

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 8.30, ENVIRONMENTAL PROTECTION.

AGENDA OF: February 19, 2019

ASSEMBLY ACTION:

OK 19-031 Adopted w/ Boeve & Sykes
(PH held) Opposed @ 3/5/19 RM

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:

Route To:	Department/Individual	Initials	Remarks
	Originator	TS	For Assemblymember Sumner
	Planning Director	EP	Review Only
	Borough Attorney	TS	
	Borough Clerk	JMM	2/11/19

ATTACHMENT (S): Fiscal Note X NO YES
Ordinance Serial No. 19-031 (2 pp)
MSB 8.30 (16 pp)
Planning Commission Resolution No. 18-29 (3pp)

SUMMARY:

This ordinance is sponsored by Assemblymember Sumner to repeal MSB 8.30, Environmental Protection.

CURRENT LAW:

In 1980, the Borough created the South Central Clean Air Authority ("Authority") which was meant to be a regulatory body comprised of representatives from the Municipality of Anchorage and the Matanuska-Susitna Borough. There are no records indicating that the Authority ever actually formed, took action, or even existed. Current Borough code references an Executive Director for the Authority who would have the power to administratively issue permits and variances under MSB 8.30.

Additionally, MSB 8.30.120 regulates open burning. However, state statutes and regulations through the Department of Environmental Conservation set forth rules for open burning applicable to the Mat-Su Borough and the rest of Alaska. See 18 AAC 50.065 Open Burning.

PROBLEMS WITH CURRENT LAW:

Current Borough code, as written, is likely unenforceable. There are no records that the Authority was actually formed or took any action. Also, infractions listed in Borough code are not enforced and likely not enforceable unless the code is modified. Open burning violations, for example, are not listed in MSB 1.45 nor are they listed in the State of Alaska uniform minor offense table. The uniform minor offense table lists infractions across the state recognized by the court system. Offenses in MSB 8.30 are not included in that table and not currently enforced in the Borough.

Finally, in 2018 the Municipality of Anchorage repealed its portion of this unused law. [AO No. 2017-161(S)] Thus, even if there were no other problems with MSB 8.30, it is impossible to convene the authority because the Municipality of Anchorage has withdrawn from it.

CHANGES TO CODE:

MSB 8.30, Environmental Protection, will be repealed in its entirety. Attached to this IM is a copy of the current MSB 8.30 for reference.

Recommendation of Administration: Adoption of the legislation.

By: Brianne Blackburn
Introduced: November 5, 2018
Public Hearing: December 3, 2018
And February 4, 2019
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 18-29**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING ASSEMBLY ADOPTION OF AN ORDINANCE REPEALING 8.30 ENVIRONMENTAL PROTECTION; REPEALING 8.33 AIR QUALITY ALERTS AND EMERGENCIES; ADOPTING 8.75 AIR QUALITY; AMENDING MSB 1.45.100 SCHEDULE OF FINES FOR INFRACTIONS; AND AMENDING 15.24.030 ADOPTING THE MATANUSKA-SUSITNA BOROUGH AIR QUALITY MANAGEMENT PLAN.

WHEREAS, Alaska statute 29.35.055 allows the Matanuska-Susitna Borough (Borough) to establish a local air quality control program with Alaska Department of Environmental Conservation (DEC) approval through a memorandum of understanding (MOU); and

WHEREAS, the Matanuska-Susitna Borough has had an air quality program in collaboration with DEC since 1998; and

WHEREAS, PM 2.5 levels above the national air quality standard have been linked to a variety of cardiopulmonary health problems, including premature death; and

WHEREAS, the Butte air quality monitor has recorded concentrations of PM 2.5 at or above the national standard since 2014 and, as a result, the Borough is at risk of being designated as a nonattainment area by the Environmental Protection Agency (EPA); and

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WHEREAS, nonattainment status could lead to mandated EPA oversight and restricted federal highway funds; and

WHEREAS, current Borough Code gives authority to the South Central Clean Air Authority which has not been active for over 20 years; and

WHEREAS, strategic planning is necessary, to avoid nonattainment status, by means of locally focused, cost-effective, and implementable air quality improvement policy.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends assembly adoption of the ordinance repealing MSB 8.30 Environmental Protection; Repealing MSB 8.33 Air Quality Alerts and Emergencies; adopting MSB 8.75 Air Quality; amending MSB 1.45.100 schedule of fines for infractions; and amending 15.24.030 adopting the Matanuska-Susitna Borough Air Quality Management Plan.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 4th day of February, 2019.

