

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY**



TOK AREA FORESTRY

**FINAL BEST INTEREST FINDING AND DECISION FOR
TOK HAZARDOUS FUELS TIMBER SALES**

NC-1169-T, NC-1170-T, NC-1171-T, NC-1172-T

7/31/2019

I. PROPOSED ACTION

DOF is proposing to offer for sale approximately 260 acres of white spruce mixed pole and saw-timber from state lands in area of the community of Tok. The volume to be offered totals approximately 346,800 cubic feet, 6,242.4 tons or roughly 4,080 cords (*conversions based on 36lbs/cubic foot green spruce and 85 cubic feet/cord*). DOF would sell the timber as competitive bid timber sales for commercial use. The land covered by this BIF appeared in the 2019-2023 Tok Area Five Year Schedule of Timber Sales (FYSTS).

The management objectives for the proposed timber sales are:

- Support renewable resource development
- Decrease wildland fire risk near the community of Tok
- Promote forest health
- Maintain or improve wildlife habitat

II. STATUTORY AND REGULATORY AUTHORITY

The Division is taking this action under the authority of:

- AS 38.05.035(e) Best Interest Finding;
- AS 38.05.110-120 and 11 AAC 71, Timber Sale Statutes and Regulations; and
- AS 41.17.010-950 and 11 AAC 95 Forest Resources and Practices Statutes and Regulations.

III. ADMINISTRATIVE RECORD

The Division will maintain an administrative record regarding the decision of whether or not to proceed with the action as proposed. This record of the 4 sales will be maintained at the DOF's Tok Office filed as NC-1169-T, NC-1170-T, NC-1171-T, and NC-1172-T.

IV. SCOPE OF DECISION

This best interest finding (BIF) is the first part of step three of a six-step process to design, sell, and administer timber sales. The following list summarizes the overall process:

Step 1: Regional planning. The Department of Natural Resources (DNR) develops area plans and state forest management plans to designate appropriate uses for state land, classify the land accordingly, and establish management guidelines for multiple use. These plans determine where timber sales are an allowed use, and what other uses must be considered when designing and implementing sales. Subsequent land use decisions must be consistent with the area plans. The area in this BIF is covered by the Eastern Tanana Area Plan (ETAP). The finding also considers the Interagency Wildland Fire Management Plan. There is a current Community Wildfire Protection Plan for the Tok Community.

Step 2: Five-Year Schedule of Timber Sales (AS 38.05.113). Generally, the Tok Area Office prepares a Five-Year Schedule of Timber Sales every other year. The Schedule identifies proposed sales, including their location, volume, and main access routes. The Five-Year Schedules

are scoping documents that provide an opportunity for public, agency, and industry to identify potential issues and areas of interest for further consideration in the best interest finding and Forest Land Use Plan. A proposed timber sale must appear in at least one of the two Five-Year Schedules preceding the sale.

Step 3: Best Interest Finding. A best interest finding is the decision document that:

- Establishes the overall area within which the timber sale may occur,
- Determines the amount of timber that will be offered for sale and the duration of the sale,
- Sets the overall harvest and reforestation strategy for the sale area,
- Determines whether the sale proposal complies with the Constitutional requirement to manage for sustained yield by evaluating the amount of timber in the sale and the annual allowable cut for the affected area,
- Selects the appropriate method of sale (i.e., competitive or negotiated sale), and
- Determines the appraisal method that will be used to determine the sale price.

The Best Interest Finding (BIF) is intended to provide sufficient information for reviewers to ensure that the best interest of the State will be served by the proposed action.

After public and agency review of the PBIF, DOF reviews comments, makes changes as appropriate, and issues a final best interest finding (BIF). DOF must adopt a final BIF before selling timber.

This document is the final BIF for the Tok Hazardous Fuels Timber Sales. A person affected by the final decision who provided timely written comment or public hearing testimony on the preliminary decision may appeal it, in accordance with 11 AAC 02.

