



# DEC Public Meeting & Hearing

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## Water Quality Amendments to Ensure Consistency with Federal Regulations

Alaska Department of Environmental Conservation  
Division of Water

June 9, 2022



# Meeting & Hearing Format

- Provide information on proposed amendments to 18 AAC 70
  - DEC can actively engage with the public during the **meeting** portion of today's event
- Review ADEC Public Participation Process- **How you can Stay Involved**
- Collect public comments
  - DEC can only collect comments and cannot answer questions about the rulemaking during the **hearing** portion of today's event



# Division of Water

Mission Statement: *Improve and protect water quality*

How?

- 💧 Regulate discharges to waters and wetlands
- 💧 Provide financial assistance for water and wastewater facility construction and waterbody assessment and remediation
- 💧 Train, certify, and assist water and wastewater system operators
- 💧 Monitor and report on water quality to the public and EPA
- 💧 **Establish standards for water cleanliness**

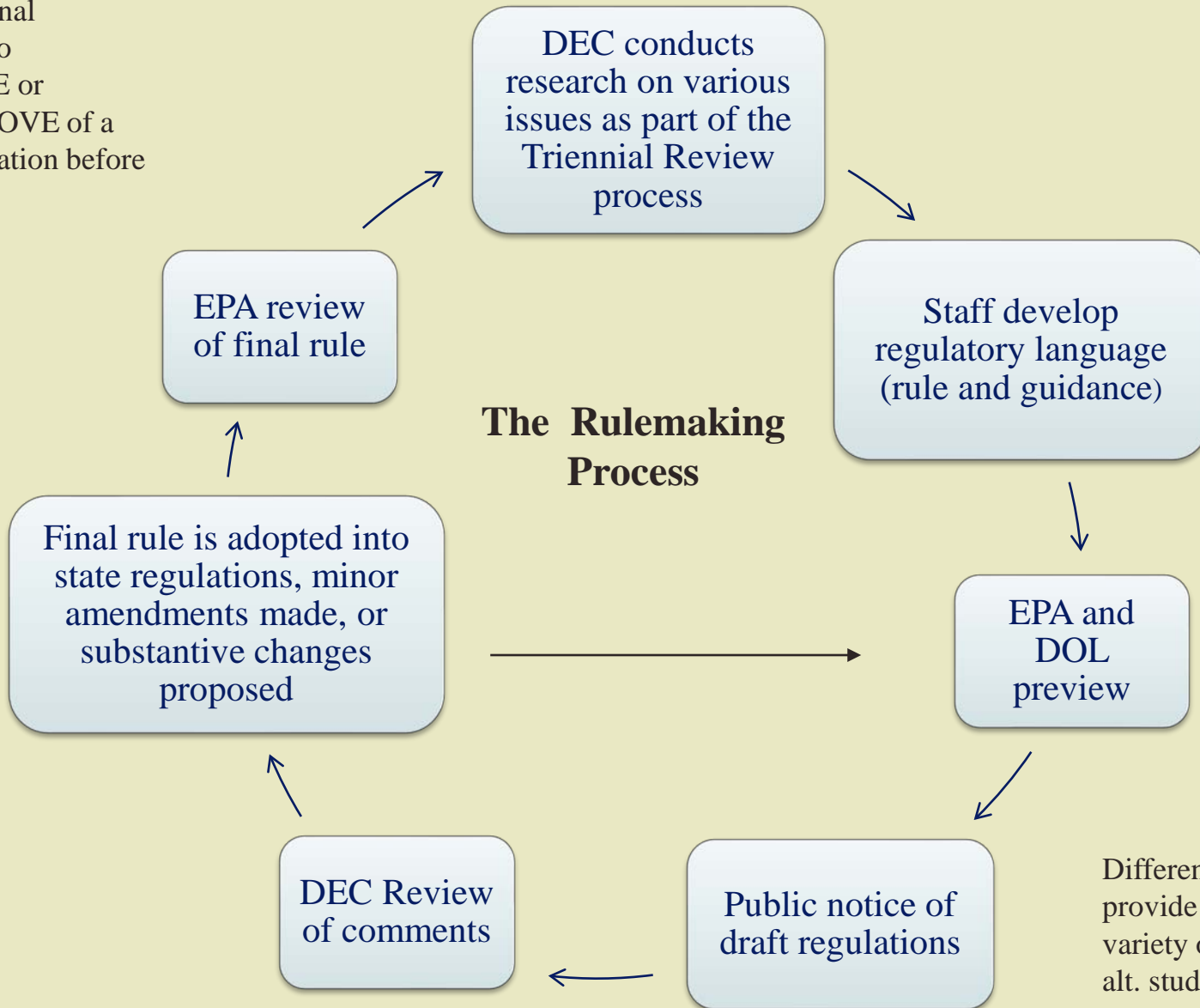
# Water Quality Standards

(see 40 CFR 131.3)

- Protect public health and the environment
- Serve the goals of the Clean Water Act
- WQS (1) establish water quality goals for a water body and (2) provide a regulatory basis for controls (beyond technology based limits), via
  - Designated Uses
  - Criteria to protect those uses
  - Antidegradation



EPA has final authority to APPROVE or DISAPPROVE of a state regulation before its use.



