

## **Chapter 15.30 SOUTH CENTRAL CLEAN AIR PROGRAM\***

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**\*Cross references:** South Central clean air authority commission, § 4.40.115; environmental protection, AMCR Title 15.

**State law references:** Local program authorized, AS 46.14.400.

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### **15.30.010 Short title of chapter.**

This chapter may be known and cited as the South Central Clean Air Ordinance.

(AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

### **15.30.020 South Central Clean Air Authority.**

- A. A regional air pollution control authority called the South Central Clean Air Authority is hereby established within the boundaries of the municipality and the Matanuska-Susitna Borough.
- B. Subject to the powers granted by law to member governments, the South Central Clean Air Authority shall have primary responsibility for control of air pollution from all sources within the boundaries of the member governments except where jurisdiction is reserved by law exclusively for the United States or the state, shall adopt and enforce rules and regulations that endeavor to achieve and maintain national and state ambient air quality standards and emission standards, and shall enforce this chapter and any rules and regulations promulgated pursuant thereto.

(AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

### **15.30.030 Definitions.**

Unless separately defined in a rule or regulation promulgated pursuant to this chapter or unless the context clearly indicates otherwise, the following terms used in this chapter or any rule or regulation promulgated pursuant thereto shall be defined as follows:

*Air contaminant* means dust, fumes, mist, smoke, fly ash, other particulate matter, vapor, gas or an odorous substance, or a combination of these, but not including water vapor or steam condensate.

*Air contaminant source* means any source whatsoever at, from or by reason of which there is emitted or discharged into the atmosphere any air contaminant.

*Air pollutant* means a material in the atmosphere, either from natural or manmade sources, in a concentration that reaches or exceeds a level that tends to have some adverse effect on human health or welfare, have some deleterious effect on animal or plant life, or damage materials of economic value to society.

*Air pollution* means the presence in the outdoor atmosphere of one or more air pollutants.

*Air quality control plan* means the Alaska Air Quality Control Plan as approved by the administrator of the Environmental Protection Agency pursuant to those provisions of the federal Clean Air Act relative to state implementation plans.

*Alteration* means any addition to, any enlargement of, any replacement of, any major modification of, or any change in the design, capacity, process or arrangement of, or any increase in, the connected loading of equipment or control apparatus that will affect the kind or amount of air contaminant emitted.

*Ambient air* and *atmosphere* mean any unconfined portion of the atmosphere or the outside air.

*Authority* means the South Central Clean Air Authority.

*Best practical technology* means the best system of technology available to correct the emission problem when considering cost of system, efficiency of the process, and commercial availability on the market.

*Borough* means the Matanuska-Susitna Borough.

*Commission* means the South Central Clean Air Authority commission.

*Director* means the director of the South Central Clean Air Authority or his authorized representative.

*Emission* means a release of air contaminants into the environment.

*Equipment* means any stationary or portable device or any part thereof capable of causing the emission of any air contaminant.

*Facility* means a pollutant-emitting source or activity located on one or more contiguous or adjacent properties and which is operated by the same person under common control.

*Indirect source* means a facility, building, structure or installation that attracts or may attract activity that results in emissions of a pollutant for which there is a national

ambient air quality standard, including but not limited to highways and roads; parking facilities; retail, commercial and industrial facilities; recreation, amusement, sports and entertainment facilities; airports; office and governmental buildings; apartment and condominium buildings; and education facilities.

*Installation* means the placement, assemblage or construction of equipment or control apparatus at the premises where equipment, as defined in this section, or control apparatus will be used.

*Marine installation* means a movable or fixed petroleum exploration, production or extraction platform, or other offshore facility, in or on the waters located within the municipality, from which the emission of air contaminants occurs.

*Member government* means the municipalities of Anchorage and the Matanuska-Susitna Borough.

*Motor vehicle* means any self-propelled vehicle designed and used for transporting persons or property, but excludes aircraft, vessels operated on water and vehicles operated exclusively on rails.

*National air quality standard* means a national primary or secondary ambient air quality standard promulgated pursuant to the federal Clean Air Act.

*Opacity* means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

*Owner* means the person who owns, leases or supervises equipment, control apparatus or a stationary or mobile source of air contaminants.

*Particulate matter* and *particulates* mean finely divided solid or liquid particles in the air or in an emission, including but not limited to dust, smoke, fumes, spray and fog.

*ppm* means parts per million by volume.

*Person* means any individual, trust, estate, firm, corporation, association, partnership or any officer, employee, department, agency, board, bureau or commission of the United States, a state or any political subdivision thereof.

*Regulation* means any regulation, ambient air quality standard, emission standard, limitation or control or subsequently adopted additions or amendments thereto promulgated pursuant to this chapter.

*Standard cubic foot of gas* means that amount of gas that would occupy a cube having dimensions of one foot on each side, if the gas were free of vapor and at a pressure of 14.7 PSIA and a temperature of 70 degrees Fahrenheit.

*Visible emissions* means those gases or particulates, excluding uncombined water, that separately or in combination are visible upon release to the outdoor atmosphere.

