# ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

# Vol. III: Appendices

## Clean Air Act Section 110 Infrastructure Certification Documentation

**Public Review Draft**

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**Attachment 2.** Alaska Administrative Code Title 9- Law, Chapter 52. Executive Branch Code of Ethics.

## List of Acronyms & Abbreviations

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| AAC | Alaska Administrative Code |
| AMQA | Air Monitoring & Quality Assurance |
| CAA | Clean Air Act |
| CBJ | City & Borough of Juneau |
| CFR | Code of Federal Regulations |
| DAQ | Division of Air Quality |
| DEC | Department of Environmental Conservation |
| EPA | Environmental Protection Agency |
| FNSB | Fairbanks North Star Borough |
| MOA | Municipality of Anchorage |
| MOU | Memorandum of Understanding |
| NAAQS | National Ambient Air Quality Standard |
| NEI | National Emissions Inventory |
| NNSR | Nonattainment New Source Review |
| NO | Nitrogen Oxide |
| NOy | Total Reactive Nitrogen |

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| NOx | Nitrous Oxide |
| $NO_2$ | Nitrogen Dioxide |
| NSR | New Source Review |
| PM-2.5 | Fine Particulate Matter |
| ppm | Parts Per Million |
| PSD | Prevention of Significant Deterioration |
| § | Section |
| SIL | Significant Impact Level |
| SIP | State Implementation Plan |
| SOx | Sulfur Oxides |
| $SO_2$ | Sulfur Dioxide |
| tpy | Tons per Year |
| US | United States |

## Alaska's Compliance with Clean Air Act Section 110 Requirements

The Clean Air Act (CAA) requires that states make State Implementation Plan (SIP) submissions to the United States (US) Environmental Protection Agency (EPA) which meet the basic requirements of CAA sections (§) 110 a, 1 and 2, A through M within three years after promulgation of any new or revised National Ambient Air Quality Standard (NAAQS). The purpose of this document is to demonstrate that the Alaska Department of Environmental Conservation (DEC) has the statutory and regulatory authority to implement, maintain and enforce the requirements of CAA §110 a, 1 and 2, A-M, also known as the "infrastructure requirements".

Alaska's statutes give DEC the authority to promulgate regulations for implementing and enforcing the CAA and other legislation. These regulations are established within Alaska Administrative Code (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).

Within DEC, the Division of Air Quality (DAQ) administers the CAA in Alaska via these regulations and Alaska's State Air Quality Control Plan. 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.

The original plan (contained in Volumes I & II) was federally adopted in April 1972.[1] 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 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).[2] The State Air Quality Control Plan is a legally enforceable document and is enforced by DEC.

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

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 Alaska's State Air Quality Control Plan, those amendments become a part of the federally enforceable SIP. These amendments include Alaska's adoption of new NAAQS and the respective CAA §110 infrastructure certification, as presented in Table 1. DEC updates Table 1 each time a new SIP amendment is adopted to certify Alaska's compliance with the NAAQS and its CAA §110 infrastructure requirements.

**Table 1: Alaska's State Air Quality Control Plan CAA §110 Infrastructure Certifications.**

| NAAQS Element | NAAQS Federal Register Date | NAAQS Federal Register Number | State of Alaska NAAQS Effective Date of Regulation | State of Alaska CAA §110 SIP Certification Effective Date of Regulation | Table Number | Notes |
|---|---|---|---|---|---|---|
| **Ozone 8-hour** | 7/18/97 | 62 FR 38856 | 6/21/98 | 8/1/12 | 2 | |
| **$PM_{2.5}$ annual & 24-hour** | 7/18/97 | 62 FR 38652 | 6/21/98 | 8/1/12 | 2 | |
| **$PM_{2.5}$ 24-hour** | 10/17/06 | 71 FR 61144 | 4/1/2010 | 8/1/12 | 2 | Complete except for 110(a)(2)(G). |
| **Ozone 8- hour** | 3/27/08 | 73 FR 16436 | 4/1/2010 | 8/1/12 | 2 | |
| **Lead** | 11/12/08 | 73 FR 66964 | 4/1/2010 | 8/1/12 | 2 | |
| **$SO_2$ 1-hour** | 6/22/10 | 75 FR 35520 | 9/17/2011 | Insert Date | 3 | |
| **$NO_2$ 1-hour** | 2/9/10 | 75 FR 6474 | 1/4/2013 | Insert Date | 3 | |