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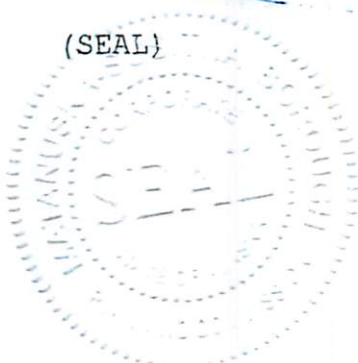
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Colleen Vague
COLLEEN VAGUE, Chair

ATTEST

Mary Brodigan
MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Vague, Anderson, Patterson, Chesbro, Elder, Alaskan,*
NO: *and Mossanen*

CHAPTER 8.30: ENVIRONMENTAL PROTECTION

Section

Article I: South Central Clean Air Authority; General Provisions

- 8.30.010 Definitions
- 8.30.015 Authority established; governing body
- 8.30.020 Authority; organization, voting and compensation
- 8.30.025 Authority; powers and duties
- 8.30.030 Executive Director; appointment and duties
- 8.30.035 Variances
- 8.30.040 Federal and state law
- 8.30.045 Air pollution inspections
- 8.30.050 Notice of violation
- 8.30.055 Compliance orders
- 8.30.060 Voluntary compliance
- 8.30.065 Appeals
- 8.30.070 Judicial review
- 8.30.075 Confidentiality of records
- 8.30.080 Remedies [Repealed]
- 8.30.090 Violations, enforcement, and penalties

Article II: Clean Air Standards

- 8.30.110 Application of article
- 8.30.115 Ambient air quality standards
- 8.30.120 Open burning
- 8.30.125 Incinerators
- 8.30.130 Industrial processes and fuel-burning equipment
- 8.30.135 Pulp mills
- 8.30.140 Motor vehicle emissions
- 8.30.145 Marine vessels
- 8.30.150 Air pollution prohibited
- 8.30.155 Permit to operate
- 8.30.160 Revocation or suspension of permit
- 8.30.165 Air episodes
- 8.30.170 Source testing
- 8.30.175 Circumvention

ARTICLE I: SOUTH CENTRAL CLEAN AIR AUTHORITY; GENERAL PROVISIONS

8.30.010 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Air contaminant" means dust, fumes, mist, smoke, fly ash and other particulate matter, vapor, gas, odorous substances, or any combinations thereof.
- (2) "Air curtain incinerator" means an incinerator in which large quantities of combustible materials are burned in a rectangular container which is equipped with an overfire air system.
- (3) "Ambient air" means that portion of the surrounding atmosphere which may affect persons in the area.
- (4) "Authority" means the South Central Clean Air Authority.
- (5) "Commission" means the South Central Clear Air Authority.
- (6) "Director" means the director of the South Central Clean Air Authority or the director's authorized representative.
- (7) "Emission" means the release of air contaminants into the environment.
- (8) "Facility" means a unit or multiple units built, installed or established to serve a particular purpose.
- (9) "Fuel-burning equipment" means any combustion device or part of the device capable of emission, but excludes mobile internal combustion engines, incinerators, marine vessels, indoor fireplaces, backyard barbecues, and home cooking devices.
- (10) "Incinerator" means any equipment, device or contrivance, excluding indoor fireplaces, used for the thermal reduction of garbage or other wastes.
- (11) "Opacity" means the characteristic of a substance which renders it partially or wholly impervious to transmittance of light and causes obstruction of an observer's view.
- (12) "Open burning" means the burning of any material so the products of combustion are emitted directly into the ambient air without passing through a stack or flare.
- (13) "ppm" means parts per million by volume.
- (14) "Particulate matter" means any material, except water, which is or has been airborne and exists as a liquid or a solid at standard conditions.
- (15) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, partnership, association, firm, trust, estate or any other entity.
- (16) "Putrescible matter" means material which decomposes so quickly it causes a nuisance or obnoxious odors.

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(17) "Reduction of visibility" means the obscuration of an observer's vision, as determined by the method of observation described in the U.S. Bureau of Mines Information Circular No. 8333, dated May 1967, Department of the Interior, and modified to account for equivalent opacity.

(18) "Source" means anything which may emit air contaminants.

(19) "Stack" means any chimney or conduit through which air or air contaminants are emitted into the environment.