(GAAB 16.68.020, 16.70.010; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 93-131, § 1, 10-26-93)

**Cross references:** Definitions and rules of construction generally, § 1.05.020.

### **15.30.035 South Central Clean Air Authority commission.**

- A. A South Central Clean Air Authority commission of six members shall be the governing body of the South Central Clean Air Authority, shall exercise all powers vested in that authority by law, and shall administer the provisions of this chapter within the member governments.
- B. The commission shall consist of two assembly members and the mayor or his designee from each member government appointed in the manner provided by the law of that member government. The Anchorage commission members shall consist of the mayor or his designee and two assembly members appointed by the mayor.
- C. The term of each commission member shall be equal to the duration of his elected term or until a vacancy occurs. When a vacancy occurs, a new member shall be appointed in the manner provided by the law of that member government for the appointment of commission members.
- D. The commission shall meet at least annually and shall elect annually from its membership a presiding officer and such other officers as it deems appropriate. All officers shall serve terms of one year and may be reelected to their positions.
- E. A quorum shall consist of four voting members of the commission. No action of the commission shall be taken or shall be effective except upon concurrence of at least four voting members.
- F. The commission shall determine its own rules of procedure, order of business, and meeting places and times.
- G. Each commission member shall be compensated for his attendance at official commission meetings in the manner provided by the law of his member government. The Anchorage commission members shall be compensated in the same manner as members of adjudicatory commissions pursuant to Section 4.05.050. Each commission member may also be paid such per diem and travel expenses for meetings outside his member government as may be provided by the law of that member government.
- H. In order to effect the powers and duties of the authority, the commission shall:
  - 1. Hear appeals from decisions of the director concerning applications for variances, permits or other entitlements, appeals from compliance orders and other decisions of the director for which appeals are authorized under Section 15.30.220;
  - 2. Advise the mayors and assemblies of member governments regarding enactment or revision of legislation affecting air quality within the authority;
  - 3. Hold such public hearings as it deems necessary for administration and enforcement of rules and regulations of the authority, member government ordinances and state law, compel the attendance of witnesses and the production of evidence, and adopt such rules of procedure as it finds reasonable and necessary for holding public hearings; and
  - 4. Issue such orders in the exercise of its appellate jurisdiction as may be necessary to effect the provisions of this chapter.

(AO No. 80-70)

**15.30.040 Director.**

- A. The administrative powers and duties of the authority shall be exercised by the director.
- B. The director shall be the director of the Anchorage member government's department of health and human services.
- C. The director shall:
  - 1. Grant or deny applications for variances pursuant to Section 15.30.140.
  - 2. Grant or deny applications for permits for which application is made to the authority pursuant to this chapter.
  - 3. Determine the existence of and order curtailment actions for air episodes consistent with Section 15.30.060.
  - 4. Enforce the provisions of this chapter and all regulations, rules, permits, variances or orders pursuant thereto.
  - 5. Serve as a nonvoting, ex officio member and secretary of the commission.
- D. The director shall have the power to:
  - 1. Issue such enforcement orders as are necessary to control or reduce fugitive emissions pursuant to the law of a member government.
  - 2. Require the owner or operator of air contaminant sources to install, maintain and operate emission or ambient air monitoring devices or both and to furnish data collected to the director.
  - 3. Gather data concerning air pollution within the authority, conduct research and investigation into the causes and prevention of air pollution and conduct other related and scientific and technical investigations.
  - 4. Render general administrative services to the commission and its member governments and provide such other duties as may be assigned by the commission or required to administer this chapter.
  - 5. Contract for technical, professional, advisory, legal and other services that may be reasonable and proper for the performance of the authority's powers and duties, subject to the provisions of subsection 6 of this subsection.
  - 6. Apply for, receive, administer and expend federal aid, state aid and other funds for the control of air pollution or the development and administration of programs related to that control in accordance with the approved budgets of each member government.

(GAAB 16.70.020, 16.70.050, 16.70.060, 16.70.090; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

**15.30.050 Air pollution inspections.**

The director or a duly authorized officer, employee or representative may at a reasonable time and upon presentation of a proper search warrant, where required by the constitution of the United States or the state, enter and inspect the property and premises where an air contaminant source is located or is being constructed for the purpose of ascertaining the state of compliance with this chapter and the rules and regulations promulgated pursuant thereto. No person may interfere with such inspection.

(GAAB 16.70.080; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

### **15.30.060 Air pollution episodes.**

- A. *Concentration levels.* An air pollution episode shall be declared when in the opinion of the director the concentration of air contaminants in the ambient air has reached or is predicted to reach any of the following levels:
1. *Air alert.*
    - a. Sulfur dioxide: 365 micrograms per cubic meter of air or 0.14 parts per million (24-hour average).
    - b. PM-10: 150 micrograms per cubic meter (24-hour average).
    - c. Carbon monoxide: Ten milligrams per cubic meter or nine parts per million (eight-hour average).
  2. *Air warning.*
    - a. Sulfur dioxide: 800 micrograms per cubic meter of air or 0.3 parts per million (24-hour average).
    - b. PM-10: 350 micrograms per cubic meter (24-hour average).
    - c. Carbon monoxide: 17 milligrams per cubic meter or 15 parts per million (eight-hour average).
  3. *Air emergency.*
    - a. Sulfur dioxide: 1,600 micrograms per cubic meter of air or 0.6 parts per million (24-hour average).
    - b. PM-10: 420 micrograms per cubic meter (24-hour average).
    - c. Carbon monoxide: 34 milligrams per cubic meter or 30 parts per million (eight-hour average).
- B. *Air pollution episode plan.* The director shall, in order to effect the purposes of this section, prescribe and publish an air pollution episode plan that describes the curtailment actions, communication and public notification procedures to be employed when the concentration of air contaminants has reached or is predicted to reach the concentrations set forth in subsection A of this section. The Anchorage Air Pollution Episode Plan is adopted by reference as part of this chapter. Copies of this plan shall be maintained at the mayor's office, department of health and human services, and office of emergency management.
- C. *Air quality advisory.* The director or his designee shall issue an air quality advisory when, in his judgment, air quality or atmospheric dispersion conditions exist that may cause injury to public health.

(GAAB 16.70.100; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 86-111; AO No. 93-131, §§ 2--4, 10-26-93)

#### **15.30.070 Confidentiality of records.**

Records and information other than emission data in the possession of the municipality which relate to production or sales figures or to processes or production techniques of the owner or operator of an air contaminant source are considered confidential records of the municipality after application by the party that their public disclosure would tend to adversely affect his competitive position.