DEC demonstrates compliance with the NAAQS infrastructure requirements by submitting a new and separate table for each §110 SIP certification, as shown in Table 1. These tables provide a chronological history of DEC's CAA §110 SIP submittals and include the following: DEC's general statutory and regulatory authority; DEC's specific regulatory authority for a particular NAAQS; Alaska's programs, plans and agreements (e.g., Memoranda of Understanding or Agreement) necessary for the implementation, maintenance and enforcement the NAAQS. DEC has also included **Attachment 1 [**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}] and **Attachment 2 [**Alaska Administrative Code Title 9- Law, Chapter 52. Executive Branch Code of Ethics] to demonstrate Alaska's compliance with CAA §110 §110(a)(2)(E)(ii) and the intent of CAA §128 "conflict of interest" phrases. DEC has submitted these existing regulations to meet the intent of CAA §110 (a) (2) (E) and CAA §128 for this CAA §110 certification and for all future CAA §110 certification amendments to the SIP.

**Table 2: Alaska's Compliance with CAA §110 Infrastructure Requirements for the 1997 & 2006 PM2.5 NAAQS; 1997 & 2008 Ozone NAAQS and 2008 Lead NAAQS.**

| CAA §110 Infrastructure Element | How Infrastructure Requirement is Addressed in Alaska's SIP |
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| **§110(a) (2)(A) Emission limits & other control measures** | **Alaska Administrative Code (AAC), Title 18 Environmental Conservation, Chapter 50 Air Quality Control**<br>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:<br><br>• Article 1. Ambient Air Quality Standards (18 AAC 50.005 - 18 AAC 50.110);<br>• Article 2. Program Administration (18 AAC 50.200 - 18 AAC 50.250);<br>• Article 3. Major Stationary Source Permits (18 AAC 50.300 - 18 AAC 50.390);<br>• Article 5. Minor Permits (18 AAC 50.502 - 18 AAC 50.560);<br>• Article 7. Conformity (18 AAC 50.700 – 18 AAC 50.735); and<br>• Article 9. General Provisions (18 AAC 50.900 – 18 AAC 50.990).<br><br>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**. [3]<br><br>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 |

[3] The Division of Air Quality's current regulations are found in **Title 18 AAC 50 Air Quality Control**, as amended through Insert Date; refer to http://www.dec.state.ak.us/regulations/pdfs/18%20AAC%2050.pdf

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| | 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) Ambient air quality monitoring & data analysis system** | 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:<br><br>• Appendix G: Reference Method for the Determination of Lead in Suspended Particulate Matter Collected From Ambient Air;<br>• Appendix L: Reference Method for the Determination of Fine Particulate Matter as PM2.5 in the Atmosphere;<br>• Appendix N: Interpretation of the National Ambient Air Quality Standards for Particulate Matter; |

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| **§110(a)(2)(B)**<br>(continued) | • Appendix P: Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone;<br>• Appendix Q: Reference Method for the Determination of Lead in Particulate Matter as PM10 Collected From Ambient Air; and<br>• Appendix R: Interpretation of the National Ambient Air Quality Standards for Lead.<br><br>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.[4,5] DEC's Air Non-Point Mobile Source Program (ANPMS) and Air Monitoring & Quality Assurance Program (AMQA) work with the MOA and FNSB to prepare Alaska's annual ambient air monitoring network plan.[6] 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.<br><br>DEC's revised "*Quality Assurance Project Plan for the State of Alaska Air Monitoring & Quality Assurance Program*" [7] 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. |

[4] MOU between DEC and Municipality of Anchorage for Air Quality Control, signed June 30, 2011.
[5] MOU between DEC and Fairbanks North Star Borough for Air Pollution Control, dated January 26, 2010.
[6] Division of Air Quality's "Alaska's 2012 Air Monitoring Plan" www.dec.state.ak.us/air/am/am_airmonplan.htm.
[7] 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

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| | **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.<br><br>**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.[8] |
| **§110(a) (2)(C) Program to enforce control measures, regulate modification & construction of stationary sources and a permit program** | 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. DAQ's Air Permits Program issues air discharge permits for stationary sources according to the following regulations:<br><br>• Construction permit for new or modified construction projects (18 AAC 50.302);<br>• Prevention of significant deterioration (PSD) permit (18 AAC 50.306);<br>• Non-attainment area major stationary source permit (18 AAC 50.311); and<br>• Minor Permits (18 AAC 50 Article 5). |