Different interests provide comments in variety of ways (e.g., alt. studies, general comments)



# Why is DEC acting now?

- Proposed during 2021-2023 Triennial Review outreach
- There are multiple WQS in 18 AAC 70 where state-adopted WQS have
  - Not been acted on by EPA
  - Certain parts have been disapproved of by EPA
    - This creates a disparity in which regs are applicable in DEC water programs
  - Fail to accurately reflect protection of designated use
- DEC seeks to ensure WQS accurately reflect the goals of the CWA.
  - Ensure that all criteria are scientifically defensible

# Public Involvement

- ✓ PUBLIC NOTICE-
  - 45-days pre-hearing and 45-day post hearing period
  
- ✓ PUBLIC HEARING- 06/09/22
  - Oral or written comments may be submitted
  - Individuals may participate via teleconference
  
- ✓ PUBLIC COMMENTS-
  - Alaska Online Public Notice System
  - Written Comments
  - Faxed Comments
  - Electronic Mailed Comments
  - July 25<sup>th</sup> at 11:59pm.



# Proposed Regulation Amendments



## 18 AAC 70.020(b)(8) Residues, for Fresh Water Uses and 18 AAC 70.020(b)(20) Residues, for Marine Water Uses

- In 2011 DEC adopted revised narrative criteria for residues in fresh and marine waters and submitted them to the EPA for review and approval
- EPA has not taken action on 2011 rulemaking – therefore DEC applies pre-2011 regulatory language.
- Creates confusion regarding which regs are applicable in DEC water programs
- DEC has not identified recent scientific literature that would indicate re-adoption of the previous CWA-approved narrative criteria for residues would fail to protect designated uses

## 18 AAC 70.240 Mixing Zones

- In 2006 DEC adopted amended language at 18 AAC 70.240
- In 2019 EPA took final action and issued approval/partial disapproval of 2006 rulemaking. EPA determined that language proposed at **18 AAC 70.240(g)(2), (3), and (4)** pertaining to prohibitions to mixing zones were disapproved for use in CWA-approved programs.
  - EPA determined the language could be used to authorize mixing zones that would impact spawning areas to such a degree that mitigation would be necessary to “restore” or “replace” the use – actions considered inconsistent with federal policies.
- Creates confusion regarding which regs are applicable in DEC water programs

## 18 AAC 70.240 Mixing Zones cont.

- DEC is proposing to repeal the EPA-disapproved language at 240(g)(2), (3), and (4)
- Proposed amendment **does not remove** the requirement at 18 AAC 70.240(g)(1)
- (1) after consultation with the Department of Fish and Game, the department finds that the applicant has demonstrated that the discharge
  - (A) does not contain pollutants at concentrations that exceed the criteria for growth and propagation of fish, shellfish, other aquatic life, and wildlife established in 18 AAC 70.020(b)(1) - (12); and
  - (B) will not adversely affect the capability of the area to support future spawning, incubation, and rearing activities;
- By removing g(2), (3), and (4) the number (1) designation is no longer needed, the text will remain unchanged.

# Alaska Water Quality Criteria Manual for Toxic and Other Deleterious Organic and Inorganic Substances (2008)

- “Toxics Manual” is adopted by reference at 18 AAC 70.020(b)
- Manganese
  - Criterion is based on EPA’s 1976 *Quality Criteria for Water* (referred to as the “Red Book”), which established 0.05 mg/L as the recommended water quality criterion for manganese for protection of domestic water supplies.
  - This criterion was established to protect against objectionable tastes and laundry staining.
- Mercury
  - In 2003 DEC adopted a revised criterion based on EPA (1995) recommended criteria
  - In 2004 EPA stated they were not taking action and needed additional time to complete essential fish habitat consultation.

# Alaska Water Quality Criteria Manual for Toxic and Other Deleterious Organic and Inorganic Substances (2008)

## • Manganese

- DEC is proposing to repeal the existing criterion for protection of drinking water and consumption of aquatic organisms (freshwater human health criteria (HHC)) of 50 ug/L and adopt the EPA (2004) Lifetime Health Advisory of 300 ug/L
  - Proposed criterion is demonstrated to protect human health unlike the existing criterion which protects organoleptic effects (staining)
  - Does not change other requirements of DEC Drinking Water program and the Safe Drinking Water Act
- DEC is proposing to amend marine water HHC for manganese (consumption of organisms only) to clarify the numeric criterion of 0.10 mg/L applies to marine waters only

# Alaska Water Quality Criteria Manual for Toxic and Other Deleterious Organic and Inorganic Substances (2008)

- **Mercury**

- DEC has withdrawn the 2003 rulemaking for EPA consideration and is proposing to re-adopt the **Aquatic Life** acute criterion of 2.4 µg/L and a chronic criterion of 0.012 µg/L, both expressed as total recoverable.
- Criteria were originally promulgated by EPA as part of the 1992 National Toxics Rule
  - 2.4 and 0.012 ug/L are currently in effect for CWA-approved programs
- Re-adoption creates consistency between DEC and EPA-approved WQS.



Comments Must Be received no later than 11:59 p.m. on July 25, 2022.



## Mechanisms to Stay Involved:

### **Water Quality Standards Website:**

<http://dec.alaska.gov/water/wqsar/wqs/index>

### **Water Quality Standards List Serve:**

[http://list.state.ak.us/soalists/DEC\\_WaterQualityStandard/jl.htm](http://list.state.ak.us/soalists/DEC_WaterQualityStandard/jl.htm)





Thank you for your time!

Questions?



# Public Hearing

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Division of Water

<http://dec.alaska.gov/water/index.htm>