

# DEC Request for Adjudicatory Hearing Form Pursuant to 18 AAC 15.200

A request for adjudicatory hearing must be submitted using this form and timely served upon the Commissioner by electronic mail or U.S. mail (see 18 AAC 15.200(a), (c) and (e), as well as on the division that issued the decision and the permittee. Attn: Emma Pokon, Commissioner -Alaska Department of Environmental Conservation  
P.O. Box 111800

Juneau, AK 99811-1800 or DEC.Commissioner@alaska.gov

Shaundy Perry, Director

### Air Quality

Jason Olds, Director  
Dept. of Env. Conservation  
P.O. Box 111800 Juneau,  
AK 99811-1800 Fax: (907)  
465-5129  
Jason.Olds@alaska.gov

### Spill Prevention &

**Response** Teresa Melville-  
Acting Director  
Dept. of Env. Conservation  
555 Cordova Street  
Anchorage, AK 99501  
Fax: (907) 269-7654  
[Teresa.Melville@alaska.gov](mailto:Teresa.Melville@alaska.gov)

### Environmental Health

Christina Carpenter, Director  
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555 Cordova Street  
Anchorage, AK 99501  
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Christina.Carpenter@alaska.gov

### Water

Randy Bates, Director  
Dept. of Env. Conservation  
P.O. Box 111800  
Juneau, AK 99811-1800  
Fax: (907) 269-7509  
Randy.Bates@alaska.gov

## Requestor Contact Information

Name*	Jim and Nancy Oliver	Telephone*	907-277-5767
Address*	8050 S. Alix Drive Wasilla, Alaska 99623	Fax	
		Email Address	swi@mtaonline.net
		Date	2/17/25

Please provide the name(s), mailing address(es), electronic mail address(es) and telephone number(s) for the individual(s) or organization(s) bringing forward this request for adjudicatory hearing ( see 18 AAC 15.200(c) and 18 AAC 15.920(13))

\*Required

## Identification of Represented Parties

For each requester named above that is a member organization, please provide the names and addresses of members who are adversely affected by the decision who are being represented by the organization in this matter (see 18 AAC 15.200(c)(3))

We, the following individuals, are directly and adversely affected by the decision being sought for review.

Jim Oliver  
8050 S. Alix Drive  
Wasilla, Alaska 99623

Nancy Oliver  
8050 S. Alix Drive  
Wasilla, Alaska 99623

Please identify the permit or other decision you are seeking to have reviewed. Please include information such as **the date of the decision**, who made the decision, the title of the document within which the decision is contained or the permit number. **The requester bears the burden of presenting evidence in the hearing request. If the decision is not available on the department's web pages, please provide an electronic copy of the decision document.** If the department provided an opportunity for public comment on the permit, approval or decision, you must have provided comments during the public notice period or commented at a public hearing regarding the permit, approval or decision. Please also identify where you commented on the issues being appealed.

The decision sought for review is the Air Permit Program's decision to stop the processing of our application for an ORL.

Date of decision: 12/4/24

Person who made the decision: James Plosay, Manager of Air Permits Program

Title of applicable document: Final Decision to Deny Owner Requested Limit Application, AQ0608ORL02 for Safety Waste Incineration's Medical Waste Incinerator

Reference: 2024Dec4 - ORL Denial Letter.pdf

## Issues to be Decided

Please provide the following information for each question of material fact or law (collectively referred to as "contested issues" you are asking to be reviewed as part of the adjudicatory hearing request. Attach additional pages as needed if you are seeking to raise more than three issues or if you need more space for your response relating to an issue.

We are asking for review of the decision to deny our application for owner requested limits and further requesting that the processing of it continues.

When permitted, we will provide for Alaska additional capability, capacity and a backup site for incineration of pathological, chemotherapeutic, and low level radioactive medical wastes. Additionally, we will provide for Alaska the capability for incineration of waste pharmaceuticals, which presently is absent in our state.

Contested Issue and Location of the Issue

The denial letter states "If exempted from Subpart Ec, SWI would be subject to NSPS Subpart EEEE.  
Reference: 2024Dec4 - ORL Denial Letter, Page 2

Explanation and reasons the contested issue is relevant to the decision

A decision regarding the contested issue determines whether Limit # 3 is necessary.

How are requesters directly and substantively affected?

The incinerator was solely purchased by us, with its use wholly dependant upon permitting.

Any suggested terms or conditions?

We are requesting for the processing of our ORL application to continue.

Why should your request be granted?

To allow us to operate in accordance with owner requested limits and lesser permitting requirements and lower expense, like is allowed for many other stationary sources in Alaska. Notably, each of these other sources belong to companies much, much bigger and better financed than ours.