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

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| **§110(a)(2)(C)**<br>(continued) | Alaska's PSD/NSR program was originally approved by EPA on February 16, 1995 [60 FR 8943]. Amendments to Alaska's PSD/NSR program were more recently approved by EPA on August 14, 2007 [72 FR 45378] and February 9, 2011 [76 FR 7116]. 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.<br><br>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).<br><br>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)(i)(I) and (II) Interstate transport 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].<br><br>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, |

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| **§110(a)(2)(D)(i)(I) and (II)** (continued) | January 15, 2009]. DEC submitted Alaska's Interstate Transport of Pollution SIP for the 2008 Lead NAAQS to EPA via a transmittal letter to EPA Region 10, dated July 9, 2012.<br><br>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]. |
| **§110(a)(2)(D)(ii) Interstate transport and interstate & international pollution abatement** "… insuring compliance with the applicable requirements of CAA § 126 and 115". | 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 more recently approved by EPA on August 14, 2007 [72 FR 45378] and 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) Adequate personnel, funding and authority to carry out plan** | 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 |

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| | SIP requirements, DEC insures that the local program has adequate resources and documents this in the appropriate SIP sections. |
| **§110(a)(2)(E)(ii)**<br>**Comply with state boards** | Alaska's regulations meeting the intent of CAA §110(a) (2) (E) and CAA §128 "conflict of interest" phrases are found in **Attachment 1**- AAC 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 50.920**) and **Attachment 2-**Title 9- Law; Chapter 52- Executive Branch Code of Ethics (**9 AAC 52.010-9 AAC 52.990**). These existing regulations are adopted into the State Air Quality Control Plan and are included as attachments to this SIP submittal. 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. |
| **§110(a)(2)(E)(ii)**<br>(continued) | 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 . |

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| **§110(a)(2)(E)(iii) oversee local & regional government/agencies** | 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.<br><br>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. |

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| **110(a)(2)(F) Stationary source emissions monitoring and reporting system** | 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**.<br><br>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. 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**.<br><br>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**.<br><br>Alaska's PSD/NSR program was originally approved by EPA on February 16, 1995 [60 FR 8943] and more recently approved on August 14, 2007 [72 FR 45378] and 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 |

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| | quality and meteorological data that are collected for PSD purposes by stationary sources are reported to DEC on a quarterly and annual basis. |

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| **§110(a)(2)(G)<br>Authority to declare air pollution emergency and notify public** | 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**.<br><br>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. 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.<br><br>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)<br>Future SIP Revisions** | 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 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. |

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| **§110(a)(2)(J)<br>§ 121 consultation** | 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)**). |
| **§110(a)(2)(J)<br>Section 127 public notification** | 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**. |
| **§110(a)(2)(J)<br>PSD & visibility protection** | Alaska's PSD/NSR program was originally approved by EPA on February 16, 1995 [60 FR 8943] and more recently approved on August 14, 2007 [72 FR 45378] and 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.<br><br>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, |

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| | 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)**<br>**Air quality modeling/data** | 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.<br><br>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)**<br>**Major Stationary source permitting fees** | 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 50 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. |

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| **§110(a)(2)(M) Consultation/Participation by affected local entities** | 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 (**AS 46.03.020 (3) (A)(B)**). |

**Table 3: Alaska's Compliance with CAA §110 Infrastructure Requirements for the 2010 Nitrogen Dioxide and Sulfur Dioxide 1-hour NAAQS.**

| CAA §110 Infrastructure Element | How Infrastructure Requirement is Addressed in Alaska's SIP |
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| **§110(a)(2)(A) Emission limits & other control measures** | 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 Alaska Administrative Code (AAC) **Title 18 Environmental Conservation, Chapter 50. Air Quality Control**:<br>• Article 1. Ambient Air Quality Standards (18 AAC 50.005 - 18 AAC 50.110);<br>• Article 2. Program Administration (18 AAC 50.200 - 18 AAC 50.250);<br>• Article 3. Major Stationary Source Permits (18 AAC 50.300 - 18 AAC 50.390);<br>• Article 5. Minor Permits (18 AAC 50.502 - 18 AAC 50.560);<br>• Article 7. Conformity (18 AAC 50.700 – 18 AAC 50.735); and<br>• Article 9. General Provisions (18 AAC 50.900 – 18 AAC 50.990).<br>• **Article 1. Ambient Air Quality Standards** (18 AAC 50.005 - 18 AAC 50.110) - Alaska's current ambient air quality standards, as amended through Insert Date, are found at: http://dec.alaska.gov/commish/regulations/index.htm |