(20) "Standard conditions" means a dry gas at a temperature of 70° F. and a reference pressure of 14.7 pounds per square inch.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.015 AUTHORITY ESTABLISHED; GOVERNING BODY.

(A) There is established a South Central Clean Air Authority which shall administer this chapter within a designated area of the Matanuska-Susitna Borough and exercise all powers vested in that authority by law. The geographic boundaries of the South Central Clean Air Authority shall be those of the borough and the municipality of Anchorage, and the following area of the borough:

Beginning at the NE Corner of Section 15, T16N, R1E (projected), Seward Meridian, State of Alaska, said corner being at or approximately at the Alaska Railroad bridge over the Knik River; thence in a northerly direction across the mouth of the Matanuska River to a point intersecting the T17N line; thence westerly along the T17N line to a point intersecting the western bank of the Little Susitna River; thence northerly along the western bank of the Little Susitna River to a point intersecting the T19N; thence westerly along the T19N line to the west bank of the Big Susitna River; thence northerly along the west bank of the Big Susitna River to the point at which the Chulitna River branches off the Big Susitna River; thence northerly along the west bank of the Chulitna River to a point of intersection with the southern boundary of Denali State Park; thence westerly along the southern boundary of Denali State Park to a point meeting the southern boundary of Denali National Monument; thence westerly along the southern boundary of the Denali National Monument along the line of T25N extended to the western boundary of Matanuska-Susitna Borough; thence following the Matanuska-Susitna Borough boundary first south and then in an easterly direction up Cook Inlet and Knik Arm to the point of beginning. A more detailed legal description is available from the south central clean air authority.

(B) The South Central Clean Air Authority, consisting of six members, is established to perform those functions described in MSB 8.30.025.

(C) Three authority members shall be appointed in a manner provided in the Anchorage Municipal Code; the remaining members shall consist of two members of the assembly of the borough and the mayor.

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(D) The assembly shall appoint two assembly members to the authority for terms equal to the duration of the assembly members' elected terms and shall appoint new assembly members to the authority in the event of a vacancy.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 90-028AM, § 6, 1990; Ord. 80-32, § 2 (part), 1980)

8.30.020 AUTHORITY; ORGANIZATION, VOTING AND COMPENSATION.

(A) The authority shall meet biannually and shall annually elect a presiding officer and other officers as appropriate. Officers shall serve terms of one year and may be reelected to their positions.

(B) A quorum shall consist of four members of the authority. No action of the authority may be taken except upon concurrence of at least four members.

(C) The authority shall determine its own rules of procedure, order of business, and place of meeting.

(D) Members may be paid per diem and travel expenses for meetings outside of the borough as provided by the assembly.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.025 AUTHORITY; POWERS AND DUTIES.

(A) The authority:

(1) shall hear appeals from decisions of the director concerning applications for variances, permits or other entitlements, appeals from enforcement orders and other decisions of the director for which appeals are authorized under MSB 8.30.065;

(2) shall advise the Municipality of Anchorage and the Matanuska-Susitna Borough mayors and assemblies regarding enactment or revision of legislation affecting air quality within the authority;

(3) may hold public hearings as necessary for administration and enforcement of regulations of the authority, state law and municipal ordinances, compel the attendance of witnesses and the production of evidence, and adopt rules of procedure as it finds reasonable and necessary for holding public hearings; and

(4) may issue orders or take other action necessary to decide appeals made to the authority under subsection (A) of this section, and to enforce decisions and orders made following those appeals.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.030 EXECUTIVE DIRECTOR; APPOINTMENT AND DUTIES.

(A) The administrative powers of the South Central Clean Air Authority shall be exercised by an executive director.

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(B) The executive director shall be appointed by the manager or alternatively, the manager may contract with the municipality of Anchorage, other governmental agency, or person for the services of an executive director.

(C) The executive director:

- (1) shall act upon applications for variances pursuant to MSB 8.30.035;
- (2) shall decide applications for permits submitted to the authority under this chapter;
- (3) shall determine the existence of, and order curtailment actions for air episodes consistent with MSB 8.30.165;
- (4) may require the owner or operator of air contaminant sources to install, maintain and operate emission or ambient monitoring devices or both, and to furnish data collected to the director; gather data concerning air pollution within the district, conduct research and investigation into the causes and prevention of air pollution and conduct other related and scientific and technical investigations;
- (5) shall enforce this chapter and the orders and regulations promulgated by the authority and its member governments;
- (6) may render general administrative services to the authority and its member governments and other duties as assigned by the authority or required to administer this chapter;
- (7) shall serve as an ex officio member and secretary of the authority; and
- (8) may apply for, receive and 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 budget of the borough and the authority.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.035 VARIANCES.

