is requested. The written request for exemption must be on a form prescribed by the commission and must, for a name for which an exemption is requested,

(1) state the facts that support the exemption; and

(2) identify the exemption circumstances under (c) — (j) of this section that applies to the request.

(c) A filer may request a mental health practice exemption if during the preceding calendar year the

(1) filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation in which a mental health practitioner, including a psychiatrist, psychologist, or therapist, worked;

(2) source of income was an individual who received mental health services from the mental health practitioner; and

(3) income was received as payment for the mental health services.

(d) A filer may request a sensitive medical practice exemption if during the preceding calendar year

(1) the filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(2) at least 67 percent of the patients of the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation consisted of individuals who

(A) received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(B) were minors, and who, unknown to their parents or legal guardians, received medical services from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; or

(C) were married, and who, unknown to their spouses, received medical services from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(3) the source of income was an individual who received medical services of any nature from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; and

(4) the income was received as payment for the medical services.

(e) A filer may request a sensitive medical procedure exemption if during the preceding calendar year the

(1) filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(2) source of income was an individual who received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; and

(3) income was received as payment for the medical services.

(f) A filer may request an embarrassing medical procedure exemption if during the preceding calendar year

(1) the filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(2) the source of income was a

(A) minor who, unknown to a parent or legal guardian of the minor, received medical services from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; or

(B) married individual who, unknown to the individual's spouse, received medical services from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation;

(3) the income was received as payment for the medical services; and

(4) reporting the name of the source of income would tend to cause a reasonable person in the situation of the source of income substantial concern, anxiety, or embarrassment.

(g) A filer may request a legal services practice exemption if during the preceding calendar year

(1) the filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation where an attorney worked;

(2) at least 67 percent or more of the clients of the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation consisted of individuals who were

(A) minors, and who, unknown to their parents or legal guardians, received professional legal services from the attorney; or

(B) married, and who, unknown to their spouses, received professional legal services from the attorney;

(3) the source of income was an individual who received legal services of any nature from the sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation; and

(4) the income was received as payment for the professional legal services.

(h) A filer may request a legal services exemption if

(1) the filer or the filer's family member was an owner, partner, or shareholder in a sole proprietorship, partnership, limited liability partnership, professional corporation, or corporation where an attorney worked;

(2) the source of income was a

(A) minor who, unknown to a parent or legal guardian of the minor, received professional legal services from the attorney; or

(B) married individual who, unknown to the individual's spouse, received professional legal services from the attorney;

(3) the income was received as payment for the professional legal services; and

(4) reporting the name of the source of income would tend to cause a reasonable person in the situation of the source of income substantial concern, anxiety, or embarrassment.

(i) A filer may request a filer prohibition exemption if the filer is prohibited by law from reporting the name of a source of income.

(j) A filer may request a right of source exemption if the filer believes that reporting the name of a source of income would violate a right of the source under the state or federal constitution.

(k) A filer may request a HIPAA exemption if the filer believes that reporting the name of a source of income would disclose protected health information that the filer is prohibited from disclosing under 42 U.S.C. 1320d - 1320d-8 (Health Insurance Portability and Accountability Act (HIPAA) of 1996). (Eff. 9/9/78, Register 67; am 5/14/80, Register 74; am 1/26/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 39.50.030 AS 39.50.035 AS 39.50.050

2 AAC 50.102. Commission consideration of exemption requests. (a) For an exemption circumstance under 2 AAC 50.100(c), (d), (e), (g), (i), or (k), and no later than 30 days after the commission receives a written exemption request that complies with 2 AAC 50.100(b), the staff of the commission shall

(1) grant the request, if the facts stated in the request satisfy the exemption circumstance upon which the request relies; and

(2) send to the filer, at the address on file with the commission, a written notice of the staff's decision to grant or deny the exemption.

(b) If under (a) of this section the staff of the commission grants a request, the filer need not report the name of the source of the income for which the request is made. If the staff denies the request, the filer shall, no later than 30 days after the date of the staff's written notice under (a) of this section,

(1) report the name of the source of income as required under AS 39.50.030; or

(2) file with the commission a notice of appeal, which

(A) must contain the information described in 2 AAC 50.100(b);

(B) must explain why the filer believes that the staff erred in denying the filer's request for exemption; and

(C) may include additional information that the filer considers appropriate.

(c) If the filer does not file a timely written notice of appeal under (b) of this section, the decision by the staff of the commission is final, and may not be appealed to the commission.