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| **§110(a)(2)(A)** (continued) | • **18 AAC 50.010(2) -** The State of Alaska adopted the 2010 1-hour $SO_2$ NAAQS on August 3, 2011; this regulation became effective on September 17, 2011.<br><br>• **18 AAC 50.010(5) -** The State of Alaska adopted the 2010 1-hour $NO_2$ NAAQS on December 5, 2012; this regulation became effective on January 4, 2013.<br><br>• **18 AAC 50.015. Air quality designations, classifications, and control regions -** There are no $NO_2$ or $SO_2$ non-attainment areas in Alaska at the present time (summer/fall 2013). EPA officially designated all of Alaska "unclassifiable" with respect to the 1-hour $NO_2$ on June 29, 2011. DEC recommended that all areas within the borders of Alaska be designated as "unclassifiable" in regards to the 1-hour $SO_2$ NAAQS in a letter to EPA Region 10, dated June 2, 2011. DEC anticipates that all of Alaska will be designated by EPA as "unclassifiable" in regards to the 1-hour $SO_2$ NAAQS in the near future.<br><br>• **18 AAC 50.040. Federal standards adopted by reference**- The Prevention of Significant Deterioration (PSD) of Air Quality regulations in 40 C.F.R. 51.166 and 40 C.F.R. 52.21 are adopted in **18 AAC 50.040(h)** as of January 4, 2013.<br><br>• **18 AAC 50.055. Industrial processes and fuel-burning equipment -**includes $SO_2$ emission limits for fuel burning equipment and petroleum refineries.<br><br>• **18 AAC 50.060. Pulp mills -**includes $SO_2$ emission limits for pulp mills in Alaska.<br><br>• **Article 2. Program Administration** (18 AAC 50.200-18 AAC 50.260)<br>• **18 AAC 50.260 Guidelines for best available retrofit technology under the regional haze rule**- DEC's regulations for best available retrofit technology (**BART**) under the regional haze rule are found at **18 AAC 50.260**.<br><br>• **Article 3. Major Stationary Source Permits** (18 AAC 50.300-18 AAC 50.390)<br>• **18 AAC 50.302 Construction Permits**. |

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| | • **18 AAC 50.306 Prevention of Significant Deterioration Permits**<br>• **18 AAC 50.345 Construction and Operating Permits: Standard Permit Conditions**<br><br>• **Article 5. Minor Permits** (18 AAC 50.502 - 18 AAC 50.560)<br>• **18 AAC 50.508 Minor Permits Requested by the Owner or Operator**<br>• **18 AAC 50.540 Minor Permit: Application**<br>• **18 AAC 50.542 Minor Permit Review and Issuance**<br><br>• **18 AAC Chapter 53 Fuel Requirements for Motor Vehicles**- requirements for oxygenated fuel to reduce NOx emissions. |
| **§110(a)(2)(B) Ambient air quality monitoring & data analysis system** | DEC's statutory and regulatory authority to conduct ambient air monitoring investigations is found in Alaska Statute (**AS) 46.03.020 (5)**, **AS 46.14.180** and **18 AAC 50.201**.<br><br>• **Article 1. Ambient Air Quality Standards** (18 AAC 50.005 - 18 AAC 50.110)<br><br>• **18 AAC 50.030. State air quality plan**- DAQ's *Quality Assurance Project Plan for the State of Alaska Air Monitoring & Quality Assurance Program*[9], as amended through February 23, 2010, is adopted by reference at **18 AAC 50.030(4)**. This manual includes the appropriate, federally referenced ambient air quality monitoring and analysis procedures and data quality objectives for $NO_2$ and $SO_2$. As described in this plan, validated State & Local Air Monitoring Stations, and Special Purpose Monitoring ambient air |