(A) A person who owns or is in control of a plant, building, structure, establishment, process or equipment may apply to the authority for a variance from applicable emission control regulations. The director may grant the variances, but only after public hearing following due notice if it finds that:

- (1) the emissions occurring or proposed to occur do not endanger human health or safety;
or
- (2) compliance with the rules or regulations from which variance is sought would produce severe hardship without benefits to the public.

(B) No variance may be granted under this section until the director has considered the relative interests 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 the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall be 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 the variance is granted on the ground that compliance with the particular requirement from which variance is sought shall necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period, it shall be for a period not to exceed the reasonable time, which in the opinion of the director is necessary; a variance granted on this ground shall contain a timetable for taking action in an expeditious manner and shall be conditioned on adherence to the timetable and shall be for not more than five years.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided in subsections (C)(1) and (2) of this section, it shall be for not more than one year.

(D) The director may upon application renew an existing variance on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the authority on account of the variance, no renewal of the variance may be granted unless after public hearing on the complaint following due notice, the director finds that renewal is justified. Application shall be 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 the variance.

(E) A variance or renewal is not a right of the applicant but is in the discretion of the director.

(F) No variance or renewal granted under this section may be construed to prevent or limit the application of the emergency orders of the director issued under MSB 8.30.140(D) and 8.30.160.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.040 FEDERAL AND STATE LAW.

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, 42 U.S.C. § 7401, et seq., as amended, or Alaska Statutes 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 federal or state legislation.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.045 AIR POLLUTION INSPECTIONS.

The director 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 of Alaska, enter and inspect the property and premises where an air contaminant source is located or being constructed to ascertain the state of compliance with this article and the regulations promulgated pursuant to this article. No person may interfere with that inspection.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.050 NOTICE OF VIOLATION.

When the director has evidence that a violation of this article, or regulation issued pursuant to this article, has occurred, the director may 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 specified time.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.055 COMPLIANCE ORDERS.

A compliance order issued pursuant to MSB 8.30.050 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 authority in a manner provided in MSB 8.30.065.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.060 VOLUNTARY COMPLIANCE.

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

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.065 APPEALS.

(A) Upon the written request by a person aggrieved by a decision of the director made under this article or any regulation enforced pursuant to this article, including a decision to deny a permit, to operate, or the issuance of a compliance order or variance no later than 30 days after that decision, the commission shall conduct a hearing to review the decision. The hearing shall occur no later than 30 days after receipt of the written request or as soon as a quorum of the commission may be convened after receipt of the request. 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 law.

(B) If, after a hearing held under subsection (A) of this section, the commission finds that a violation 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 time tables for necessary action in preventing, abating or controlling emissions.

(C) In connection with a hearing held under this section, the commission may compel the attendance of witnesses and the production of evidence; and enforce its orders and subpoenas in the manner provided by Alaska Civil Rule 45(g).

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.070 JUDICIAL REVIEW.

A party to the appeal made to the commission under MSB 8.30.065 may appeal a final decision of the commission to the superior court, third judicial district no later than 30 days following that decision, pursuant to Rule 45 of the appellate rules of procedure. Review by the court shall be limited to whether the decision of the commission is supported by substantial evidence.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.075 CONFIDENTIALITY OF RECORDS.

Records and information other than emission data in the possession of the director, 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 authority only upon application by the owner or operator and certification by the director that their public disclosure would tend to adversely affect the owner or operator's competitive position.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.080 Remedies. [Repealed by Ord. 95-088(SUB)(am), § 7 (part). See MSB 8.30.090 for current provisions]

8.30.090 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

(A) Except as otherwise specified in this chapter violations of this chapter are infractions.

(B) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.

(Ord. 95-088(SUB)(am), § 18 (part), 1995)

ARTICLE II: CLEAN AIR STANDARDS

8.30.110 APPLICATION OF ARTICLE.

The provisions of this chapter apply only to that geographic area of the Matanuska-Susitna Borough described in MSB 8.30.015(A).

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.115 AMBIENT AIR QUALITY STANDARDS.