(d) If the filer files a timely notice of appeal under (b) of this section, the commission will hear the appeal at the next scheduled meeting of the commission, unless the commission, in its discretion, finds good cause to hear the appeal at a different meeting. At the hearing, an attorney may represent the filer. Unless the commission provides otherwise, the filer shall present the filer's case first, and the staff of the commission shall present its case next. After the hearing, the commission will grant or deny the request for an exemption.

(e) For an exemption circumstance under 2 AAC 50.100(f), (h), or (j), and no later than 30 days after the commission receives a written exemption request that complies with 2 AAC 50.100(b), the staff of the commission shall

(1) determine whether the facts stated in the request satisfy the requirements of the exemption circumstance upon which the request relies;

(2) make a preliminary finding, which recommends that the commission grant or deny the request;

(3) send to the filer, at the address on file with the commission, a written notice of the preliminary finding; and

(4) submit the preliminary finding to the commission for action under (f) of this section.

(f) After the staff of the commission has submitted a preliminary finding made under (e) of this section, the commission will

(1) review the preliminary finding at the next scheduled meeting of the commission, unless the commission, in its discretion, finds good cause to review the finding at a different meeting; and

(2) accept, reject, or modify the preliminary finding.

(g) No later than 30 days after reviewing a notice of appeal under (d) of this section or a preliminary finding under (f) of this section, the commission will send to the filer, at the address on file with the commission, written notice of the commission's final decision and an order granting or denying the request for exemption.

(h) If under (g) of this section the commission

(1) grants a request for exemption, the filer need not report the name of the source of income; and

(2) denies a request for exemption, the filer shall

(A) report the name of the source of income as required under AS 39.50.030 no later than 30 days after the date of the commission's order; or

(B) file a notice of appeal under AS 44.62.560.

(i) If while considering a request for exemption the commission or the staff of the commission determines that information that the commission or the staff has received is protected by a state or federal constitutional right or is legally privileged, the commission and the staff will keep the information confidential, without regard to whether the filer claims the right or privilege.

(j) A filer does not violate AS 39.50 or 2 AAC 50.010 — 2 AAC 50.200 for failure to report the name of a source of income if the filer has requested an exemption under 2 AAC 50.100 and

(1) the commission has not issued a written final decision and order regarding a preliminary finding that the staff of the commission has submitted under (e) of this section; or

(2) a notice of appeal that the filer has submitted under (b) or (h) of this section is under review. (Eff. 7/20/95, Register 135; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 39.50.035 AS 39.50.050
AS 39.50.030

2 AAC 50.200. Definitions. As used in AS 39.50 and 2 AAC 50.010 — 2 AAC 50.200, unless the context requires otherwise,

(1) "candidate" means a candidate for

(A) state elective office; and

(B) elective municipal office;

(2) "child" has the meaning given in AS 39.50.200(a);

(3) "commission" means the Alaska Public Offices Commission created under AS 15.13.020(a);

(4) "executive branch public official" means a public official within the definition given in AS 39.50.200(a), except for a judicial officer or a municipal officer;

(5) "filer" means a public official as defined in AS 39.50.200(a);

(6) "gift"

(A) means a payment or item to the extent that consideration of equal or greater value is not received;

(B) includes

(i) forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received;

(ii) the provision of accommodations;

(iii) the provision of a ticket for travel or for an entertainment event;

(iv) the provision of food or beverages other than food or beverages for immediate consumption;

(v) the granting of a discount or rebate not extended to the public generally for a good or service; and

(vi) the provision or loan of goods or services for personal or professional use, including office expenses connected with holding public office, unless made in exchange for consideration of equal or greater value; and

(C) does not include

(i) a political contribution;

(ii) a commercially reasonable loan made in the ordinary course of business in exchange for consideration of equal or greater value; or

(iii) an inheritance;

(7) "judicial officer" has the meaning given in AS 39.50.200(a), but does not include a judicial officer who holds a judicial office for less than 30 days;

(8) "municipal officer" has the meaning given in AS 39.50.200(a);

(9) "source of income" has the meaning given in AS 39.50.200(a);

(10) repealed 2/20/2005;

(11) "statement" means a statement or report of income sources and business interests required under AS 39.50;

(12) "family member" means a spouse, domestic partner, or dependent child;

(13) "public official" has the meaning given in AS 39.50.200(a).

(14) "domestic partner" has the meaning given in AS 39.50.200(a).