(GAAB 16.70.120; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.30.080 Limitations.**

This chapter does not:

- A. Grant to the director jurisdiction or authority with respect to air contamination existing solely within commercial and industrial plants, works or shops.
- B. Affect the relations between employers and employees with respect to or arising out of a condition of air contamination or air pollution.
- C. Supersede or limit the applicability of a law or ordinance relating to sanitation, industrial health or safety.

(GAAB 16.70.130; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.30.090 Compliance with federal and state law.**

Unless otherwise allowed by law and by this chapter or a regulation promulgated pursuant thereto, no person shall commit any act prohibited by, omit any act required by, or exceed any standard or limitation established by the federal Clean Air Act, as amended, or by AS Title 46, article 4, as amended, or by any valid rule, regulation, emission standard or limitation, ambient air quality standard or performance standard promulgated pursuant to either the federal or state legislation.

(AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 93-131, § 5, 10-26-93)

#### **15.30.100 Registration of air contaminant sources; notification of completion.**

- A. *Registration required.* Except as otherwise provided in subsection F of this section, no person shall construct, install or establish any of the following air contaminant sources within the territorial limits of the municipality without first registering that source with the director:
  - 1. Any facility requiring a permit to operate pursuant to state or municipal law or regulation for the control of air contaminants.
  - 2. Any facility that can emit into the ambient air, without regard to whether air quality control equipment is operating, carbon monoxide, sulfur oxides

or particulate matter in an amount that equals or exceeds five tons per year or hydrocarbons or nitrogen oxides in an amount that equals or exceeds ten tons per year.

3. Rock crushing or screening operations.
  4. Coal- or oil-fired equipment having a rating that equals or exceeds 3,000 kilowatts or 10,000,000 Btu's per hour.
  5. Incinerators having a rated capacity that equals or exceeds 250 pounds per hour.
  6. Storage tanks, reservoirs or containers having a capacity that equals or exceeds 40,000 gallons and are used for the storage of petroleum liquids.
  7. Marine installations within the municipality for more than 30 consecutive days in a year.
- B. *Registration form; responsibility for registration.* The owner or lessee of an air contaminant source or his agent shall register all facilities subject to registration on forms furnished by the director. The owner of the source shall be responsible for registration and shall verify the correctness of the information submitted.
- C. *Inventory of contaminant sources.* The registration of each air contaminant source subject to registration and notification pursuant to subsection A of this section shall include a detailed inventory of contaminant sources and emissions related to such process; provided, however, that separate registration shall not be required for identical units of equipment or control apparatus installed, altered or operated in an identical manner on the same premises.
- D. *Notification of completion required.* No person shall operate or cause the operation of an air contaminant source for which registration is required pursuant to this section without first notifying the director of the date upon which such source shall begin to operate.
- E. *Inspection.* The director shall, within 30 days of receipt of notice of completion, inspect the facility, and shall issue a notice of violation if he finds that the construction, installation or establishment of the facility is not in accord with the plans, specifications or other information submitted to the director or that the facility is otherwise in violation of this chapter or regulation promulgated pursuant thereto.
- F. *Exception.* Neither air contaminant source registration nor notification of completion shall be required for a point source of an air contaminant that has previously registered with the Cook Inlet Air Resources Management District, has previously issued a notice of completion to that district, and has not undergone significant alteration since such registration and issuance of the notice of completion.

(GAAB 16.68.030; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.30.110 Permit to operate air contaminant source.**

- A. *Required for certain facilities.* No person shall operate or cause the operation of a facility capable of emitting into the ambient air, regardless of whether air quality



control equipment is operating, an air contaminant from any of the following sources without first applying at least 30 days prior to either purchasing equipment or commencing construction of the facility and without first receiving a permit to operate from the director:

1. Industrial process units having a total design rate, capacity or throughput that equals or exceeds five tons per hour.
  2. Fuel-burning equipment having a combined rating that equals or exceeds 35 million Btu's per hour.
  3. A facility containing one or more incinerators, with a total combined rated capacity that equals or exceeds 500 pounds per hour.
- B. *Approval of plans.* No person may construct, modify, replace or undertake a major alteration of a facility requiring a permit to operate until detailed plans and specifications are submitted to the director and approved. The director shall approve or reject such plans and specifications within 30 days of receipt of a complete set of such plans and specifications unless the director holds a public hearing pursuant to subsection C of this section. These plans and specifications shall include the following information:
1. One set of plans and specifications, clearly indicating the layout of the facility, location of individual pieces of equipment and points of discharge.
  2. One set of maps or aerial photographs of a scale of at least one inch to one mile indicating the location and zoning of the proposed facility and, within a one-mile radius of the facility, the land use and zoning of the surrounding area, all homes, buildings, watercourses, roads and other adjacent facilities, and the general topography.
  3. An engineering report outlining the proposed methods of operation, the quantity and quality of material to be processed, the proposed use and distribution of the processed material, and a process flow diagram indicating the points of emission, including estimated quantities and types of air contaminants to be emitted.
  4. A description and the specifications of all air quality control devices, including design criteria and other information indicating that such equipment is capable of complying with applicable federal, state and municipal emission requirements.
  5. An evaluation of the effect on the surrounding ambient air of the emissions from the facility, if requested by the director.
  6. Plans for emission reduction procedures during an air pollution episode if requested by the director.
- C. *Public hearing.* The director may hold a public hearing concerning any application for a permit to operate if the director determines that public testimony is necessary before approval or rejection of an application for a permit to operate and if the director provides public notice of such hearing not less than 30 days prior to the hearing. In such cases the director shall approve or reject the application within five days after conclusion of the public hearing.
- D. *Criteria for approval.* Approval to construct a new air contaminant source or

modify an existing facility requiring a permit to operate may not be granted unless the applicant shows to the satisfaction of the director that:

1. The new or modified source will not prevent or interfere with the attainment or maintenance of any federal, state or municipal ambient air quality standard.
2. The new or modified source will operate without causing a violation of this chapter or any regulation, rule, permit or final order issued pursuant thereto.
3. The equipment incorporates the control technology required by federal, state and municipal law or regulation for the kind and amount of air contaminant emitted by the equipment.