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(A) Ambient air quality within the borough shall be maintained at the lowest practicable air contaminant concentrations. In no event shall these concentrations exceed the following levels corrected to standard conditions:

(1) *Suspended particulate matter.*

- (a) annual geometric mean: 60 micrograms per cubic meter.
- (b) twenty-four-hour maximum not to be exceeded more than once a year: 150 micrograms per cubic meter.

(2) *Sulfur oxides (measured as sulfur dioxide).*

- (a) annual arithmetic mean: 80 micrograms per cubic meter.
- (b) twenty-four-hour maximum not to be exceeded more than once a year: 365 micrograms per cubic meter.
- (c) three-hour maximum not to be exceeded more than once a year: 1,300 micrograms per cubic meter.

(3) *Carbon monoxide not to be exceeded more than once a year.*

- (a) eight-hour maximum: 10 milligrams per cubic meter.
- (b) one-hour maximum: 40 milligrams per cubic meter.

(4) *Photochemical oxidants.* One-hour maximum not to be exceeded more than once a year: 160 micrograms per cubic meter.

(5) *Nitrogen dioxide.* Annual arithmetic mean: 100 micrograms per cubic meter.

(6) *Reduced sulfur compounds.* Thirty-minute maximum not to be exceeded more than once a year: 50 micrograms per cubic meter.

(B) In areas where existing air quality is better than the ambient air quality standards specified in subsection (A) of this section, the director shall enforce the air contaminant emission requirements as specified in this article so as to minimize degradation of the air quality.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.120 OPEN BURNING.

(A) Within incorporated municipalities and those areas of the borough served by refuse pickup service:

- (1) open burning is permissible except that those materials which tend to result in the emission of black smoke or odors, including but not limited to putrescible garbage, asphalt, rubber, oil wastes and asphalt-impregnated materials, may not be burned in the open.

Permissible open burning is further subject to the limitations of subsections (D) and (E) of this section; and

(2) the open burning of debris, trees and brush accumulated during land clearing operations shall be conducted, except as specified in subsection (D) of this section to obtain maximum combustion efficiency throughout the burning period. Tires or similar organic matter may not be used to start or maintain the fire.

(B) In all other areas of the borough, open burning for the disposal of oils, oily wastes, asphalt and tars and similar waste materials is prohibited unless conducted pursuant to permit from the director.

(C) Controlled fires for the purpose of training firefighting personnel require prior written approval from the director. Controlled fires for disposing of demolition wastes require prior written approval from the director. After the fires have been conducted, summary reports shall be submitted to the director.

(D) No open burning shall be allowed if an air quality advisory is broadcast on a radio or television station in an area stating that burning is not permitted for that day. This advisory shall be based on weather conditions being such that air ventilation in the affected area is inadequate to provide for maintenance of the ambient air quality standards specified in MSB 8.30.115.

(E) Open burning shall be governed at landfill sites by applicable statutes and regulations of the state.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.125 INCINERATORS.

(A) Visible emissions, excluding condensed water vapor, from incinerators may not result in a reduction of visibility through the exhaust effluent greater than 20 percent for periods aggregating more than three minutes in any hour.

(B) Particulate matter emitted from incinerators may not exceed, on the basis of a cubic foot of exhaust gas corrected to 12 percent CO₂ and standard conditions, and except as specified in subsections (C) and (D) of this section:

- (1) 0.3 grains for incinerators less than or equal to 200 pounds per hour rated capacity;
- (2) 0.2 grains for incinerators larger than 200, but equal to or less than 1,000 pounds per hour rated capacity;
- (3) 0.1 grains for incinerators larger than 1,000 pounds per hour rated capacity.

(C) Particulate matter emitted from tepee burners may not exceed, on the basis of a cubic foot of exhaust gas corrected to 12 percent CO₂ and standard conditions:

- (1) 0.1 grains for those burners installed or modified on or after July 1, 1972; *im 19-039*
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- (2) 0.2 grains for those burners in operation before July 1, 1972.

(D) Particulate matter emitted from air curtain incinerators may not result in a visible emission, excluding condensed water vapor, which causes a reduction in visibility of greater than 20 percent for periods aggregating more than three minutes in any hour. A person may not operate an air curtain incinerator, regardless of size, without prior written approval from the director.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.130 INDUSTRIAL PROCESSES AND FUEL-BURNING EQUIPMENT.

(A) Visible emissions, excluding condensed water vapor, from industrial processes or fuel-burning equipment may not result in a reduction of visibility through the exhaust effluent of greater than 20 percent for periods aggregating more than three minutes in any hour.