Step 4: Forest Land Use Plans (AS 38.05.112). Prior to authorizing harvest of timber on any area greater than 10 acres, the DOF must adopt a site-specific Forest Land Use Plan (FLUP) for the harvest area. DOF will prepare individual FLUPs for the harvest areas within the overall sale area covered by this best interest finding. FLUPs specify the site, size, timing, and harvest methods for harvest unit within the sale area. FLUPs also address site-specific requirements for access construction and maintenance, reforestation, and multiple use management. Draft FLUPs will be based on additional field work, agency and community consultation, and site-specific analyses by the DOF, and will be subject to public and agency review.

Step 5: Timber sales and contracts. Following adoption of the final best interest finding, and completion of the FLUP(s), DOF will offer the timber for sale by auctioning competitive sales and/or negotiating some sales with purchasers. The Division will sign a contract with the winning bidder for each sale. The contract will include stipulations to ensure compliance with the best interest finding, FLUP, and statutory requirements.

Step 6: Sale administration. DOF administers timber sales and conducts field inspections to ensure compliance with the final best interest finding, FLUP, timber sale contract, and applicable laws, including the Alaska Forest Resources and Practices Act and regulations (AS 41.17 and 11 AAC 95), and forest management statutes and regulations in AS 38.05 and 11 AAC 71.

V. PROJECT LOCATION, LAND STATUS, AND DESCRIPTION

A. Location

The proposed harvest units are located north and west of Tok Junction. These units are located near the Red Fox Road in Sections 7, 8, 11, and 12 of Township 18 North, Range 12 East, Copper River Meridian.

B. Title status

Township, Range, Meridian	Acquisition Authority	Classification Order	Land Use Plan
T 18N, R 12 E, COR	GS-108	NC-10-004 FOR WHB (U-21) STL (U-22)	ETAP

C. Land use planning, classification, and management intent

The proposed area is within the Eastern Tanana Area Plan in units U-21 and U-22. The land use classification is listed for each unit. U-21 is to be managed for its forestry and wildlife habitat resource values and is to be retained in State ownership. U-22 is to be managed for land disposals (Settlement) as appropriate within the planning period.

The Alaska Interagency Fire Management Plan includes these lands in the Critical protection category. All State lands around Tok have been incorporated into the Tok Community Wildland Fire Protection Plan.

There are no municipal plans that apply to the identified areas.

D. Current access and land use:

The Red Fox Rd, Pump Station Fireline, Stardust Ave, Sundog Trail, and the Alaska Highway all provide primary all-season access to these units.

Current land uses include hunting, trapping, and personal use wood cutting as well as recreation.

E. Background and description of proposal

1. Background: There are several small mill operators and firewood suppliers operating in the Tok area currently. In addition, the Tok School wood heat boiler utilizes wood chips and wood waste provided by several of these local area vendors. These proposed timber sales could continue to provide a raw material source for this operation as well as provide cordwood and sawtimber for the local community.

Following identification of the harvest areas, DOF reviewed existing land use plans, considered markets for the timber, and designed this proposal to utilize as much merchantable timber as possible from within the identified area on state land, while protecting wildlife, and avoiding impacts to local access, recreation uses and archaeological sites.

2. Timber volume and sustained yield: The harvest areas would be comprised of approximately 260 acres of white spruce, mixed pole and sawtimber, with volumes to be offered totaling approximately 346,800 cubic feet, 6,242.4 tons or roughly 4,080 cords (*conversions based on 36lbs/cubic foot green spruce and 85 cubic feet/cord*). NC-1169-T, and NC-1170-T are not part of the Sustained Yield or Annual Allowable Cut calculations since these lands are designated for other uses.
3. Harvest unit design: The harvest units will be designed to mimic natural openings and maximize natural regeneration. The harvests plans will be intended to leave patches of young growth trees that are considered too small for commercial use while harvesting the older trees. Specific sizes and shapes will be outlined in the Forest Land Use Plans for each individual timber sale.
 - a. Reforestation and site preparation: The sale area will be reforested in compliance with the Forest Resources and Practices regulations (11 AAC 95.375-.390). DOF will be relying on natural regeneration of the stands which will encourage the regeneration of hardwoods.
 - b. Access design and construction: Access design, construction, and maintenance will comply with the Forest Resources and Practices regulations (11 AAC 95.285-.355).
 - There are no stream crossings within the harvest areas
 - Existing all-season road access will be utilized with some spur roads and skid trails interior of the unit boundaries
 - It is anticipated that the access roads will be active and maintained during harvest operations and remain active following completion of the harvest
 - c. Appraisal method: DOF will appraise the timber value in compliance with 11 AAC 71.092. Based on transactional evidence and market demand for saw logs/ cabin logs and fuelwood volume, DOF will apply a likely value for those delivered products. The State will be compensated based on that market rate minus the estimated total harvest cost. DOF will factor in local demand, timber type, amount of decay, and economies of scale in its decision to differentiate the cordwood from the sawlog volumes in the FLUPs. The method of payment will be determined by DOF as either lump sum or possibly multiple payment units.