[9] 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

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| | quality monitoring data are reported to the AMQA's database manager who verifies the data, and then electronically reports these data to EPA through the Air Quality System on a quarterly basis.<br><br>•**18 AAC 50.035 Documents, procedures, and methods adopted by reference-** The most current and federally approved reference (measurement) and interpretation methods for $NO_2$ and $SO_2$ are adopted by reference in **18 AAC 50.035(b)(1)**. These reference and interpretation methods are used by DEC in its ambient air quality monitoring program to determine compliance with the NAAQS.<br><br>• **Article 2. Program Administration** (18 AAC 50.200-18 AAC 50.260)<br><br>•**18 AAC 50.201. Ambient air quality investigation**- 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.[10,11] DAQ's Air Monitoring & Quality Assurance Program (AMQA) coordinates with MOA and FNSB to prepare Alaska's annual ambient air monitoring network plan. *Alaska's 2013-2014 Air Monitoring Network Plan*[12] includes monitoring provisions for nitrogen oxide (NO); total reactive nitrogen (NOy) and $SO_2$ at one NCORE site located on Pioneer Road in Fairbanks, Alaska. Ambient NO, NOy and $SO_2$ monitoring data are collected by the FNSB and reported to DEC on a quarterly basis. Related regulations are found in **18 AAC 50.215. Ambient air quality analysis methods** and **18 AAC 50.220 Enforceable test methods.** |
| **§110(a)(2)(C) Program to enforce control measures, regulate modification & construction of stationary sources and a permit program** | **Alaska's air pollution prohibitions**-Alaska's 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**.<br><br>• **Article 1. Ambient Air Quality Standards** (18 AAC 50.005 - 18 AAC 50.110) - DEC recently adopted new baseline areas for $NO_2$ and $SO_2$, as defined at **18 AAC 50.020(g)**, which became effective on January 4, 2013. The procedure for determining a baseline concentration of $NO_2$ or SO2, as established in 40 C.F.R. 52.21(b) (13) was also recently adopted |

[10] MOU between DEC and Municipality of Anchorage for Air Quality Control, signed June 30, 2011.
[11] MOU between DEC and Fairbanks North Star Borough for Air Pollution Control, dated January 26, 2010.
[12] ADEC's "**Alaska's 2013-2014 Air Monitoring Network Plan**" www.dec.state.ak.us/air/am/am_airmonplan.htm.

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| **§110(a)(2)(C)**<br>(continued) | in **18 AAC 50.020(e)** and became effective on January 4, 2013. EPA's monitoring guidance entitled "Ambient Monitoring Guidelines for the Prevention of Significant Deterioration" is adopted by reference at **18 AAC 50.035(5)**.<br><br>On February 9, 2011, EPA approved DEC's SIP submittal concerning its PSD and Title V Green House Gas (GHG) permitting programs, as promulgated in 40 C.F.R. 52.22 and 71.13, and adopted by reference in **18 AAC 50.040(h)(21)** and **18 AAC 50.040(j)(9)** with an effective date of March 11, 2011 [76 FR 7116].<br><br>As mentioned previously, EPA's *Guideline on Air Quality Models*, Appendix W to 40 CFR Part 51, is adopted by reference in **18 AAC 50.040(f)**. The most recent revision to Appendix W was published on November 9, 2005 [70 FR 68228], wherein EPA adopted AERMOD as the preferred dispersion model. Appendix W, and therefore AERMOD, is also adopted by reference at **18 AAC 50.215(b) (1)** and is used by DEC during its ambient air quality analysis for the prevention of significant deterioration. Ambient air quality and meteorological data that are collected for PSD purposes by permitted stationary sources are reported to DEC on a quarterly and annual basis. DEC's PSD regulations for $NO_2$ & $SO_2$ Class I, II & III areas are found in:<br><br>•**18 AAC 50.020 (a)**. Table 2. Baseline Areas and Dates.<br>•**18 AAC 50.020 (b)**. Table 3. Maximum Allowable Increases.<br>•**18 AAC 50.020 (e)**. Procedure for establishing $NO_2$ & $SO_2$ baseline concentration, effective January 4, 2013.<br>•**18 AAC 50.020 (g)**. Baseline areas for $NO_2$ & $SO_2$, effective January 4, 2013.<br>•**18 AAC 50.035 (5)**. EPA's "*Ambient Monitoring Guidelines for Prevention of Significant Deterioration*", adopted by reference.<br>•**18 AAC .040 (f)**. EPA's "*Guideline on Air Quality Models*", adopted by reference.<br>•**18 AAC 50.040 (h) (21) & (j) (9)**. PSD & Title V Greenhouse Gas Permitting Program requirements of 40 C.F.R. 52.22 & 40 C.F.R. 71.13 (Enforceable Commitments for Further Actions Addressing the Pollutant Greenhouse Gases), approved by EPA on February 9, 2011 [76 FR 7116].<br><br>• **Article 2. Program Administration** (18 AAC 50.200-18 AAC 50.260)- EPA has not promulgated regulation changes to implement the 1-hour $NO_2$ and $SO_2$ NAAQS under the PSD or Nonattainment New Source Review (NNSR) programs found at 40 C.F.R. §50.166. EPA issued draft PSD guidance concerning the implementation |

