

**ADMINISTRATIVE PROCEDURES: NOTICE OF PUBLIC COMMENT PERIOD ON
PROPOSED CHANGES TO
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGULATIONS**

BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation proposes to amend the administrative procedures regulations dealing with informal reviews and adjudicatory hearings (appeals) of department decisions. The amendments clarify the responsibilities of persons who wish to request review of department decisions, persons who wish to participate in adjudicatory hearings or who are participating in an adjudicatory hearings, the department and the Office of Administrative Hearings.

The Alaska Department of Environmental Conservation (ADEC) proposes to adopt regulation changes in Title 18 of the Alaska Administrative Code (AAC) Chapter 15 (Administrative Procedures) and make conforming changes to various other regulations. These changes update ADEC procedures to reflect statutory changes requiring that certain ADEC adjudicatory hearings be conducted by the Office of Administrative Hearings under AS 44.64.010 – 44.64.200, specifically:

- Amend 18 AAC 15.010 to clarify the scope of decisions subject to review
- Amend 18 AAC 15.185 to clarify the requirements for requesting an informal review and allow the division director the flexibility to adjust deadlines.
- Amend 18 AAC 15.195 - 237 to reflect that the Office of Administrative Hearing has responsibility for conducting these adjudicatory hearings and to clarify the requirements and coverage of those regulations
- Add a new section, 18 AAC 15.196 to clarify that the department's procedures for certain decisions supersede those in the Alaska Administrative Procedure Act
- Repeal 18 AAC 15.240, 18 AAC 15. 247 - 305 because they duplicate Office of Administrative Hearing regulation requirements
- Amend 18 AAC 15.340 to clarify the ability to adjust deadlines and allow for the electronic exchange of documents in an appeal
- Amend 18 AAC 15.900 to clarify the time computation instructions
- Amend 18 AAC 15.920 to reflect that the Office of Administrative Hearing has responsibility for conducting these adjudicatory hearings and to define terms used in the hearing procedures
- Amend 18 AAC 23.910, 18 AAC 30.985, 18 AAC 31.905, 18 AAC 31.910, 18 AAC 31.915, 18 AAC 31.940, 18 AAC 32.290, 18 AAC 32.693, 18 AAC 32.695, 18 AAC 32.910, 18 AAC 34.035, 18 AAC 34.940, 18 AAC 50.400, 18 AAC 52.105, 18 AAC 52.110, 18 AAC 60.255, 18 AAC 60.260, 18 AAC 69.945, 18 AAC 72.430, 18 AAC 75.235, 18 AAC 75.385, 18 AAC 75.460, 18 AAC 75.490, 18 AAC 75.550, 18 AAC 75.551, 18 AAC 75.552, 18 AAC 75.553, 18 AAC 75.570, 18 AAC 78.960,

18 AAC 80.439, 18 AAC 80.1240, 18 AAC 80.1250, 18 AAC 80.1920, and 18 AAC 83.175 to conform to changes made in 18 AAC 15 and to clarify hearing procedures for those specific matters.

- Add a new section, 18 AAC 50.905 to clarify the scope of informal reviews and adjudicatory hearings regarding air quality decisions authorized by AS 46.14.200
- Add a new section, 18 AAC 83.325 to clarify that the administrative procedures at 18 AAC 15 apply to the Alaska Pollutant Discharge Elimination System regulations.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying and alternative practical methods of complying with the proposed changes, by submitting written comments to Gary Mendivil, Office of the Commissioner, Alaska Department of Environmental Conservation, P.O. Box 111800, Juneau, Alaska 99811-1800, or by facsimile at: (907) 465-5070. Comments must be received by 5:00 p.m. on March 28, 2017. Comments received after this date will not be considered in the final action on these regulations.

The department has also produced a form in PDF format that can be filled out on a computer for requesting an adjudicatory hearing. Although this form is not adopted as part of this regulation package, the department would be very interested in any comments you may have on the form. If the department goes forward with its plan to use such a form, it would develop guidance for the public with more detailed instructions on how to use the form and examples of completed forms.