E. *Transfer; conditions.* A permit to operate may:

1. Not be transferred without the written consent of the director.
2. Not be issued for a period greater than five years, after which the permit must be renewed for continued operation of the facility.
3. Include a compliance schedule approved by the director approving for the minimum time necessary to install the required control equipment if the facility would or is emitting air contaminants in excess of federal, state or municipal emission standards or limitations; provided, however, that a compliance schedule for any facility emitting air contaminants subject to federal or state regulation may not allow compliance later than the date provided by federal or state regulation. A permit including a compliance schedule must be reviewed and renewed every year of its duration.
4. Require that specific emission reduction procedures be taken during an air pollution episode.

F. *Authority to impose additional requirements.* The director may require an applicant for a permit to operate: to install, use and maintain monitoring equipment; to sample emissions in accordance with methods prescribed by the director at locations, intervals and by procedures as may be specified; to provide source test ports of the size, number and location as may be required and safe access to each port; to provide emission data and information from analysis of any test samples; and to provide periodic reports on process emissions.

G. *Notification of denial.* If an application for a permit to operate is denied, the director shall notify the applicant in writing of the reasons.

H. *Equipment requirements.* Nothing in this section may be construed to authorize the director to require the use of machinery, devices or equipment from a particular supplier or produced by a particular manufacturer if the required emission standards may be met by machinery, devices or equipment available from other sources.

I. *Fee.* A reasonable fee in the amount set by the director will be charged for the issuance of a permit.

J. *Compliance with applicable regulations.* The issuance of a permit to operate shall neither relieve the owner of a facility requiring a permit of the obligation to comply

with all applicable federal, state or municipal emission standards and limitations nor prevent the director from issuing other orders pursuant to this chapter and the rules and regulations of the director promulgated pursuant thereto.

- K. *Revocation or suspension.* A permit to operate may be revoked or suspended by the director if the conditions of the permit or applicable laws, rules or regulations are violated.

(GAAB 16.68.090, 16.70.070; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 93-131, § 6, 10-26-93; AO No. 2009-134, § 1, 1-12-10)

#### **15.30.120 Source reports.**

The air contaminant emission data required by Section 15.30.100 or 15.30.110 shall be compiled and submitted to the director at reasonable intervals upon the request of the director.

(GAAB 16.68.050; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.30.130 Source tests.**

- A. The director may conduct or have conducted source testing in order to determine compliance with this chapter or any rule or regulation promulgated pursuant thereto.
- B. Testing to determine compliance with provisions of this chapter or any rule or regulation promulgated pursuant thereto shall be by methods of measurement approved by the director and undertaken in such a manner as to characterize the actual discharge into the ambient air.
- C. The cost, if any, to the municipality of any such source testing authorized by subsection A of this section shall be a debt due the municipality from the owner or operator of such source and recoverable in any court of competent jurisdiction when such testing shall have proved the emission of air contaminants in violation of this chapter or any rule or regulation promulgated pursuant thereto.

(GAAB 16.68.250; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.30.140 Variance criteria.**

- A. A person who owns or is in control of a plant, building, structure, establishment, process or equipment may apply to the director for a variance from any emission standard or limitation promulgated pursuant to this chapter. The director may grant the variance, but only after public hearing following 30 days' notice, if the director finds that:
1. The emissions occurring or proposed to occur do not endanger human health or safety; and
  2. Compliance with the rules or regulations from which the variance is sought would produce serious hardship without equal or greater benefits to the public.
- B. No variance may be granted under this section until the director has considered

- the relative interest of the applicant, other owners of property likely to be affected by the emissions, and the general public.
- C. A variance granted under subsection A of this section shall be for periods and under conditions consistent with the reasons for it and within the following limitations:
1. If a variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall be effective only until the necessary means for prevention, abatement or control become known and available, subject to the taking of substitute or alternate measures that the director may prescribe.
  2. If a variance is granted on the grounds that compliance with the particular requirement from which a variance is sought will necessitate the taking of measures which because of their complexity or cost will involve considerable hardship, it shall be effective for a period of time which in the opinion of the director is necessary and reasonable. A variance granted on this ground shall contain a timetable for compliance with the particular requirement from which a variance is sought in an expeditious manner and shall be for not more than five years.
  3. If a variance is granted on the grounds that it is justified to relieve or prevent hardship of a kind other than that provided in subsections C.1 and C.2 of this section, it shall be for not more than one year.
- D. A variance granted under this section may be renewed on terms and conditions and for periods which would be appropriate for the initial granting of a variance. If complaint is made to the director on account of the variance, no renewal of it shall be granted unless, after public hearing on the complaint following the notice, the director finds that renewal is justified. No renewal may be granted except upon application for renewal made at least 60 days before the expiration of the variance. Immediately upon receipt of an application for renewal, the director shall give public notice of it.
- E. The grant of a variance or renewal is not a right of the applicant but is within the discretion of the director.
- F. No variance or renewal granted under this section may be construed to prevent or limit the air pollution episode provisions of this chapter.

(GAAB 16.70.110; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

### **15.30.150 Judicial review of action on variance.**

A person adversely affected by the grant, denial or renewal of a variance by the director may obtain judicial review of the director's order by filing appeal within 30 days after the date of such order. Judicial review of the grant, denial or renewal of a variance may be had only on the grounds that the grant, denial or renewal was arbitrary or capricious.