F. Resources and management

1. Timber

- a. Timber stand composition and structure: The stands are nearly purely composed of even-aged white spruce with low volumes of aspen, birch and poplar present.

Most of the areas are grossly over-stocked with mature spruce >5" at D.B.H., though some natural openings in the forest canopy have encouraged patches of regeneration.

- b. Stand silvics: The normally merchantable trees species in the Tok Area and adjacent highlands of the Alaska Range are white spruce, birch, aspen and balsam poplar. Data and research on regeneration and growth characteristics of this species are compiled within the Resource Analysis of the Tanana Valley State Forest (TVSF) Management Plan. The harvest and reforestation systems available in the Interior Alaska are also reviewed and listed in Resource Analysis. The results of the public and agency discussions for harvest and reforestation are discussed in the TVSF Management Plan. Silvicultural harvest systems that facilitate even-aged (natural) management are generally preferred. They mimic the ecological impact of wildfire and other disturbances and result in the greatest increased in site productivity. Even-aged management is normally accomplished through clear-cut, patch cuts and heavy partial cuts (such as seed tree or shelter wood systems) which open up the site to maximum solar gain. This results in the greatest production of both young hardwood that is important to wildlife and the spruce understory valuable years later as timber. Even-aged management techniques are utilized to provide young, vigorously growing stands in juxtaposition to older, undisturbed stands. Such placement of harvest units can be optimizing natural seedling and the edge effect.
 - c. Topography and Soils: The proposed sale will be designed and managed to prevent significant impairment of the land and water with respect to renewable resources (AS 41.17.060(c)(5)). A shallow mineral soil layer on top of alluvial sand and gravel dominate the soil profile. Slopes in the harvest areas are nearly flat.
2. Agriculture. There is no current nor anticipated agricultural activity in the harvest areas.
3. Wildlife habitat and harvest. Most common species of wildlife that are normally found in interior Alaska forests inhabit the area. Where practical, mature balsam poplar and quaking aspen will be protected, and operators encouraged, but not required to, leave dead standing trees for cavity nesting birds and other habitat components and uses.

The timber sale harvest will afford more sunlight to the forest floor and will increase the production of browse species for moose. The increase in sunlight will also enhance the production of a variety of berries and seeds eaten by grouse and other animals.
4. Fish Habitat, water resources, and water quality. The proposed sale will be designed and managed to protect fish habitat and water quality in compliance with the Forest Resources and Practices Act and regulations (AS 41.17 and 11 AAC 95) . There are no fish-bearing waters in the sale area.
5. Recreation, tourism, and scenic resources. Increased access through spur roads and skid trails will have the largest impact on recreation. A significant portion of the har-

vest associated with the CWPP will be adjacent to the community of Tok and will initially be partially visible. Where feasible, given access routes and ownership, harvest units outside the community will be designed with irregular borders following natural terrain breaks. These units, once revegetated, will look much like the past burns scattered throughout the region. No harvest units are expected to be seen from the Alaska Highway.

