Mel Durrett

**ADEC Drinking Water (Safe Drinking Water Act, SDWA)**

**SUMMARY**

The Safe Drinking Water Act (SDWA; 1974) enables the U.S. Environmental Protection Agency (EPA) to protect the public health by ensuring safe drinking water and protecting its sources. The EPA sets health-based limits for >90 contaminants in drinking water and requires public reporting of water quality in public water systems (PWS). The Alaska Department of Environmental Conservation (ADEC) has primacy for enforcing the SDWA in Alaska. Permits to construct, alter, waive usual requirements, or operate PWS are handled by ADEC.

**Permit Name**

Approval to Construct a Public Water System (PWS)

Approval to Operate Public Water System (PWS)

**APPLICABILITY**

You want to construct a new Public Water System or alter the configuration of a PWS (beyond routine maintenance), or request a waiver for distances between water and sewer lines.

**PROCESSING TIMES**

Materials due 30 days before construction begins, or 60 days if state/federal funding is used. Construction will be approved or denied within 30 days of receipt of complete information and fee payment.

**Agency Coordination**

Alaska Department of Environmental Conservation (ADEC) has primacy for enforcement;

U.S. Environmental Protection Agency (EPA) sets the federal regulations of the SDWA.

Consultation Process: If you want to construct/alter/improve a PWS, start early by calling ADEC.

**Information Necessary**

Long list of checklists at <https://dec.alaska.gov/eh/dw/engineering/plan-review-checklist/> (not all will be necessary). Includes:

* Facility/project details including complete set of design plans, indicating explicitly what parts have been built already and what parts are new/altered
* Owner details
* Source of the water (groundwater, surface, rain, sea, etc.)
* Storage and distribution details (tanks and water trucks, etc.)
* Treatment method(s) details (filtration, ozone, corrosion control, etc.)
* Waiver request details (source/pipes, etc.) including why plan is still protective of public health

Engineers designing the system will supply most of these details, but depending on the water source, the designs may depend on hydrologists, chemists, biotech experts, etc.

**Special definitions**

PWS Classifications (what kind of PWS you’re constructing)

* Community Water System (CWS)
	+ expects to serve, year round, at least 25 individuals;
	+ or expects to serve, year round, at least 15 residential service connections
* Non-Transient Non Community Water System (NTNCWS)
	+ regularly serves the same 25 or more individuals for at least 6 months of the year
* Transient Non Community Water System (TNCWS)
	+ is not a CWS or NTNCWS
	+ regularly serves at least 25 individuals each day for at least 60 days of the year

Within the SDWA:

Maximum Contaminant Level (MCL; enforceable)

Maximum Contaminant Level Goal (MCLG; non-enforceable, an ideal with no human health impacts)

Maximum Residual Disinfectant Level (MRDL; enforceable)

Maximum Residual Disinfectant Level Goal (MRDLG; non-enforceable, an ideal with no human health impacts)

Consumer Confidence Report (CCR) or water quality report made publicly available by a PWS

**Enforcement and Penalties**

**REGULATIONS (CFR)**

State 18 AAC 80

Federal 40 CFR 141 (primary stds), 142 (implementation), 143 (secondary stds)

State rules may be more stringent, and are specific to Alaska, but refer often to the federal rules.

<https://dec.alaska.gov/eh/dw/regulations/> includes a list with links to ALL of these

**18 AAC 80.210. Department review of engineered plans; approval to construct;**

**approval to operate**. (a) The department will issue its approval or denial to construct a

community water system, non-transient non-community water system, or transient noncommunity water system not later than 30 days after the department receives all of the plans and information required by this chapter. If the submittals are deficient, the department will notify the owner that additional information is needed. Failure of the department to issue an approval or denial to construct within 30 days does not constitute automatic approval of the plans.

(b) The department will not issue an approval to construct a new community water

system or a new non-transient non-community water system if the department determines that

the submitted plans, specifications, and information do not meet the requirements of technical,

managerial, and financial capacity under 18 AAC 80.207….

**18 AAC 80.215. Revocation, expiration, or extension of approval**. (a) The

department will revoke an approval issued under 18 AAC 80.210 if

(1) the owner fails to comply with the procedures set out in 18 AAC 80.210; and

(2) the department determines that revocation is necessary to protect the public

health.

(b) An approval to construct issued under 18 AAC 80.210 is valid for two years after

issuance. If the applicant fails to complete a project to construct, install, alter, renovate, or

improve the public water system within the specified two years, the applicant must, before

construction approval expires, request an extension of construction approval to complete the

project. To apply for an extension, the applicant must resubmit, for department review and

approval, the plans and information required under 18 AAC 80.210(a). If during the two-year

period the site conditions, plans and information, and relevant requirements in this chapter have

not changed, and if the applicant pays the fee required by 18 AAC 80.1910(a)(12), the

department will grant the applicant an extension. (Eff. 10/1/99, Register 151; am 4/24/2009,

Register 190; am 7/25/2010, Register 195; am 5/3/2019, Register 230)

There are also penalties for failure to operate the PWS in accordance with the SDWA.

From the Alaska regs…

**18 AAC 80.1200. Circumstances for assessing a penalty.** The department may assess

a penalty against an entity that violates or causes or permits to be violated a term or condition of

this chapter, or a term or condition of an order, permit, approval, or certificate issued under this

chapter. The penalty assessed will be stated in terms of dollars per day per violation in

accordance with AS 46.03.761(g). (Eff. 9/21/2002, Register 163)

**Authority:** AS 46.03.020 AS 46.03.761

**18 AAC 80.1210. Notice of violation.** (a) Before assessing an administrative penalty

under 18 AAC 80.1200 - 18 AAC 80.1290, the department will provide to the entity, by personal

service or by certified mail, return receipt requested, a written notice in conformance with

AS 46.03.761(b) of the violation. The department will send a copy of the notice of violation to

the governing body of the community or municipality whose residents are served by the public

water system….

**18 AAC 80.1220. Calculation of penalty.** (a) Subject to (f) of this section and the limits

imposed by AS 46.03.761(g), the per day per violation administrative penalty will be calculated in

accordance with the following formula:

penalty = (A x B x C x $10) + D

where:

A = the point value assigned under (b) of this section;

B = the point value assigned under (c) of this section;

C = the point value assigned under (d) of this section;

D = the number determined under the formula set out in (e) of this section…

A=

* + 1 pt. - minor impacts on public health, e.g., failure to produce a CCR or meet a secondary MCL
	+ 2 pts. - prevent the DEC’s assessment of public safety, e.g., failing to report things
	+ 3 pts. - could prevent the PWS from supplying water to the public
	+ 4 pts. - a specific, known health concern, e.g., failing to monitor for coliform
	+ 5 pts. – unapproved or deficient PWS, e.g., failing to correct previous deficiencies, un-certified operator
	+ 6 pts. – immediate threat to public health, e.g., failure to meet specific MCLs

B=

* + 7 pts. if previous violations within last 5 years worth 4-6 pts. above
	+ 3 pts. if previous violations within last 5 years worth 1-3 pts. above
	+ 1 pt. if no previous violations within last 5 years

C= 1-6 pts. depending on PWS class - how many connections does it serve?

D= (economic savings + department's reasonable costs) \* number of days of violation

* + Allows DEC to adjust the fine based on the size of the impact on the public, how fast the violation was fixed, how much of the problem was under the PWS’s control, etc.

**Other Resources**

<https://dec.alaska.gov/eh/dw/contact#nogo> Contact information for ADEC in all regions and departments, including engineering