(GAAB 16.70.110; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

**15.30.160 Other limitations. (Repealed).**

(AO No. 80-70)

**15.30.170 Rule-making procedures. (Repealed).**

(AO No. 80-70)

**15.30.180 Notice of violation.**

When the director has evidence that a violation of this chapter or rule or regulation issued under this chapter has occurred, the director shall serve a written notice of violation upon the suspected violator. The notice shall specify the provision believed to be violated and the facts believed to constitute the violation and may include a compliance order that necessary corrective action be taken within a reasonable time.

(GAAB 16.70.140; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

**15.30.190 Effect of compliance order.**

A compliance order issued pursuant to Section 15.30.180 shall become a final order unless within ten days after receipt of service of the notice of violation and compliance order the person named requests in writing a hearing before the director in the manner provided in Section 15.30.210.

(GAAB 16.70.140; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

**15.30.200 Voluntary compliance.**

The director may make efforts to obtain voluntary compliance through warning, informal conference or other appropriate means.

(GAAB 16.70.140; AO No. 78-140; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

**15.30.210 Administrative hearings.**

- A. Upon the written request by any person aggrieved by any decision of the director made pursuant to this chapter or any rule or regulation in force pursuant thereto, including a decision to deny a permit to operate or the issuance of a compliance order, served on the director no later than ten days after that decision, the commission shall conduct a hearing to review the legality, appropriateness or wisdom of that decision. The hearing shall occur not later than 30 days after receipt of service of the request upon the director, and, after considering the evidence presented at the hearing, the commission shall affirm, modify or reverse the decision of the director except as otherwise provided by this chapter or a rule or regulation issued pursuant thereto. The director's decision shall not be stayed pending review by the commission unless the director so orders.
- B. If after a hearing held under subsection A of this section the commission finds that a violation of an ordinance, rule, regulation, permit or variance has occurred, it shall affirm or modify the compliance order previously issued or issue an appropriate compliance order for taking corrective action. If the commission finds

that no violation has occurred, it shall rescind the previous order, if any. A compliance order issued as a part of a notice of violation or after a hearing may prescribe the date by which the violation shall cease and may prescribe timetables for necessary action in preventing, abating or controlling emissions.

- C. In connection with a hearing held under this section, the commission shall have power to, and upon application by a party to the hearing it shall have the duty to, compel the attendance of witnesses and the production of evidence on behalf of all parties.
- D. Upon unanimous consent of the commission, the commission may delegate, in writing, the authority to conduct administrative hearings under the provisions of this section to the director of the department for the member government wherein the subject of the administrative hearing arose.

(AO No. 80-70; AO No. 93-131, § 7, 10-26-93)

#### **15.30.220 Appeals.**

All appeals of any final decision of the commission shall be made to the Superior Court, Third Judicial District, no later than 30 days allowing that decision, pursuant to rule 601 et seq., of the Rules of Appellate Procedure for the state. Review of the court shall be limited to whether the decision of the commission or director is supported by substantial evidence. A final appealable decision by the commission pursuant to this chapter must indicate that it is a final order and that a party disputing the decision has 30 days to appeal.

(AO No. 80-70; AO No. 95-180, § 13, 9-26-95)

#### **15.30.230 Enforcement.**

- A. Notwithstanding any other provision of this chapter or other remedy provided by law, any person who violates any provision of this chapter or any regulation, rule, permit, variance or final order issued pursuant thereto shall be subject to injunctive relief to restrain the person from continuing the violation or threat of violation. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, regulation, permit, variance or order issued pursuant to this chapter, the court shall grant injunctive relief to restrain the violation.
- B. In addition to any other remedy or penalty provided by law, a person who violates any provision of this chapter or any regulation, rule, permit, variance or final order issued pursuant thereto shall be subject to the civil, criminal and administrative remedies or penalties provided by the law of that member government wherein such violation occurred.

(AO No. 80-70)

## **Chapter 15.35 SOUTH CENTRAL CLEAN AIR ORDINANCE REGULATIONS**

- 15.35.010 Adoption of regulations.
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- 15.35.140 Motor vehicle emissions.
- 15.35.150 Motor vehicle fleet operation.
- 15.35.160 Motor vehicle inspection.
- 15.35.170 Motor vehicle owner liability.

### **15.35.010 Adoption of regulations.**

The municipality hereby adopts as ordinance the following regulations of the South Central Clean Air Ordinance as set forth in full in Sections 15.35.030--15.35.170 of this chapter.

- A. Regulation 1: Stationary Source Emissions.
- B. Regulation 2: Mobile Source Emissions.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

### **15.35.020 Availability of copies.**

At least five copies of each regulation adopted in Section 15.35.010 shall be available for public inspection at the offices of the Anchorage Department of Health and Human Services.

(AO No. 78-141; AO No. 80-2; AO No. 80-70; AO No. 85-8)

### **15.35.030 Stationary source emissions--Short title.**

This regulation may be known and cited as South Central Clean Air Ordinance Regulation 1: Stationary Source Emissions.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

### **15.35.040 Stationary source emissions--General definitions.**

Unless the context clearly indicates otherwise, the following terms used in this regulation shall be defined as follows:

*Anchorage bowl area* means that area within the boundaries of the Municipality of Anchorage enclosed by a border beginning at the intersection of 61 degrees 18 minutes north latitude and 149 degrees 42 minutes west longitude, thence due south to

61 degrees 4 minutes north latitude, thence due west to 150 degrees 5 minutes west longitude, thence due north to 61 degrees 18 minutes north latitude, and thence due east to the point of beginning, 149 degrees 42 minutes west longitude.

*Clean wood* means wood with no paint, stains, or other types of coatings, and wood with no preservative treatment(s) including, but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.

*Fire chief* means the Anchorage Fire Chief or his authorized representative.

*Habitable structure* means a structure suitable for human habitation including, but not limited to, single or multi-family residences, schools, churches and buildings for commercial purpose. A habitable structure includes porches, gazebos, and other attached improvements.