6. Cultural Resources. DOF works with the State Historic Preservation Office (SHPO) to identify and avoid known cultural, historic or prehistoric sites in planning the proposed access routes and salvage areas. If additional archaeological sites are identified, proposed salvage areas and road locations will be appropriately adjusted to avoid conflicts. If any historic or archaeological sites are encountered during road construction or harvest activities, DOF will immediately inform SHPO and take action to protect the findings.
7. Subsurface Resources. Mining is a subsurface land interest. Timber harvest is generally allowed on these lands. The new road access from this harvest can be of benefit to existing and future mining claims. Individual mining claims will be addressed as site specific FLUPs are presented for review.

G. Costs and benefits

No significant negative economic effects are anticipated upon the timber markets, local or regional, as result of this proposed action. Utilization of the proposed timber volume may provide a short-term benefit to the local economy due to the availability of low-cost fuel for home heating and jobs in timber harvesting. DOF will need to monitor firewood harvesting operations near the proposed sale areas because of the strong possibility of illegal harvesting. DOF may have to close roads to the commercial and personal use timber sales to prevent unauthorized harvest. Public use firewood demand on this area is expected to be high due to the proximity to the community. Commercial timber harvest contracts will stipulate regular road maintenance on the access roads that are used during harvest operations facilitating public access to private and public lands.

VI. PUBLIC NOTICE

The Preliminary BIF was publicly noticed in compliance with AS 38.05.945. Notice was posted on the Alaska Online Public Notice System and distributed through both email and physical mailing lists. Notice was also posted in the local Tok Area Forestry office.

VII. PUBLIC COMMENT AND RESPONSE

DOF did not receive any comments from any individuals or organizations.

VIII. DISCUSSION AND FINAL FINDING AND DECISION

After due consideration of all pertinent information and alternatives, the DNR has reached the following Final Decision: To offer for sale approximately 260 acres of white spruce mixed pole and sawtimber to reduce the hazardous fuels and provide fuelwood and sawlogs as proposed in Alternative 1 and described in this BIF. The DOF finds that this preliminary decision satisfies the objectives stated in this document and it is in the best interest of the State to proceed with this action under its authority of AS 38.05.035(e) (Powers and Duties of the Director) & AS 38.05.110-120; 11 AAC 71 (Timber Sale Statutes and Regulations).

IX. SIGNATURE



Nick Carter, Tok/Copper River Area Forester
Alaska Division of Forestry

8/2/19
Date

I. XI. APPEALS

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it in accordance with 11 AAC 02. Any appeal must be received by 8/9/2019 and may be mailed or delivered to Corri A. Feige, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mailto: dnr.appeals@alaska.gov. If no appeal is filed by that date, this decision goes into effect as a final order and decision on 8/9/2019. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 is enclosed.

If you have any questions, please contact Nick Carter, Tok/Copper River Area Forester, 907-883-1400.

II. APPENDICES

APPENDIX __. APPEAL AND REQUEST FOR RECONSIDERATION REGULATIONS

Note: "Appeal" means a request to the commissioner to review a decision that the commissioner did not sign or cosign. "Request for reconsideration" means a petition or request to the commissioner to review an original decision that the commissioner signed or cosigned.

TITLE 11. NATURAL RESOURCES.

CHAPTER 02. APPEALS.

11 AAC 02.010. APPLICABILITY AND ELIGIBILITY. (a) This chapter sets out the administrative review procedure available to a person affected by a decision of the department. If a statute or a provision of this title prescribes a different procedure with respect to a particular decision, that procedure must be followed when it conflicts with this chapter.

- (b) Unless a statute does not permit an appeal, an applicant is eligible to appeal or request reconsideration of the department's decision on the application. An applicant is eligible to participate in any appeal or request for reconsideration filed by any other eligible party.
- (c) If a statute restricts eligibility to appeal or request reconsideration of a decision to those who have provided timely written comment or public hearing testimony on the decision, the department will give notice of that eligibility restriction as part of its public notice announcing the opportunity to comment.
- (d) If the department gives public notice and allows a public comment period of at least 30 days on a proposed action, and if no statute requires opportunity for public comment, the department may restrict eligibility to appeal or request reconsideration to those who have provided timely written comment or public hearing testimony on the proposed action by including notice of the restriction as part of its public notice announcing the opportunity to comment.
- (e) An eligible person affected by a decision of the department that the commissioner did not sign or cosign may appeal the decision to the commissioner within the period set by 11 AAC 02.040.
- (f) An eligible person affected by a decision of the department that the commissioner signed or co-signed may request the commissioner's reconsideration within the period set by 11 AAC 02.040.
- (g) A person may not both appeal and request reconsideration of a decision. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.05.020	AS 38.50.160	AS 44.37.011
AS 29.65.050	AS 38.05.035	AS 41.15.020	AS 46.15.020
AS 29.65.120	AS 38.08.110	AS 41.17.055	AS 46.17.030
AS 38.04.900	AS 38.09.110	AS 41.21.020	