(Eff. 9/9/78, Register 67; am 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 39.50.050

ALASKA ADMINISTRATIVE CODE

TITLE 9- LAW

Chapter 52. Executive Branch Code of Ethics

Register 131

October 1994

with

April 2005 Supplement

Including Registers 132 through 173

Published by

Butterworth Legal Publishers

&

Lexis Nexis

CHAPTER 52. EXECUTIVE BRANCH CODE OF ETHICS.

Section
10. Appearance of impropriety
20. Improper motivation
30. When membership is significant
40. Unwarranted benefits or treatment
50. Use of state time, property, equipment, or other facilities
60. Gifts
70. Information disseminated to the public
80. State grants, contracts, leases, and loans
90. Outside employment or service
100. Restrictions on employment after leaving state service
110. Ethics files
120. Declaration of potential violation by member of a board or commission
130. Designated supervisor's report
140. Complaints
150. Personnel board notification
160. Confidentiality
170. Civil penalties for multiple violations
180. Attorney general review of agency policies
990. Definitions

9 AAC 52.010. APPEARANCE OF IMPROPRIETY. An appearance of impropriety does not establish that an ethical violation exists. (Eff. 4/25/94, Register 130)

Authority: AS 39.52.110 AS 39.52.950

9 AAC 52.020. IMPROPER MOTIVATION. A public officer may not take or withhold official action on a matter if the action is based on an improper motivation. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.110 AS 39.52.950

9 AAC 52.030. WHEN MEMBERSHIP IS SIGNIFICANT. (a) If a public officer is required by statute to be a member of a class and the public officer takes or withholds official action in a matter that affects all members of that class, the action is not a violation of the Ethics Act or this chapter unless the officer receives significant financial or personal benefit from the action or takes or withholds the action based on an improper motivation.

(b) A public officer's interest in a matter by reason of the officer's membership in a large organization or class is significant if the officer or an immediate family member of the officer has a significant personal or financial interest in the matter. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.110 AS 39.52.950

9 AAC 52.040. UNWARRANTED BENEFITS OR TREATMENT. (a) As used in AS 39.52.120(a), "unwarranted benefits or treatment" includes

(1) a deviation from normal procedures for the award of a benefit, regardless of whether the procedures were established formally or informally, if the deviation is based on the improper motivation; and

(2) an award of a benefit if the person receiving the benefit was substantially less qualified, in light of the formal or informal standards set out for the award, than another person who was or reasonably should have been considered for the award if the award is based on an improper motivation.

(b) A public officer may not grant or secure an unwarranted benefit or treatment, regardless of whether the result is in the best interest of the state.

(c) Subject to the requirements of AS 39.52.110, 39.52.120, 39.52.150, and AS 39.90.020, neither the Ethics Act nor this chapter prohibits a public officer from

(1) considering a person who has a relationship with an officer for a state contract or job if the person is considered on an equal basis with other applicants; or

(2) considering an individual's political affiliation or political support in determining whether to appoint the individual to a state board or commission or to hire the individual for an exempt or partially exempt state job. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.120 AS 39.52.950

9 AAC 52.050. USE OF STATE TIME, PROPERTY, EQUIPMENT, OR OTHER FACILITIES. A public officer who uses state time, property, equipment, or other facilities to benefit the officer's personal or financial interest is not in violation of AS 39.52.120(b)(3) if the officer's designated supervisor determines that the use is insignificant, the attorney general has not issued a general opinion against the use, and the attorney general does not advise the officer against the use. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.110 AS 39.52.120 AS 39.52.950

9 AAC 52.060. GIFTS. (a) As used in the Ethics Act and this chapter, a gift is a transfer or loan of property or provision of services to a public officer for less than full value. Unless rebutted by other evidence, and occasional gift worth $50 or less is presumed not to be given under circumstances in which it could be reasonably inferred that the gift is intended to influence an officer's performance of official duties, actions, or judgment.

(b) For purposes of AS 39.52.130, travel or lodging of any value received by a public officer in connection with a trip that the public officer takes as part of the officer's official duties is not an improper gift

if the monetary value of the travel or lodging is comparable to the cost that the state would have had to pay for the travel or lodging and

(1) the head of the officer's agency determines that the gift is to the state, not to the officer; or

(2) the travel or lodging is incidental transportation by or hospitality at the residence of an individual. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.130 AS 39.52.950

9 AAC 52.070. INFORMATION DISSEMINATED TO THE PUBLIC. (a) For purposes of AS 39.140, information has been disseminated to the public if it has been published through newspaper publication; broadcast media; a press release; a newsletter; a legal notice; a nonconfidential court filing; a published report; a public speech; or public testimony before the legislature, a board, or a commission.