*Incinerator* means any furnace used in the process of burning solid waste for the purpose of reducing the volume of the waste by removing combustible matter.

*Industrial waste* means any material resulting from a production or manufacturing operation having no net economic value to the source producing it.

*Open burning* means the burning of any matter in such manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through an approved stack, duct, vent or chimney but does not refer to the operation of safety flares for the purpose of protecting human life.

*Open, untreated areas* means land upon which all of the natural vegetation has been removed and no successful measures have been taken to either revegetate or resurface the ground to prevent the emission of dust, vapors or other particulate matter into the atmosphere.

*Outdoor wood-fired boiler or outdoor wood-fired hydronic heater* means a fuel burning device:

1. Designed to burn primarily wood, wood pellets or other solid fuels and
2. Designed to heat spaces or water by the distribution through pipes of a fluid heated in the device, typically water or a mixture of water and anti-freeze; and
3. Specified by the manufacturer for outdoor installation or in structures not normally inhabited by humans including sheds and garages.
4. Wood-fired boilers that are specifically designed to burn wood pellet fuel with metered air and fuel feed and controlled combustion engineering and burns only pellets from untreated natural wood are exempt from this chapter.

*Smolder* means to burn and smoke without flame.

*Stationary source* means any building, structure, facility, installation or equipment that emits or may emit any air contaminant and that contains apparatus to which this regulation applies.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 2009-41(S), § 1, 7-1-09)



#### **15.35.050 Stationary source emissions--Visible emission standards.**

- A. No person shall cause, permit or allow the emission of any air contaminant, excluding portions of emissions containing condensed uncombined water vapor from any stationary source including air curtain incinerators to reduce visibility through the exhaust effluent by:
  - 1. Greater than 20 percent for a period or periods aggregating more than three minutes in any one hour, except as provided in subsection 2 of this subsection; or
  - 2. Twenty percent or greater for municipal wastewater treatment plant sludge incinerators; or
  - 3. Greater than 20 percent for a period or periods aggregating more than six minutes in any hour for wood-fired boilers, except during the first 20 minutes after the initial firing of the unit.
- B. The opacity of an air contaminant shall be determined at the point of emission, except when the point of emission cannot be readily observed, in which case it may be determined at an observable point of the plume nearest the point of emission.
- C. This section shall not apply to smoke-generating equipment used by the director for the training, instruction or certification of persons to observe and determine the opacity of air contaminants, nor shall this section apply to smoke-generating equipment used by the fire chief for instruction in firefighting, when such equipment is otherwise operated in compliance with applicable federal and state laws.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 93-131, § 8, 10-26-93; AO No. 2009-41(S), § 2, 7-1-09)

#### **15.35.060 Stationary source emissions--Emission standards.**

- A. Except as otherwise provided in subsection B, no person shall cause, permit or allow emissions of particulate matter into the atmosphere from any stationary source in excess of 0.05 grains per standard cubic foot of exhaust gas.
- B. No person may cause, permit or allow emissions into the atmosphere from any single source or emission whatsoever any one or more of the following air contaminants, in any state or combination thereof exceeding the following concentrations at the point of discharge:
  - 1. Sulphur compounds calculated as sulphur dioxide (SO<sub>2</sub>) above 500 parts SO<sub>2</sub> per million parts of exhaust gas;
  - 2. Particulate matter as combustion contaminants calculated to 12 percent of carbon dioxide (CO<sub>2</sub>):
    - a. 0.05 grains per standard cubic foot of exhaust gas except as noted in subsections b through g below;
    - b. 0.04 grains per standard cubic foot of exhaust gas for asphalt batch plants constructed or modified after June 11, 1973;

- c. 0.08 grains per standard cubic foot of exhaust gas for incinerators equal to or larger than 2,000 pounds per hour rated capacity;
  - d. 0.10 grains per standard cubic foot of exhaust gas for those sources in operation prior to July 1, 1972, and for fuel-burning equipment using coal for fuel or for incinerators equal to or larger than 1,000 pounds per hour capacity;
  - e. 0.15 grains per standard cubic foot of exhaust gas for fuel-burning equipment using more than 20 percent wood waste as fuel;
  - f. 0.20 grains per standard cubic foot of exhaust gas for incinerators equal to or larger than 200 pounds per hour rated capacity but equal to or less than 1,000 pounds per hour rated capacity;
  - g. 0.30 grains per standard cubic foot of exhaust gas for incinerators less than 200 pounds per hour rated capacity.
- C. No person shall cause, permit or allow the emission of particulate matter from any stationary source that exceeds in any one hour the amount shown in the following table for the process weight rate allocated to such source:

TABLE 1

Process Weight (lb./hr)	Emission Standards (lb./hr)
100—299	0.6
300—499	1.2
500—699	1.8
700—999	2.2
1,000—1,999	2.8
2,000—2,999	4.1
3,000—3,999	5.4
4,000—4,999	6.5
5,000—5,999	7.6
6,000—6,999	8.6
7,000—7,999	9.5
8,000—8,999	10.4
9,000—9,999	11.2
10,000—14,999	12
15,000—19,999	15
20,000—29,999	19.2
30,000—39,999	25.2
40,000—49,999	30.5
50,000—59,999	36
60,000—79,999	40
80,000—99,999	48
100,000—139,999	55
140,000 or more	65

- D. No person shall cause, permit or allow the emission of particulate matter onto the property of others except when such emissions comply with the requirements of Sections 15.35.050 and 15.35.060.A--C.