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| | of the 1-hour $NO_2$ and $SO_2$ NAAQS on June 29 and August 23, 2010, respectively.[13,14] EPA's draft implementation guidance recommends that states use an interim 1-hour $NO_2$ significant impact level (SIL) value of 4 parts per billion (ppb) and an interim 1-hour $SO_2$ SIL value of 3 ppb. On August 3, 2011, the State of Alaska adopted an $SO_2$ SIL level of 8 ppb into Table 5 at **18 AAC 50.215(d)**; the $SO_2$ SIL regulation became effective on September 17, 2011. The State of Alaska adopted an $NO_2$ SIL level of 8 ppb into Table 5 on December 5, 2012; the $NO_2$ SIL regulation became effective on January 4, 2013. Also on this date, DEC adopted new regulatory language at **18 AAC 50.215(d)** regarding how to compare modeled impacts to the $NO_2$ and $SO_2$ SIL. These regulations are found here:<br><br>•**18 AAC 50.215(b) (1)**. EPA's AERMOD, adopted by reference.<br>•**18 AAC 50.215 (d)**. Table 5 Significant Impact Levels for $NO_2$ & $SO_2$ adopted; new language regarding how to compare modeled impacts to SILs adopted.<br><br>• **Article 3. Major Stationary Source Permits**- Alaska's PSD/NSR program was originally approved by EPA on February 16, 1995 [60 FR 8943]. Amendments to DEC's PSD/NSR program were most recently approved by EPA on August 14, 2007 [72 FR 45378] and February 9, 2011 [76 FR 7116]. DEC's PSD/NSR permit program regulations are found here:<br>• **18 AAC 50.306.** Prevention of significant deterioration (PSD) permits.<br>• **18 AAC 50.311.** Nonattainment area major stationary source permits.<br>•**18 AAC 50.326 (e)**. Title V $NO_2$ & $SO_2$ insignificant emission rates.<br><br>• **Article 5. Minor Permits.**<br>• **18 AAC 50.502. Minor permits for air quality protection.**<br>• **18 AAC 50.502 (c) (1) (B); (c) (1) (C)** - $NO_2$ & $SO_2$ significant emission rates for minor permitted facilities. |

[13] EPA's "Guidance Concerning the Implementation of the 1-hour $NO_2$ NAAQS for the Prevention of Significant Deterioration.", dated June 29, 2010, Stephen D. Page, Director, Office of Air Quality Planning and Standards.

[14] EPA's "Guidance Concerning the Implementation of the 1-hour $SO_2$ NAAQS for the Prevention of Significant Deterioration.", dated August 23, 2010, Stephen D. Page, Director, Office of Air Quality Planning and Standards.

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| **§110(a)(2)(D)(i)(I) Interstate transport and interstate & international pollution abatement** | In accordance with the panel of the U.S. Court of Appeals for the D.C. Circuit opinion, states are not required to submit CAA section 110(a)(2)(D)(i)(I) until the EPA has quantified their obligations under that section. *See EME Homer City generation, L.P. v. EPA, 696 F .3d 7.* Unless the *EME Homer City* decision is reversed or otherwise modified by the Supreme Court, Alaska is not required to submit 110(a)(2)(D)(i)(I) SIPs for the 2010 $NO_2$ and 2010 $SO_2$ NAAQS until the EPA has quantified Alaska's obligations under that section for the 2010 $NO_2$ and 2010 $SO_2$ NAAQS. |
| **§110(a)(2)(D)(i)(II) Interstate transport and interstate & international pollution abatement** | Alaska's PSD/NSR program was originally approved by EPA on February 16, 1995 [60 FR 8943]. Amendments to DEC's PSD/NSR program were most recently approved by EPA on August 14, 2007 (72 FR 45378) and February 9, 2011 (76 FR 7116). DEC's PSD and New Source Review regulations are found in:<br>• **Article 3. Major Stationary Source Permits**<br>• **18 AAC 50.302** Construction permit for new or modified construction projects.<br>• **18 AAC 50.306** Prevention of significant deterioration permit.<br>• **18 AAC 50.311** Non-attainment area major stationary source permit.<br>• **18 AAC 50.321** Maximum Achievable Control Technology determination.<br>• **18 AAC 50.345** Standard and compliance conditions for stationary sources.<br>• **18 AAC 50.346** Other permit conditions<br><br>On February 14, 2013, EPA approved Alaska's Regional Haze Plan submitted on April 4, 2011, as meeting the requirements set forth in sections 169A and 169B of the CAA and in 40 CFR 51.308 regarding Regional Haze [78 FR 10546]. |
| **§110(a)(2)(D)(ii) Interstate transport and interstate & international pollution abatement** | CAA §126(a) directs states to include SIP provisions requiring new or modified sources to notify neighboring states of potential impacts for the sources. Alaska's federally-approved SIP incorporates by reference 40 CFR 51.166(q)(2) at **18 AAC 50.306(b)**, with certain modifications, to describe the public participation procedures for PSD permits including requiring notice to states whose lands may be affected by the emissions of sources subject to PSD. As a result, Alaska's PSD regulations provide for notice consistent with the requirements of EPA's PSD program. Alaska has no pending obligations under sections 115 or 126(b) of the Act. |
| **§110(a)(2)(E)(i) Adequate personnel, funding and authority to carry out plan** | 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. Alaska receives CAA §103 and §105 grant funds from EPA and provides state matching funds necessary to carry out Alaska's SIP requirements. The State of Alaska and DEC have adequate personnel, funding and the authority to implement the 2010 1-hour $NO_2$ and |