You may submit questions relevant to the proposed action to Gary Mendivil by email to Gary.Mendivil@alaska.gov or by mail to Gary Mendivil, Office of the Commissioner, Alaska Department of Environmental Conservation, P.O. Box 111800, Juneau, AK 99811-1800, or by facsimile at (907) 465-5070. The questions must be received at least ten days before the end of the public comment period. The Department of Environmental Conservation will answer substantially similar questions and make the questions and responses available at <http://dec.alaska.gov/commish/appeal-faq.htm> . The Department of Environmental Conservation may, but is not required to, answer written questions received after the ten day cut-off date and before the end of the comment period.

The State of Alaska, Department of Environmental Conservation complies with Title II of the Americans with Disabilities Act of 1990. If you are a person with a disability who may need a special accommodation in order to participate in this public process, please contact Natalie Wolfe at (907) 269-0291 or TDD Relay Service 1-800-770-8973/TTY or dial 711 no later than March 21, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation amendments is available on the Alaska Online Public Notice System or by contacting Gary Mendivil at the address or email above, or by telephone at (907) 465-5061. After the public comment period ends on March 28, 2017, ADEC will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are public records and are subject to public inspection.

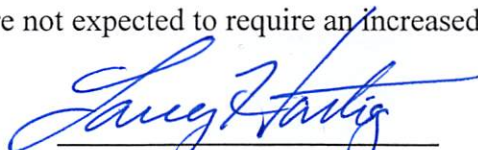
Statutory Authority: AS 03.05.011, AS 17.20.005, AS 17.20.180, AS 18.35.020, AS 18.35.120, AS 18.35.220, AS 44.46.020, AS 44.62.330, AS 46.03.020, AS 46.03.090, AS 46.03.100, AS 46.03.110, AS 46.03.320, AS 46.03.330, AS 46.03.365, AS 46.03.720, AS 46.03.730, AS 46.03.880, AS 46.04.030, AS 46.04.890, AS 46.06.010, AS 46.14.120, AS 46.14.150

Statutes Being Implemented, Interpreted, or Made Specific:

AS 17.20.190, AS 44.62.330, AS 44.64.030, AS 44.64.060, AS 46.03.880, AS 46.04.035, AS 46.04.890, AS 46.14.200

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

Dated: February 8, 2017



Larry Hartig, Commissioner

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: Administrative Procedures
3. Citation of regulation (may be grouped): 18 AAC 15, 18 AAC 23, 18 AAC 30, 18 AAC 31, 18 AAC 32, 18 AAC 34, 18 AAC 50, 18 AAC 52, 18 AAC 60, 18 AAC 69, 18 AAC 72, 18 AAC 75, 18 AAC 78, 18 AAC 80, 18 AAC 83
4. Department of Law file number, if any: JU2010201719
5. Reason for the proposed action:
 - compliance with federal law
 - compliance with new or changed state statute
 - compliance with court order
 - development of program standards
 - other: (please list) Clarify administrative procedures
6. Appropriation/Allocation: Office of the Commissioner, Environmental Conservation
7. Estimated annual cost to comply with the proposed action to:
 - A private person: No additional costs
 - Another state agency: No additional costs
 - A municipality: No additional costs

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2017	Subsequent Years
Operating Cost	\$ 0	\$ 0
Capital Cost	\$ 0	\$ 0
1002 Federal receipts	\$ 0	\$ 0
1003 General fund match	\$ 0	\$ 0
1004 General fund	\$ 0	\$ 0
1005 General fund/ program	\$ 0	\$ 0
Other funds (specify)	\$ 0	\$ 0

7. The name of the contact person for the regulations:

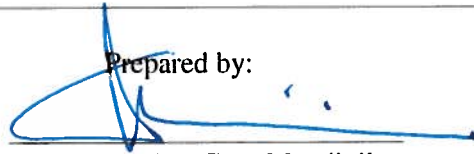
Name Gary Mendivil
Title Environmental Program Specialist
Address P. O. Box 111800
Juneau, AK 99811-1800
Telephone (907) 465-5061
E-mail address: gary.mendivil@alaska.gov

8. The origin of the proposed action:

- staff of state agency
- federal government
- general public
- petition for regulation change
- other (please list) _____

9. Date: February 7, 2017

Prepared by:



Name (typed) Gary Mendivil
Title (typed) Env. Program Spec.
Telephone: (907) 465-5061