Contested Issue 1

- a) A concise statement of the contested issue proposed for hearing (see 18 AAC 15.200(c)(4)(C))
  - b) The location(s) in the permit, or other decision where the specific terms or conditions appear, that you are contesting (e.g. page, paragraph or other identifying description)
  - c) An explanation of how the decision was in error with respect to the contested issue
  - d) The reason(s) you believe the contested issue you are raising is relevant to the Division's decision (why you believe resolving the contested issue in your favor will materially change the Division's decision
  - e) How each requester (including represented parties if the requester is a member organization representing them in this matter) is directly and substantively affected by the contested decision to justify review; more specifically, please include a discussion or
    - 1) the nature of the interest of the requester or represented party who is impacted by the contested decision(s):
    - 2) whether that interest is one that the department's applicable statutes and regulations intend to protect; and
    - 3) the extent to which the Division's decision relating to this contested issue directly and substantively impairs the interest described in (2) above
  - f) Identify when and where you raised this issue in testimony or comments you provided to DEC. if your comments or testimony were submitted to DEC in writing, please provide a reference to the page and paragraph where they appear. (see 18 AAC 15.200(a) and 18 AAC15.245)\*\*
  - (g) Suggested alternative terms and conditions that in your judgement are required for the Division's decision to be in accord with the facts or law applicable to the issue you are raising.
  - (h) A discussion of any other reasons you believe your request for an adjudicatory hearing should be granted. Please include a concise summary of the facts and laws that you believe support your request.
  - (i) If you believe a provision of the final decision or permit you are challenging was not in the draft decision or permit that was subject to the public notice or comment process, please explain the basis of your claim. (see 18 AAC 15.200(a))
- \*\* this requirement does not apply to a person challenging an Air Quality Division Stationary Source Emission Control permit under AS 46.15.2200 either (1) on the basis of a private, substantive legally protective interest under state law that may be adversely affected by the permit action, or (2) as the owner or operator of the stationary air source.
- NOTE: IF you did not raise your issue before the Division's issuance of the permit or contested decision, then 18 AAC 15.245 requires you to show "good cause" for the failure to raise the issue for it to be considered. You should include this information in your response to (h) above.

Contested Issue and location of the Issue

The denial letter states, "Therefore, without any enforceable limits limiting the amount of hospital waste and medical/infectious waste being combusted in SWI's incinerator, it would be subject to NSPS Subpart Ec requirements, including but not limited to, Title V permitting required under 40 CFR 60.50c(l). To avoid the Title V permitting requirement, the second proposed ORL would limit SWI's waste incinerator to combusting ....."

Reference: 2024Dec4 - ORL Denial Letter, page 2

Explanation and reasons the contested issue is relevant to the decision

A decision regarding the contested issue determines whether Limit # 2 is necessary.

How are requesters directly and substantively affected?

The incinerator was solely purchased by us, with its use wholly dependant upon permitting.

Any suggested terms or conditions

We are requesting for the processing of our ORL application to continue.

Why should your request be granted?

To allow us to operate in accordance with owner requested limits and lesser permitting requirements and lower expense, like is allowed for many other stationary sources in Alaska. Notably, each of these other sources belong to companies much, much bigger and better financed than ours.

Contested Issue 2

a) A concise statement of the contested issue proposed for hearing (see 18 AAC 15.200(c)(4)(C))  
b) The location(s) in the permit, or other decision where the specific terms or conditions appear, that you are contesting (e.g. page, paragraph or other identifying description)

c) An explanation of how the decision was in error with respect to the contested issue

d) The reason(s) you believe the contested issue you are raising is relevant to the Division's decision (why you believe resolving the contested issue in your favor will materially change the Division's decision

e) How each requester (including represented parties if the requester is a member organization representing them in this matter) is directly and substantively affected by the contested decision to justify review; more specifically, please include a discussion or

1) the nature of the interest of the requester or represented party who is impacted by the contested decision(s);

2) whether that interest is one that the department's applicable statutes and regulations intend to protect; and

3) the extent to which the Division's decision relating to this contested issue directly and substantively impairs the interest described in (2) above

(f) Identify when and where you raised this issue in testimony or comments you provided to DEC. If your comments or testimony were submitted to DEC in writing, please provide a reference to the page and paragraph where they appear. (see 18 AAC 15.200(a) and 18 AAC15.245)\*\*

(g) Suggested alternative terms and conditions that in your judgement are required for the Division's decision to be in accord with the facts or law applicable to the issue you are raising.

(h) A discussion of any other reasons you believe your request for an adjudicatory hearing should be granted. Please include a concise summary of the facts and laws that you believe support your request.

(i) If you believe a provision of the final decision or permit you are challenging was not in the draft decision or permit that was subject to the public notice or comment process, please explain the basis of your claim. (see 18 AAC 15.200(a))

\*\* this requirement does not apply to a person challenging an Air Quality Division Stationary Source Emission Control permit under AS 46.15.2200 either (1) on the basis of a private, substantive legally protective interest under state law that may be adversely affected by the permit action, or (2) as the owner or operator of the stationary air source.