11 AAC 02.015. COMBINED DECISIONS. (a) When the department issues a combined decision that is both a final disposal decision under AS 38.05.035(e) and any other decision, including a disposal decision combined with a land use plan decision, or a disposal decision to grant certain applications combined with a decision to deny others, the appeal process set out for a disposal decision in AS 38.05.035(i) - (m) and this chapter applies to the combined decision.

(b) Repealed 12/27/2012. (Eff. 9/19/2001, Register 159; am 12/27/2012, Register 204)

Authority:

AS 29.65.050	AS 38.04.900	AS 38.05.035	AS 38.09.110
AS 29.65.120	AS 38.05.020	AS 38.08.110	AS 38.50.160

11 AAC 02.020. FINALITY OF A DECISION FOR PURPOSES OF APPEAL TO COURT. (a)

Unless otherwise provided in a statute or a provision of this title, an eligible person must first either appeal or request reconsideration of a decision in accordance with this chapter before appealing a decision to superior court.

(b) The commissioner's decision on appeal is the final administrative order and decision of the department for purposes of appeal to the superior court.

(c) The commissioner may order or deny a request for reconsideration within 30 calendar days after issuance of the decision, as determined under 11 AAC 02.040(c)-(e). If the commissioner takes no action during the 30-day period, the request for reconsideration is considered denied. Denial of a request for reconsideration is the final administrative order and decision of the department for purposes of appeal to the superior court.

(d) If the commissioner timely orders reconsideration of the decision, the commissioner may affirm the decision, issue a new or modified decision, or remand the matter to the director for further pro-

ceedings. The commissioner's decision, other than a remand decision, is the final administrative order and decision of the department for purposes of appeal to the superior court. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 44.37.011	AS 38.05.035	AS 41.21.020
AS 38.04.900	AS 29.65.050	AS 38.09.110	AS 46.15.020
AS 38.08.110	AS 29.65.120	AS 38.50.160	AS 46.17.030
AS 41.15.020	AS 38.05.020	AS 41.17.055	

11 AAC 02.030. FILING AN APPEAL OR REQUEST FOR RECONSIDERATION. (a) An appeal or request for reconsideration under this chapter must

- (1) be in writing;
 - (2) be filed by personal service, mail, fax, or electronic mail;
 - (3) be signed by the appellant or the appellant's attorney, unless filed by electronic mail; an appeal or request for reconsideration filed by electronic mail must state the name of the person appealing or requesting reconsideration and a single point of contact to which any notice or decision concerning the appeal or request for reconsideration is to be sent;
 - (4) be correctly addressed;
 - (5) be timely filed in accordance with 11 AAC 02.040;
 - (6) specify the case reference number used by the department, if any;
 - (7) specify the decision being appealed or for which reconsideration is being requested;
 - (8) specify the basis upon which the decision is challenged;
 - (9) specify any material facts disputed by the appellant;
 - (10) specify the remedy requested by the appellant;
 - (11) state the address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed; an appellant may also provide a telephone number where the appellant can be reached during the day or an electronic mail address; an appeal or request for reconsideration filed electronically must state a single address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed;
 - (12) identify any other affected agreement, contract, lease, permit, or application by case reference number, if any; and
 - (13) include a request for an oral hearing, if desired; in the appeal or request for reconsideration, the appellant may include a request for any special procedures to be used at the hearing; the appeal or request for reconsideration must describe the factual issues to be considered at the hearing.
- (b) At the time an appeal is filed, and up until the deadline set out in 11 AAC 02.040(a) to file the appeal, an appellant may submit additional written material in support of the appeal, including evidence or legal argument.
- (c) If public notice announcing a comment period of at least 30 days was given before the decision, an appellant may not submit additional written material after the deadline for filing the appeal, unless the appeal meets the requirement of (a) of this section and includes a request for an extension of time, and the department determines that the appellant has shown good cause for an extension. In considering whether the appellant has shown good cause, the department will consider factors including one or more of the following:
- (1) comments already received from the appellant and others;
 - (2) whether the additional material is likely to affect the outcome of the appeal;