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| | $SO_2$ 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 ensures that the local program has adequate resources and documents this in the appropriate SIP sections. |
| **§110(a)(2)(E)(ii) Comply with state boards** "… requirements that the state comply with the requirements respecting state boards under section 128, and…" | 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 was adopted into the State Air Quality Control Plan, effective date August 1, 2012, 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 were also adopted into the State Air Quality Control Plan, effective date August 1, 2012, and are included as an appendix to Volume II, Section II. DEC submitted these regulations to meet the intent of CAA §110 (a) (2) (E) and CAA §128 for all future CAA §110 certification amendments to Alaska's SIP.<br><br>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 . |
| **§110(a)(2)(E)(iii) oversee local & regional government/agencies** | Statutory authority and requirements for establishing local air pollution control programs are found at **AS 46.14.400 Local Air Quality Control Programs**.<br><br>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 |

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| | 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.<br><br>DEC is collaborating with the FNSB on collecting ambient air quality samples and analyzing them for nitrogen oxide (NO); total reactive nitrogen (NOy) and $SO_2$ at one NCORE site located on Pioneer Road in Fairbanks, Alaska. Ambient NO, NOy and $SO_2$ monitoring data will be collected by the FNSB, who will report their ambient air data to DEC on a quarterly basis. These data will be used by the FNSB, DEC and EPA to determine compliance with the 1-hour $NO_2$ and $SO_2$ NAAQS. |
| **§110(a)(2)(F) Stationary source emissions monitoring and reporting system** | 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, stack source monitoring requirements and issuing a public notice are found at **AS 46.14.140** 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.<br><br>As stated previously, the State of Alaska adopted the 2010 1-hour $SO_2$ NAAQS into **18 AAC 50.010** on August 3, 2011; this regulation became effective on September 17, 2011. The State of Alaska adopted the 2010 1-hour $NO_2$ NAAQS on December 5, 2012; this regulation became effective on January 4, 2013. Monitoring protocols and test methods for stationary sources that have been adopted by reference into the State Air Quality Control Plan are found at **18 AAC 50.030**. The most current and federally approved reference (measurement) and interpretation methods for the 1-hour $NO_2$ and $SO_2$ NAAQS are adopted by reference in **18 AAC 50.035(b)(1)**.[15] Federal standards adopted by reference are found at **18 AAC 50.040**. Stationary source monitoring, reporting, and record keeping requirements are found in the standard permit conditions for construction and operating permits at **18 AAC 50.345**. |

[15] 40 C.F.R. §50, Appendices A-1; F; and T.