(B) Particulate matter emitted from industrial processes of fuel-burning equipment may not exceed, on the basis of a cubic foot of exhaust gas corrected to standard conditions:

- (1) 0.05 grains except as noted in paragraphs (2) and (3);
- (2) 0.1 grains for those sources in operation before July 1, 1972, and for fuel-burning equipment using coal or municipal waste as fuel;
- (3) 0.15 grains for fuel-burning equipment using wood waste as fuel.

(C) Sulfur compound emissions from industrial processes or fuel burning equipment may not exceed 500 ppm expressed as SO₂.

(D) A person may not cause or permit bulk materials to be handled, transported or stored without taking reasonable precautions to prevent particulate matter from becoming airborne.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.135 PULP MILLS.

(A) Air contaminant emissions from pulp mills may not exceed, based on 24-hour averages and each ton of pulp produced:

- (1) twenty pounds of sulfur oxides from sulfite pulp mills, expressed as SO₂, from all blow pits, washer vents, storage tanks, digester relief and recovery systems;
- (2) two pounds of particulate matter from all blow pits, washer vents, storage tanks, digester relief and recovery systems in kraft or sulfite mills;
- (3) five ppm of total reduced sulfur, expressed as H₂S on a dry basis, from each kraft pulp mill recovery furnace stack.

(B) Noncondensibles from kraft pulp mill digesters and multiple effect evaporators shall be treated to reduce emissions of total reduced sulfur to a level equal to that which would be obtained

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by the reduction achieved by thermal oxidation in a lime kiln.

(C) Operators shall maintain and operate continuous emission recording and ambient air monitoring devices as specified by the director. Data acquired shall be available for inspection by, and provided on a routine basis to, the director.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.140 MOTOR VEHICLE EMISSIONS.

(A) A person may not 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) A person may not 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 40 percent opacity.

(C) A person may not operate, drive, cause or permit to be driven or operated any motor vehicle that violates or exceeds any federal or state law, regulations, emission standard or limitation applicable to the motor vehicle for the control of emissions of carbon monoxide, hydrocarbons or oxides of nitrogen.

(D) All motor vehicles and traffic, except emergency vehicles, shall be routed around areas designated by the director where ambient air levels of carbon monoxide reach or are predicted to reach ten milligrams per cubic meter on an eight-hour average.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.145 MARINE VESSELS.

Within three miles of the coastline of the borough, visible emissions from any marine vessel, excluding water vapor, may not result in a reduction of visibility through the exhaust effluent of greater than 40 percent for periods aggregating more than three minutes in any one hour.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.150 AIR POLLUTION PROHIBITED.

A person may not permit any emission which is injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.155 PERMIT TO OPERATE.

(A) A permit to operate is required if the facility is capable of emitting into the ambient air, regardless of whether air quality control equipment is operating, more than:

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OR 19-031*

- (1) twenty-five tons per year of sulfur dioxide or particulate matter;
 - (2) one hundred tons per year of either nitrogen oxides, or carbon monoxide, or hydrocarbons.
- (B) A permit to operate is required for all mercury retorts, regardless of size.
- (C) A permit to operate is required for all fuel-burning electric generating equipment greater than 250 kilowatts capacity put into operation after July 1, 1972.
- (D) A person may not operate or cause the operation of a source requiring a permit without applying for and obtaining a permit from the director. Application for a permit to operate shall be made by the owner or operator on forms provided by the director.
- (E) Submittal of emission data is required when the amount of hydrocarbons, carbon monoxide, nitrogen oxides, sulfur oxides, or particulate matter which can be emitted from a facility into the ambient air, regardless of whether air quality control equipment is operating, is greater than five tons per year. Data submittal is required every two years, starting July 1, 1980, on forms provided by the director.
- (F) A person may not construct or modify a facility requiring a permit to operate until detailed plans and specifications are submitted to the director and approved. These plans and specifications shall include the following information:
- (1) two sets of plans and specifications, clearly indicating the layout and the construction which shall be undertaken;
 - (2) two sets of maps or aerial photographs indicating land use and zoning, if any, within one mile of the facility. The map or aerial photograph shall be of adequate scale to show all homes, industrial buildings, watercourses, roads and other applicable details and shall indicate the general topography;
 - (3) an engineering report outlining the proposed methods of operation, the quantity and source of material to be processed, the proposed use and distribution of the processed material and related process details, 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 specification of all air-quality control devices;
 - (5) an evaluation of the effect on the surrounding ambient air of the emissions from the facility; and
 - (6) plans for emission reduction procedures during an air episode.
- (G) Approval to construct a new source may not be granted unless the applicant shows to the satisfaction of the director that:

- (1) the new source shall not prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard specified in MSB 8.30.115;
 - (2) the new source will operate without causing a violation of applicable regulations established under A.S. 46.03.
- (H) A compliance schedule is required as part of a permit to operate for facilities emitting air contaminants in excess of the limitations of this article.
- (I) 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 source operation. A permit requiring a compliance schedule must be reviewed and renewed every year of its duration;
 - (3) not be granted to a person under subsection (H) of this section unless a compliance schedule approved by the director is included; or
 - (4) require that specific emission reduction procedures be taken during an air episode.
- (J) Upon notice, a person operating facilities emitting air contaminants judged by the director to be highly toxic shall be required to obtain a permit to operate.
- (K) 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 specified; to provide source test ports, to provide emission data and information from analyses of any test samples; and to provide periodic reports on process emissions.
- (L) If an application for a permit to operate is denied, the director shall notify the applicant in writing of the reasons.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.160 REVOCATION OR SUSPENSION OF PERMIT.

A permit to operate may be revoked or sus-pended if the conditions of the permit or applicable laws or regulations are violated.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.165 AIR EPISODES.

(A) An air episode shall be declared when, in the director's opinion, the concentration of air contaminants in the ambient air has reached or is predicted to reach any of the following levels:

- (1) *Air alert.*

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- (a) sulfur dioxide: 800 micrograms per cubic meter (24-hour average);
- (b) particulate matter: 3.0 coefficient of haze units or 375 micrograms per cubic meter (24-hour average);
- (c) carbon monoxide: 17 milligrams per cubic meter (8-hour average);

(2) *Air warning.*

- (a) sulfur dioxide: 1,600 micrograms per cubic meter (24-hour average);
- (b) particulate matter: 5.0 coefficient of haze units, or 625 micrograms per cubic meter (24-hour average);
- (c) carbon monoxide: 34 milligrams per cubic meter (eight-hour average);

(3) *Air emergency.*

- (a) sulfur dioxide: 2,100 micrograms per cubic meter (24-hour average);
- (b) particulate matter: 7.0 coefficient of haze units, or 875 micrograms per cubic meter (24-hour average);
- (c) carbon monoxide: 46 milligrams per cubic meter (eight-hour average).

(B) The director shall prescribe and publicize curtailment actions when the above levels of air contaminants are, or are about to be, reached.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.170 SOURCE TESTING.

(A) The director may conduct source testing in order to determine compliance with this article.

(B) Testing to determine compliance with this article shall be by methods of measurement approved by the director and undertaken at points as to characterize the actual discharge into the ambient air.

(C) Particulate matter emission requirements specified in this article shall be measured by the methods comparable to those outlined in the American Society of Mechanical Engineers Power Test Code PTC 27-1957, entitled "Determining Dust Concentration in the Gas Stream," modified to include a high efficiency filter.

(D) Air contaminant emission tests shall be conducted at maximum rated burning or operating capacity of the unit, or another rate as determined by the director to characterize the emissions from the unit.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)

8.30.175 CIRCUMVENTION.

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- (A) The use of air for dilution of emission contaminants without affecting any total decrease in contaminants is prohibited as a method to effect compliance with the requirements of this article.
- (B) Any facility modified on or after July 1, 1972 shall meet the requirements applicable to new facilities installed on or after July 1, 1972.
- (C) The total of the capacities for all process fuel-burning or incinerator units in a facility shall be considered as the facility capacity for that type of unit.
- (D) Persons owning or operating facilities emitting air contaminants subject to the limitations of this article shall be held responsible for ensuring that those facilities comply with this article.
- (E) The director may require an operator of any air contaminant source to maintain records and periodically report on the nature and amounts of emissions as necessary to determine compliance of the source with the applicable emission or ambient air standards pursuant to this article.
- (F) The director shall deny to any person the construction or modification of any air contaminant emission source if the director finds that the construction or operation of the source shall result in a violation of the applicable emission standards, or shall interfere with the attainment or maintenance of the ambient air standards pursuant to this article.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 80-32, § 2 (part), 1980)