- (3) whether the additional material could reasonably have been submitted without an extension;
 - (4) the length of the extension requested;
 - (5) the potential effect of delay if an extension is granted.
- (d) If public notice announcing a comment period of at least 30 days was not given before the decision, an appellant may submit additional written material after the deadline for filing the appeal, if the appeal meets the requirements of (a) of this section and includes a notice of intent to file the additional written material. The department must receive the additional written material within 20 days after the deadline for filing the appeal, unless the appeal also includes a request for an extension of time, and the department determines that the appellant has shown good cause for an extension. In considering whether the appellant has shown good cause, the department will consider factors including one or more of the following:
- (1) comments already received from the appellant and others;
 - (2) whether the additional material is likely to affect the outcome of the appeal;
 - (3) whether the additional material could reasonably have been submitted without an extension;
 - (4) the length of the extension requested;
 - (5) the potential effect of delay if an extension is granted.
- (e) At the time a request for reconsideration is filed, and up until the deadline to file a request for reconsideration, an appellant may submit additional written material in support of the request for reconsideration, including evidence or legal argument. No additional written material may be submitted after the deadline for filing the request for reconsideration.
- (f) If the decision is one described in 11 AAC 02.060(c), an appellant who believes a stay of the decision is justified may ask for a stay as part of the appeal or request for reconsideration. The appellant must include an argument as to why the public interest requires a stay. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.05.020	AS 38.50.160	AS 44.37.011
AS 29.65.050	AS 38.05.035	AS 41.15.020	AS 46.15.020
AS 29.65.120	AS 38.08.110	AS 41.17.055	AS 46.17.030
AS 38.04.900	AS 38.09.110	AS 41.21.020	

Editor's note: The address for an appeal or request for reconsideration by personal service and by mail is: Department of Natural Resources, Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561. The number for an appeal or request for reconsideration by fax is: 1-907-269-8918. The electronic mailing address for an appeal or request for reconsideration by electronic mail is: dnr.appeals@alaska.gov.

11 AAC 02.040. TIMELY FILING; ISSUANCE OF DECISION. (a) To be timely filed, an appeal or request for reconsideration must be received by the commissioner's office within 20 calendar days after issuance of the decision, as determined under (c) or (d) of this section, unless another period is set by statute, regulation, or existing contract. If the 20th day falls on a day when the department is officially closed, the appeal or request for reconsideration must be filed by the next working day.

(b) An appeal or request for reconsideration will not be accepted if it is not timely filed.

(c) If the appellant is a person to whom the department delivers a decision by personal service or by certified mail, return receipt requested, issuance occurs when the addressee or the addressee's agent signs for the decision. If the addressee or the addressee's agent neglects or refuses to sign for the cer-

tified mail, or if the address that the addressee provided to the department is not correct, issuance by certified mail occurs when the decision is deposited in a United States general or branch post office, enclosed in a postage-paid wrapper or envelope, addressed to the person's current address of record with the department, or to the address specified by the appellant under 11 AAC 02.030(a)(11).

(d) If the appellant is a person to whom the department did not deliver a decision by personal service or certified mail, issuance occurs

(1) when the department gives public notice of the decision; or

(2) if no public notice is given, when the decision is signed; however, the department may state in the decision a later date of issuance and the corresponding due date for any appeal or request for reconsideration.