(b) Information that is available to the public but that has not been published as described in (a) of this section has not been disseminated to the public. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.140 AS 39.52.950

9 AAC 52.080. STATE GRANTS, CONTRACTS, LEASES, AND LOANS. (a) For purposes of AS 39.52.150(b), a state grant, contract, or lease is competitively solicited if the grant, contract, or lease

(1) is awarded by competitive sealed bidding under AS 36.30.100 — 36.30.190 or competitive sealed proposals under AS 36.30.200 — 36.30.270; or

(2) is awarded by procedures substantially similar to competitive sealed bidding or competitive sealed proposals and AS 36.30 does not apply to the awarding of the grant, contract, or lease.

(b) If a state grant, contract, lease, or loan is awarded by or for a public corporation, board, or commission within a department but not by or for the office of the commissioner of that department, then an employee of the office of the commissioner in that department is not considered to be employed by the administrative unit awarding the grant, contract, lease, or loan.

(c) For purposes of AS 39.52.150(b)(1), if the public officer was not employed by the administrative unit at the time a state grant, contract, or lease was competitively solicited, the officer's subsequent employment by that administrative unit does not constitute a violation of AS 39.52.150 unless the officer takes or withholds official action with respect to the administration of the grant, contract, or lease.

(d) For purposes of AS 39.52.150(c), a loan is not subject to fixed eligibility standards if the award of the loan is subject to review for adequacy of security or other discretionary judgment concerning repayment ability. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.150 AS 39.52.950

9 AAC 52.090. OUTSIDE EMPLOYMENT OR SERVICE. For purposes of AS 39.52.170, a public employee's outside employment or service, including volunteer service, is incompatible or in conflict with the proper discharge of official duties if the employee's designated supervisor reasonably determines that the outside employment or service

(1) takes time away from the employee's official duties;

(2) limits the scope of the employee's official duties; or

(3) is otherwise incompatible or in conflict with the proper discharge of the employee's official duties. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.170 AS 39.52.950

9 AAC 52.100. RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. (a) For purposes of AS 39.52.180(a), "matter" does not include the general formulation of policy by a public official.

(b) For purposes of AS 39.52.180(a), routine processing of documents, general supervision of employees without direct involvement in a matter, or ministerial functions not involving the merits of a matter under consideration by an administrative unit do not constitute personal or substantial participation in a matter by a public officer. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.180 AS 39.52.950

9 AAC 52.110. ETHICS FILES. (a) A designated supervisor shall maintain an ethics file containing Ethics Act reports, advisory opinions, advisory opinion requests, complaints, disclosures, and determinations relevant to that supervisor's agency or administrative unit.

(b) A designated supervisor shall segregate confidential material from other ethics file material that is available for public inspection.

(c) An executive director of a board or commission may maintain the ethics file of the chair of the board or commission. The ethics file of the chair of a board or commission may be combined with the ethics file of the designated supervisor of the staff of the board or commission. (Eff. 4/29/94, Register 130)

Authority: AS 39.52.210 AS 39.52.230
AS 39.52.220 AS 39.52.950

9 AAC 52.120. DECLARATION OF POTENTIAL VIOLATION BY MEMBER OF A BOARD OR COMMISSION. (a) A declaration by a member of a board or commission of the facts and circumstances about a matter that may result in a violation of AS 39.52.110 —

AS 39.52.190 or this chapter may serve as the disclosure in writing to the designated supervisor required by AS 39.52.220 if

(1) the declaration is made at a recorded public meeting of each board and commission on which the member serves;

(2) a tape or transcript of each meeting is preserved in accordance with the records retention schedule of the board or commission; and

(3) a method for identifying each portion of tape or transcript containing the declaration is used and the identifications are preserved.

(b) A member of a board or commission who takes or withholds an action that violates the Ethics Act or this chapter will not be held liable under the Ethics Act for the action if

(1) the action is taken or withheld in accordance with a determination by the chair as designated supervisor or the board under the procedures set out in AS 39.52.220;

(2) the member fully discloses all facts reasonably necessary to the determination of the chair or the board; and

(3) the attorney general has not advised the member, chair, board, or commission that the action violates the Ethics Act or this chapter. (Eff. 4/29/94, Register 130)

Authority: AS 39.52.220 AS 39.52.240(d) AS 39.52.950

9 AAC 52.130. DESIGNATED SUPERVISOR'S REPORT. (a) A designated supervisor shall submit the quarterly report described in AS 39.52.260 during the 45 days following the end of each calendar quarter.