NOTE: IF you did not raise your issue before the Division's issuance of the permit or contested decision, then 18 AAC 15.245 requires you to show "good cause" for the failure to raise the issue for it to be considered. You should include this information in your response to (h) above.

Contested issue and location of the issue

Explanation and reasons the contested issue is relevant to the decision

How are requesters directly and substantively affected?

Any suggested terms or conditions?

Why should your request be granted?

**Contested Issue 3**

**a) A concise statement of the contested issue proposed for hearing (see 18 AAC 15.200(c)(4)(C))**

**b) The location(s) in the permit, or other decision where the specific terms or conditions appear, that you are contesting (e.g. page, paragraph or other identifying description)**

**c) An explanation of how the decision was in error with respect to the contested issue**

**d) The reason(s) you believe the contested issue you are raising is relevant to the Division's decision (why you believe resolving the contested issue in your favor will materially change the Division's decision)**

**e) How each requester (including represented parties if the requester is a member organization representing them in this matter) is directly and substantively affected by the contested decision to justify review: more specifically, please include a discussion or**

**1) the nature of the interest of the requester or represented party who is impacted by the contested decision(s):**

**2) whether that interest is one that the department's applicable statutes and regulations intend to protect; and**

**3) the extent to which the Division's decision relating to this contested issue directly and substantively impairs the interest described in (2) above**

**(f) Identify when and where you raised this issue in testimony or comments you provided to DEC. If your comments or testimony were submitted to DEC in writing, please provide a reference to the page and paragraph where they appear. (see 18 AAC 15.200(a) and 18 AAC15.245)\*\***

**(g) Suggested alternative terms and conditions that in your judgement are required for the Division's decision to be in accord with the facts or law applicable to the issue you are raising.**

**(h) A discussion of any other reasons you believe your request for an adjudicatory hearing should be granted. Please include a concise summary of the facts and laws that you believe support your request.**

**(i) If you believe a provision of the final decision or permit you are challenging was not in the draft decision or permit that was subject to the public notice or comment process, please explain the basis of your claim. (see 18 AAC 15.200(a))**

**\*\* this requirement does not apply to a person challenging an Air Quality Division Stationary Source Emission Control permit under AS 46.15.2200 either (1) on the basis of a private, substantive legally protective interest under state law that may be adversely affected by the permit action, or (2) as the owner or operator of the stationary air source.**

**NOTE: IF you did not raise your issue before the Division's issuance of the permit or contested decision, then 18 AAC 15.245 requires you to show "good cause" for the failure to raise the issue for it to be considered. You should include this information in your response to (h) above.**

**Request for Evidentiary Hearing**

With reference to the number of issues listed in your response to "Issues to be Decided" above, please list the number of the issues for which you are requesting an evidentiary hearing that may involve the testimony of factual witnesses, expert witnesses or the offering of additional documents or other evidence not already in the existing agency record.

We are requesting an evidentiary hearing to allow the offering of additional documents or other evidence not already in the existing agency record.

**Description of Question of Fact to be Raised at an Evidentiary Hearing**

With reference to the number of issues listed in your response to "Request for Evidentiary Hearing" above, please describe each of the factual issues you want considered in an evidentiary hearing. You may reference you answers in you response above if they describe all the questions of fact that you want considered at an evidentiary hearing

We anticipate there will be additional documentation or other evidence not already in the existing agency record pertaining to Federal rule language interpretation.

**Estimated Time for an Evidentiary Hearing**

Please provide your estimate of the time you think will be needed to conduct the evidentiary hearing you are requesting.

We anticipate only the need for submttal of additional documentation with no need for an actual hearing,

**IF YOU HAVE QUESTIONS**

If you have questions regarding what information needs to be included in this form or questions about the process for requesting an adjudicatory hearing, you may find help by:

1. Reviewing the department's regulations, many of which are referenced in this form. The Administrative Procedures regulations at 18 AAC 15 are available on the Internet at <https://dec.alaska.gov/commish/regulations/> . The definitions of key terms may be found at 18 AAC 15.920.
2. Reviewing the guidance documents posted by the department at <https://dec.alaska.gov/commish/review-guidance/>; or
3. Contacting the department's adjudicatory hearing liaison, Gary Mendivil, in the Commissioner's Office at (907) 465-5061 or at [Gary.Mendivil@alaska.gov](mailto:Gary.Mendivil@alaska.gov)

**Please be aware that failing to comply with the requirements for filing and serving a request for adjudicatory hearing could result in all or a portion of your request being denied.**

**APPLICABLE DEADLINES**

Requests for an adjudicatory hearing must be made not later than 30 days after the issuance of the department's decision or permit, or not later than 30 days after the issuance of a decision on a request for informal review under 18 AAC 15.185, whichever is later. (see 18 AAC 15.200(a))