(GAAB 16.68.130, 16.68.150; AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 93-131, § 9, 10-26-93)

**15.35.070 Stationary source emissions--Other emission limitations.**

- A. No person shall cause, allow or permit the emission of any air contaminant or water vapor, including but not limited to odorous matter, that tends to be injurious to or adversely affects human health, safety or welfare, animal or plant life, or property or interferes with the normal use and enjoyment of life, property or business.
- B. Nothing in this regulation shall be construed to impair any cause of action or legal remedy therefor of any person or the public for injunctive relief, injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.
- C. The director may establish reasonable requirements that a building or stationary source be enclosed and ventilated in such a way that all the air, gases and particulate matter are effectively dispersed or treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.

(GAAB 16.68.160, 16.68.170; AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

**15.35.080 Stationary source emissions--Circumvention.**

- A. No person shall willfully cause, allow or permit the installation or use of any device or use any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate these regulations.
- B. No person shall cause, allow or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety or welfare of any person.
- C. No person shall cause, permit or allow the use of air for dilution of emission contaminants without affecting any total decrease in such contaminants as a method to effect compliance with the requirements of this regulation.
- D. No person shall cause, permit or allow the use of stack heights that exceed good engineering practice or dispersion techniques to affect the degree of emission limitation required for control of air contaminants.

(GAAB 16.68.180; AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 93-131, § 10, 10-26-93)

**15.35.090 Stationary source emissions--Fugitive emissions.**

- A. No person shall cause, allow or permit particulate matter to be handled, transported or stored without taking reasonable measures to prevent the particulate matter from becoming airborne.
- B. Within the boundaries of the municipality no person shall cause, allow or permit a building or its appurtenances or a road to be constructed, altered, repaired or

demolished without taking reasonable measures to prevent particulate matter from becoming airborne.

- C. Within the boundaries of the municipality no person shall cause, allow or permit untreated open areas, including but not limited to roads, parking lots or construction sites located within a private or public lot or roadway, to be improved, graded, excavated, repaired, demolished, altered or constructed without taking reasonable measures to prevent particulate matter from becoming airborne.
- D. The director shall publish guidelines he determines to be reasonable measures for controlling fugitive emissions, and compliance with such guidelines to the satisfaction of the director shall be deemed to fulfill the requirements of subsections A through C.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

### **15.35.100 Stationary source emissions--Open burning.**

- A. Within the boundaries of the municipality no person shall cause, suffer, permit or allow any open burning except the following unless otherwise prohibited by law:
  - 1. Open burning for pleasure, religious, ceremonial, cooking or like social purposes and open burning from flares, torches, waste gas burners, incense burners and insect pots is allowed.
  - 2. Open burning authorized by the fire chief for the disposal of dangerous materials is allowed, provided no alternate means of disposal is reasonably available.
  - 3. Open burning authorized by the fire chief for instruction in the method of fighting fires or testing fire resistive materials and fire protection equipment is allowed provided that these outdoor fires have prior written approval from the director, and, unless waived by the department, the public shall be notified through the news media of the time, place and purpose of the exercise at least three days in advance of the activity. Prior written approval from the director and public notice shall not be required when such outdoor fires do not exceed 30 inches in diameter.
  - 4. Open burning for the disposal of trees and brush on property being developed for commercial or residential purposes or on property where the trees and brush were grown is allowed provided that:
    - a. Open burning shall be allowed only outside the Anchorage bowl area and only during the periods from April 1 through May 31 and August 15 through October 31;
    - b. The person responsible for such open burning shall obtain a written permit for such fire from the fire chief and upon terms and conditions specifically approved by the director and shall comply with all the laws and regulations of the director, the fire chief and all other governmental agencies regarding such fires;
    - c. Tires or heavy petroleum products may not be used to start or maintain open burning.

5. Open burning for the disposal of household refuse is allowed in the areas of the municipality where municipal or Alaska Public Utilities Commission sanctioned refuse collection service is not available.
  6. The burning of combustible construction debris, trees, brush and other vegetative matter is allowed in a commercial air curtain combustion system properly operated and maintained according to the manufacturer's specifications, provided that the device has been registered with the director, that the operator obtains written approval from the director prior to operation, and that the operation of the device complies with all rules and regulations of the director, the fire chief and all other governmental agencies regarding such equipment.
  7. Open burning for the disposal of small quantities of grass, leaves, weeds and other organic debris accumulated during winter months may be allowed without an open burning permit throughout the municipality during a ten-day period in the spring authorized by the mayor upon appropriate terms and conditions that take into consideration those factors described in subsection A.10. of this section.
  8. Open burning for the disposal of small quantities of grass, leaves, brush, weeds and other organic debris may be allowed without an open burning permit in the area east of the Bragaw Road/Elmore/Abbot Loop alignment and south of Tudor Road up to 24 days between May 1 and June 14 and up to 14 days between August 15 and October 15, when authorized by the mayor and upon appropriate terms and conditions that take into consideration those factors described in subsection A.10. of this section.
  9. The fire chief, with the approval of the air pollution control officer or department, may issue open burning permits for the disposal of small quantities of grass, leaves, brush, weeds and other organic debris at such times and places and upon such terms and conditions as the fire chief and director deem appropriate in consideration of and consistent with those factors described in subsection A.10. of this section.
  10. The fire chief, with the approval of the air pollution control officer or the department may issue open burning permits allowed by this section upon appropriate terms and conditions that take into consideration the ambient air quality, the achievement and maintenance of federal, state or municipal ambient air quality standards, meteorological conditions, the suitability of air pollution control devices for large quantities of waste, means of reducing fire hazards, the suitability of disposal by other available means, the amount and nature of waste to be burned, the proximity of the burn site to developed areas and the population density of the surrounding area.
- B. The director shall publish the dates during which open burning will be allowed along with appropriate terms and conditions to be followed while burning.
- C. The director may suspend or prohibit open burning at any time based on air quality considerations, or, upon consultation with the fire chief, for fire safety reasons.
- D. The fire chief, in consultation with the air pollution control officer, and upon