(b) An executive director of a board or commission may file a quarterly report on behalf of the chair of the board or commission. The quarterly report filed on behalf of a chair and the quarterly report of a designated supervisor of the staff of a board or commission may be combined into one report.

(c) If a board or commission does not meet during a calendar quarter, and the designated supervisor of the board or commission notifies the attorney general that no meeting, or activity reportable under the Ethics Act or this chapter, occurred during the calendar quarter, than neither the chair nor the designated supervisor of the staff must file a report for the board or commission for the quarter. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.260 AS 39.53.950

9 AAC 52.140. COMPLAINTS. (a) The attorney general will, in the attorney general's discretion, conduct a preliminary ethics investigation before initiating or accepting a complaint. A preliminary ethics investigation and information discovered in the course of a preliminary

ethics investigation is confidential to the same extent as information discovered in an ethics investigation conducted after the acceptance of a complaint.

(b) The attorney general will, in the attorney general's discretion, refer a complaint to the subject's designated supervisor under AS 39.52.310(e) and, at the same time, accept the complaint for an ethics investigation under AS 39.52.310(f) and (g).

(c) If the attorney general refers a complaint under AS 39.52.310(e) and the designated supervisor determines that a violation of the Ethics Act or this chapter has occurred, the designated supervisor shall forward those findings to the attorney general for review under AS 39.52.310 — AS 39.52.350.

(d) If an ethics complaint does not allege a violation of the Ethics Act or this chapter by the governor, lieutenant governor, or attorney general but, in the course of an ethics investigation, evidence of a potential violation by the governor, lieutenant governor, or attorney general is discovered, then the attorney general will refer the matter to the personnel board. The personnel board shall retain independent counsel in the same manner as if the complaint initially alleged those violations. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.310 AS 39.52.950

9 AAC 52.150. PERSONNEL BOARD NOTIFICATION. If independent counsel appointed under AS 39.52.310(c) recommends action under AS 39.52.330, the independent counsel shall notify the personnel board that action to correct or prevent a violation of the Ethics Act or this chapter has been recommended. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.330 AS 39.52.950

9 AAC 52.160. CONFIDENTIALITY. (a) The attorney general will keep confidential the information obtained in the course of an ethics investigation that is not relevant to an accusation or subsequent ethics proceedings.

(b) The attorney general will, in the attorney general's discretion, forward information obtained in the course of an ethics investigation to the subject's designated supervisor or other appropriate superior for potential disciplinary action under AS 39.52.420. Information forwarded under this subsection remains confidential, and the subject's designated supervisor or other appropriate superior may share the information only with a person who needs to know the information to consider potential disciplinary action.

(c) A subject may not partially waive the confidentiality protection of AS 39.52.340 or this chapter.

(d) Nothing in AS 39.52.340 or this section prevents a person from disclosing to a third person information the person learned indepen-

dent of the investigation conducted by the attorney general, unless prohibited by other laws.

(e) Nothing in this section prevents either the attorney general from withholding or a person from objecting to the release of information or materials in the possession of the attorney general on a legal ground other than one provided by AS 39.52.340.

(f) If, after an ethics investigation, the attorney general does not initiate formal proceedings, then information and material discovered in the course of the ethics investigation, as well as the existence of the ethics investigation, must remain confidential unless disclosure is otherwise permitted under the Ethics Act or this chapter.

(g) If the attorney general determines that a crime may have been committed or may be committed, the attorney general will, in the attorney general's discretion, release information obtained in a confidential ethics matter to an appropriate law enforcement agency. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.340 AS 39.52.420 AS 39.52.950

9 AAC 52.170. CIVIL PENALTIES FOR MULTIPLE VIOLATIONS. If one act violates more than one provision of the Ethics Act, a civil penalty may be imposed for each provision violated. A civil penalty may be imposed each time a provision of the Ethics Act is violated. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.440 AS 39.52.950

9 AAC 52.180. ATTORNEY GENERAL REVIEW OF AGENCY POLICIES. The attorney general will approve a written policy described in AS 39.52.920 if it is consistent with and furthers the purposes of the Ethics Act and this chapter. As a condition of approval, the attorney general will require that the policy be distributed to employees of the agency and to new employees of the agency upon employment, and require that the policy be centrally posted in the agency's offices. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.920 AS 39.52.950