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| | **18 AAC 50.220 Enforceable test methods:** DEC may require and owner or operator to conduct air pollutant emission tests to determine compliance with **AS 46.14** and associated regulations.<br><br>**18 AAC 50.544 Minor Permits:** Provides for the installation, use and maintenance of monitoring equipment, sampling of emissions, source test, monitoring and emissions data reporting for minor sources. |
| **§110(a)(2)(G)**<br>**Authority to declare air pollution emergency and notify public**<br><br>**§110(a)(2)(G)**<br>(continued) | DEC's statutory authority to act during air emergencies and air episodes is found under the following statutes: **AS 46.03.020 Powers of the departmen**t; **AS 46.03.810 Air and land nuisances**; **AS 46.03.820 Emergency powers**; and **AS 46.14.540 Authority of department in cases of emergency**.<br><br>Alaska's regulations pertaining to air episodes and advisories are found at **18 AAC 50.245**. Alaska's 24-hour $SO_2$ concentrations triggering an air alert, warning and episode are found in **Table 6 at 18 AAC 50.245**. All regions in Alaska are classified as Priority III for $NO_2$ and $SO_2$ (see 40 CFR 52.71). As stated in 40 CFR 51.152(c), areas classified as Priority III regions are not required to develop emergency episode plans, which EPA has interpreted to mean the contingency plans otherwise required under 40 CFR 51.152. However, DEC can and does issue air advisories under **18 AAC 50.245** to address air episodes when air quality conditions warrant action.<br><br>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 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)**<br>**Future SIP Revisions** | 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 regulatory authority to implement any provision of the CAA is found in **18 AAC 50.005**. 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)**<br>**§121 consultation** | 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)**). |

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| **§110(a)(2)(J)**<br>**§127 public notification** | 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**. |
| **§110(a)(2)(J)**<br>**PSD & visibility protection** | DEC concludes that there are no new visibility protection obligations under CAA §110(a) (2) (J) as a result of the 2010 $NO_2$ and $SO_2$ NAAQS. Alaska's PSD/NSR program was originally approved by EPA on February 16, 1995 [60 FR 8943]. Amendments to DEC's PSD/NSR Program were most recently approved by EPA on August 14, 2007 [72 FR 45378] and February 9, 2011 [76 FR 7116]. See section 110(a) (2) (C) above. |
| **§110(a)(2)(K)**<br>**Air quality modeling/data**<br><br>**§110(a)(2)(K)**<br>(continued) | DEC conducts air quality modeling under **18 AAC 50.215(b)**, ambient air quality analysis methods. Estimates of ambient concentrations and visibility impairment are 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)**.<br><br>EPA's monitoring guidance entitled "*Ambient Monitoring Guidelines for the Prevention of Significant Deterioration*" is adopted by reference at **18 AAC 50.035(5)**. As mentioned previously, EPA's "*Guideline on Air Quality Models*" (Appendix W to 40 CFR Part 51) is 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. The most recent revision to Appendix W was published on November 9, 2005 [70 FR 68228], wherein EPA adopted AERMOD as the preferred dispersion model. Appendix W, and therefore AERMOD, is also adopted by reference at **18 AAC 50.215(b)(1)** and is used by DEC during its ambient air quality analysis for the prevention of significant deterioration. Ambient air quality and meteorological data that are collected for PSD purposes by permitted stationary sources are reported to DEC on a quarterly and annual basis. |
| **§110(a)(2)(L)**<br>**Major Stationary source permitting fees** | 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 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). Permit administration fees and permit emission fees are calculated according to DEC's regulations found in **18 AAC 50.400** and **18 AAC 50.410**, respectively. Billing procedures for emission fees are administered according to **18 AAC 50.420**. 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 |

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|---|---|
| | evaluation report was completed in October 2010. The Division's next emission fee review is scheduled for 2014. |
| **§110(a)(2)(M) Consultation/Participation by affected local entities** | **AS 46.03.020(3)(A)(B)** provides DEC 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.<br><br>**AS 46.03.020(8)** provides DEC the authority to "advise and cooperate with municipal, regional, and other local agencies and officials in the state, to carry out the purposes of this chapter."<br><br>**AS 46.14.400(d)** provides authority for local air quality control programs and requires cooperative agreements between DEC and local air quality control programs that specify the respective duties, funding, enforcement responsibilities and procedures. |

# Attachments

The following attachments are intended to demonstrate Alaska's compliance with CAA §110 §110(a)(2)(E)(ii) and the intent of CAA §128 "conflict of interest" phrases. DEC has submitted these existing regulations to meet the intent of CAA §110 (a) (2) (E) and CAA §128 for this CAA §110 certification and for all future CAA §110 certification amendments to the SIP.

**Attachment 1-** 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.

**Attachment 2-** Alaska Administrative Code Title 9- Law, Chapter 52. Executive Branch Code of Ethics.

# ATTACHMENT #1

# 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

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# 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 39.50.020 AS 39.50.050 AS 39.50.135

**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 39.50.020 AS 39.50.050 AS 39.50.060

**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 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 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

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# 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

# ATTACHMENT #2

# ALASKA ADMINISTRATIVE CODE

## TITLE 9- LAW

## Chapter 52. Executive Branch Code of Ethics

Register 131

October 1994

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# 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 non-confidential 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**

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## 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.