(e) The date of issuance constitutes delivery or mailing for purposes of a reconsideration request under AS 44.37.011(d) or AS 44.62.540(a). (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.05.020	AS 38.50.160	AS 44.37.011
AS 29.65.050	AS 38.05.035	AS 41.15.020	AS 46.15.020
AS 29.65.120	AS 38.08.110	AS 41.17.055	AS 46.17.030
AS 38.04.900	AS 38.09.110	AS 41.21.020	

11 AAC 02.050. HEARINGS. (a) The department will, in its discretion, hold a hearing when questions of fact must be resolved.

(b) The hearing procedure will be determined by the department on a case-by-case basis. As provided in 11 AAC 02.030(a)(13), any request for special procedures must be included with the request for a hearing.

(c) In a hearing held under this section

(1) formal rules of evidence need not apply; and

(2) the hearing will be recorded, and may be transcribed at the request and expense of the party requesting the transcript. (Eff. 11/7/90, Register 116)

Authority:

AS 03.05.010	AS 38.05.020	AS 41.15.020	AS 46.17.030
AS 29.65.050	AS 38.08.110	AS 41.17.055	
AS 29.65.120	AS 38.09.110	AS 41.21.020	
AS 38.04.900	AS 38.50.160	AS 46.15.020	

11 AAC 02.060. STAYS; EXCEPTIONS. (a) Except as provided in (c) and (d) of this section, timely appealing or requesting reconsideration of a decision in accordance with this chapter stays the decision during the commissioner's consideration of the appeal or request for reconsideration. If the commissioner determines that the public interest requires removal of the stay, the commissioner will remove the stay and allow all or part of the decision to take effect on the date set in the decision or a date set by the commissioner.

(b) Repealed 9/19/2001.

(c) Unless otherwise provided, in a statute or a provision of this title, a decision takes effect immediately if it is a decision to

(1) issue a permit, that is revocable at will;

(2) approve surface operations for a disposal that has already occurred or a property right that has already vested; or

(3) administer an issued oil and gas lease or license, or an oil and gas unit agreement.

(d) Timely appealing or requesting reconsideration of a decision described in (c) of this section does not automatically stay the decision. However, the commissioner will impose a stay, on the commissioner's own motion or at the request of an appellant, if the commissioner determines that the public interest requires it.

(e) A decision takes effect immediately if no party is eligible to appeal or request reconsideration and the commissioner waives the commissioner's right to review or reconsider the decision. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 38.05.020	AS 38.50.160	AS 46.15.020
AS 29.65.050	AS 38.05.035	AS 41.15.020	AS 46.17.030
AS 29.65.120	AS 38.08.110	AS 41.17.055	
AS 38.04.900	AS 38.09.110	AS 41.21.020	

11 AAC 02.070. WAIVER OF PROCEDURAL VIOLATIONS. The commissioner may, to the extent allowed by applicable law, waive a requirement of this chapter if the public interest or the interests of justice so require. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010	AS 41.21.020	AS 38.05.020	AS 41.17.055
AS 29.65.120	AS 03.10.020	AS 38.08.110	AS 46.15.020
AS 38.05.035	AS 29.65.050	AS 38.09.110	AS 46.17.030
AS 38.50.160	AS 38.04.900	AS 41.15.020	

11 AAC 02.900. DEFINITIONS. In this chapter,

(1) "appeal" means a request to the commissioner to review a decision that the commissioner did not sign or cosign;

(2) "appellant" means a person who files an appeal or a request for reconsideration.

- (3) "commissioner" means the commissioner of natural resources;
- (4) "decision" means a written discretionary or factual determination by the department specifying the details of the action to be allowed or taken;
- (5) "department" means, depending of the particular context in which the term is used, the Department of Natural Resources, the commissioner, the director of a division within the Department of Natural Resources, or an authorized employee of the Department of Natural Resources;
- (6) "request for reconsideration" means a petition or request to the commissioner to review an original decision that the commissioner signed or cosigned. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010
AS 29.65.050
AS 29.65.120
AS 38.04.900
AS 38.05.020
AS 38.05.035
AS 38.08.110
AS 38.09.110
AS 38.50.160
AS 41.15.020
AS 41.17.055
AS 41.21.020
AS 44.37.011
AS 44.62.540
AS 46.15.020

AS 46.17.030