9 AAC 52.990. DEFINITIONS. (a) In AS 39.52.410, "blind trust" means a trust established under AS 39.50.040.

(b) In the Ethics Act and in this chapter

(1) "board or commission" has the meaning given in AS 39.52.960 and does not include an entity created under only a federal statute or other non-state action;

(2) "Ethics Act" means Alaska Executive Branch Ethics Act (AS 39.52);

(3) "executive director" includes an executive secretary to a board or commission under AS 08 or the marine pilot coordinator under AS 08.62.050;

(4) "improper motivation" means a motivation not related to the best interests of the state, and includes giving primary consideration to a person's

(A) kinship or relationship with a public officer;

(B) financial association with a public officer;

(C) potential for conferring a future benefit on a public officer; or

(D) political affiliation;

(5) "person" has the meaning given in AS 39.52.960 and includes governmental entities;

(6) "personal gain" means a benefit to a person's or immediate family member's personal interest or financial interest;

(7) "public employee" has the meaning given in AS 39.52.960 and includes a permanent employee of an agency on non-seasonal leave without pay status, but does not include an individual on layoff status, a seasonal employee of an agency during the period of time that the employee is not employed by the agency, or a temporary employee of an agency during the period of time that the employee is not employed by the agency;

(8) "state contract" includes employment with the state, regardless of whether that employment is evidenced by a written agreement, but does not include a license or other authorization from the state to do business or to perform a particular activity in the state; and

(9) "subject" means an individual who either

(A) is being investigated for a potential violation of the Ethics Act or this chapter; or

(B) is the individual against whom a complaint is filed under the Ethics Act or this chapter. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.120(a) AS 39.52.950
AS 39.52.410 AS 39.52.960

ALASKA ADMINISTRATIVE CODE

Title 9

Law

APRIL 2005 SUPPLEMENT
INCLUDING REGISTERS 132 THROUGH 173

LexisNexis®

40470-34

Chapter 52. Executive Branch Code of Ethics.

Section
10. Appearance of impropriety
60. Gifts
70. Information disseminated to the public
110. Ethics files
120. Declaration of potential violation by member of a board or commission

9 AAC 52.010. Appearance of impropriety. An appearance of impropriety does not establish that an ethical violation exists. (Eff. 4/24/94, Register 130)

Publisher's note: The history line for this regulation is set out above, as of Register 135 (October 1995), pursuant to directions from the Department of Law, in order to correct the effective date.

9 AAC 52.060. Gifts. (a) As used in the Ethics Act and this chapter, a gift is a transfer or loan of property or provision of services to a public officer for less than full value. Unless rebutted by other evidence, an occasional gift worth $50 or less is presumed not to be given under circumstances in which it could be reasonably inferred that the gift is intended to influence an officer's performance of official duties, actions, or judgment.

(b) For purposes of AS 39.52.130, travel or lodging of any value received by a public officer in connection with a trip that the public officer takes as part of the officer's official duties is not an improper gift if the monetary value of the travel or lodging is comparable to the cost that the state would have had to pay for the travel or lodging and

(1) the head of the officer's agency determines that the gift is to the state, not to the officer; or

(2) the travel or lodging is incidental transportation by or hospitality at the residence of an individual. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.130 AS 39.52.950

Publisher's note: This regulation is set out above, as of Register 133 (April 1995), pursuant to directions from the Department of Law, in order to correct a typographical error in the second sentence in (a).

9 AAC 52.070. Information disseminated to the public. (a) For purposes of AS 39.52.140, information has been disseminated to the public if it has been published through newspaper publication; broadcast media; a press release; a newsletter; a legal notice; a nonconfidential court filing; a published report; a public speech; or public testimony before the legislature, a board, or a commission.

(b) Information that is available to the public but that has not been published as described in (a) of this section has not been disseminated to the public. (Eff. 4/24/94, Register 130)

Authority: AS 39.52.140 AS 39.52.950

Publisher's note: This regulation is set out above, as of Register 153 (April 2000), pursuant to directions from the Department of Law, in order to correct a typographical error in 9 AAC 52.070(a).

9 AAC 52.110. Ethics files. (Eff. 4/24/94, Register 130)

Publisher's note: The history line for this regulation is set out above, as of Register 135 (October 1995), pureuant to directions from the Department of Law, in order to correct the effective date.

9 AAC 52.120. Declaration of potential violation by member of a board or commission. (Eff. 4/24/94, Register 130)

Publisher's note: The history line for this regulation is set out above, as of Register 135 (October 1995), pursuant to directions from the Department of Law, in order to correct the effective date.