- appropriate terms and conditions that take into consideration those factors described in subsection A.10 of this section, may issue written permits for the destruction of timber infested with spruce bark beetle during periods outside of the open burn periods designated in this section.
- E. The fire chief shall establish guidelines and may establish an appropriate fee schedule for the issuance of written permits authorized under this section.
  - F. It shall be a rebuttable presumption that the person who owns or controls the property on which open burning occurs has caused or allowed said open burning.
- (GAAB 16.68.210; AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 93-131, § 11, 10-26-93; AO No. 93-210(S), § 1, 1-18-94; AO No. 95-196(S), §§ 1, 2, 10-17-95; AO No. 96-135(S), § 1, 10-22-96)

#### **15.35.105 Stationary source emissions--Wood-fired boilers.**

- A. Unless otherwise prohibited by law, within the boundaries of the municipality no person shall cause, suffer, permit or allow the operation of a wood-fired boiler except when fired by:
  - 1. Clean wood, or
  - 2. Wood pellets made from clean wood; or
  - 3. Corn; or
  - 4. Home heating oil and natural gas as a starter fuel or substitute fuel in dual-fired wood boilers.
- B. Within the boundaries of the municipality the burning of wood that has been treated, painted, or treated with preservatives or other coatings is prohibited.
- C. Within the boundaries of the municipality the burning of used oil, waste petroleum products and home heating oil not meeting applicable limits for sulfur content is prohibited.
- D. Within the boundaries of the municipality, no person shall install or allow the installation of a wood-fired boiler subject to the requirements of this section unless:
  - 1. The wood-fired boiler is located more than 50 feet from an adjacent property line and 100 feet from any habitable structure that it is not serving at the time of installation, unless that property or habitable structure is under common ownership; and
  - 2. The wood-fired boiler has an attached permanent stack extending higher than the peak of the roof of the structure(s) being served by the wood-fired boiler, and higher than the peak of the roof of any other habitable structure located within 150 feet of the wood-fired boiler; and
  - 3. The wood-fired boiler is certified to meet the U.S. Environmental Protection Agency voluntary phase 2 emissions level for wood-fired boilers through testing by an accredited independent laboratory showing it emits no more than 0.32 pounds of particulate matter per million BTUs of heat output; and

4. The wood-fired boiler complies with all applicable laws, including but not limited to local ordinances, and its operation does not create a public nuisance; and
  5. Scaled drawings, prepared by a registered professional engineer or registered professional land surveyor, are submitted and approved by the air pollution control officer showing the wood-fired boiler will meet the separation requirements to adjacent property lines and habitable structures established in this subsection and that the stack of the boiler will be higher than the roof peak of any habitable structure within 150 feet.
  6. Installation, modification and repair of a wood-fired boiler shall comply with the provisions of the Anchorage Building Code, Title 23 of the Anchorage Municipal Code.
- E. For any wood-fired boiler certified to meet the requirements in subsection D.3. of this section and purchased new by the original owner prior to codification of Section 15.35.105, the department shall waive the separation and stack height requirements of subsections D.1, D.2, and D.5 upon proof of purchase date satisfactory to the director. Waiver of separation and stack height requirements does not relieve the owner of any other compliance obligations.

(AO No. 2009-41(S), § 3, 7-1-09; AO No. 2011-75, § 1, 7-12-11)

#### **15.35.110 Mobile source emissions--Short title.**

This regulation may be known and cited as the South Central Clean Air Ordinance Regulation 2: Mobile Source Emissions.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.35.120 Mobile source emissions--Application.**

The provisions of this regulation apply only to mobile sources within the boundaries of the municipality.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.35.130 Mobile source emissions--Definitions.**

Unless the context clearly indicates otherwise the following terms used in this regulation shall be defined as follows:

*Mobile source* means a source capable of simultaneous motion and emission of air contaminants.

*Motor vehicle* means any self-propelled vehicle designed and used for transporting persons or property but excludes aircraft, vessels operated on water and vehicles operated exclusively on a rail or rails.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.35.140 Motor vehicle emissions.**

- A. No person shall operate, drive, cause or permit to be driven or operated any motor vehicle upon a public street or highway that emits any visible emission for a period in excess of five consecutive seconds except for those motor vehicles powered by compression ignition or diesel-powered engines and except when the presence of uncombined water is the only reason an emission fails to meet this requirement.
- B. No person shall operate, drive, cause or permit to be driven or operated any diesel-powered motor vehicle that emits for a period in excess of ten consecutive seconds any air contaminant that obscures an observer's vision to a degree greater than 30 percent opacity.
- C. No person shall operate, drive, cause or permit to be driven or operated any motor vehicle that violates or exceeds any federal or state law, regulation, emission standard or limitation applicable to such motor vehicle for the control of emissions of carbon monoxide, hydrocarbons or oxides of nitrogen.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.35.150 Motor vehicle fleet operation.**

The director by written notice may require the owner of any motor vehicle fleet operation of more than five vehicles to certify annually that its motor vehicles are maintained in good working order and, if applicable, in accordance with the motor vehicle manufacturer's specifications and maintenance schedules that may or tend to affect visible emissions. The director by written notice may require records pertaining to observations, tests, maintenance and repairs performed to control or reduce visible emissions from individual motor vehicles to be made available for review and inspection by the director.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.35.160 Motor vehicle inspection.**

The director by written notice may require the owner of any motor vehicle of a motor vehicle fleet operation or the owner of any motor vehicle that the director has reason to believe may be in violation of this regulation to make such motor vehicle available for testing for compliance with Section 15.35.140 of this regulation at a reasonable time and place.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

#### **15.35.170 Motor vehicle owner liability.**

It shall be a rebuttable presumption that the owner of a motor vehicle that violates or exceeds any provision of this regulation has caused or permitted the operation or driving of that motor vehicle.

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)