

HB

190

<TARGET><BILL>HB 190</BILL><SUBJECT>HB
190</SUBJECT><COMM>HSTA30</COMM></TARGET>

ALASKA STATE HOUSE

Session:

State Capitol Building,
Room 104
Juneau, AK 99801
Phone: (907) 465-4922



Interim:

1292 Sadler Way, Suite 308
Fairbanks, AK 99701
Phone: (907) 451-2875
Fax: (907) 456-3346

REPRESENTATIVE DAVE TALERICO Administrative Procedure Act

Sponsor Statement for House Bill 190

This legislation changes the Administrative Procedure Act to allow for oral testimony when requested by individuals. In a time of informational technology and the vast geography of the state, it is time to update this particular public proceedings law. On the date and at the time and place designated in the notice the agency shall give each interested persons or person's authorized representative, the opportunity to present orally to that agency when requested statements, arguments, or contentions with regulations being adopted, amended, or repealed.

ALASKA STATE HOUSE

Session:

State Capitol Building,
Room 110
Juneau, AK 99801
Phone: (907) 465-4936
Fax: (907) 465-2197



Interim:

1292 Sadler Way, Suite 308
Fairbanks, AK 99701
Phone: (907) 452-4448
Fax: (907) 456-3346

REPRESENTATIVE DAVE TALERICO

MEMORANDUM

Date: March 22, 2017

To: Representative Jonathan Kreiss-Tomkins, Chair
State Affairs Committee

From: Representative Dave Talerico

Re: Committee Hearing Request for HB 190

I respectfully request a committee hearing at your earliest convenience in the House State Affairs Committee for HB 190, "An Act relating to the presentation of oral comments on the proposed adoption, amendments, or repeal of regulations."

- HB 190 Sponsor Statement
- HB 190 Version A

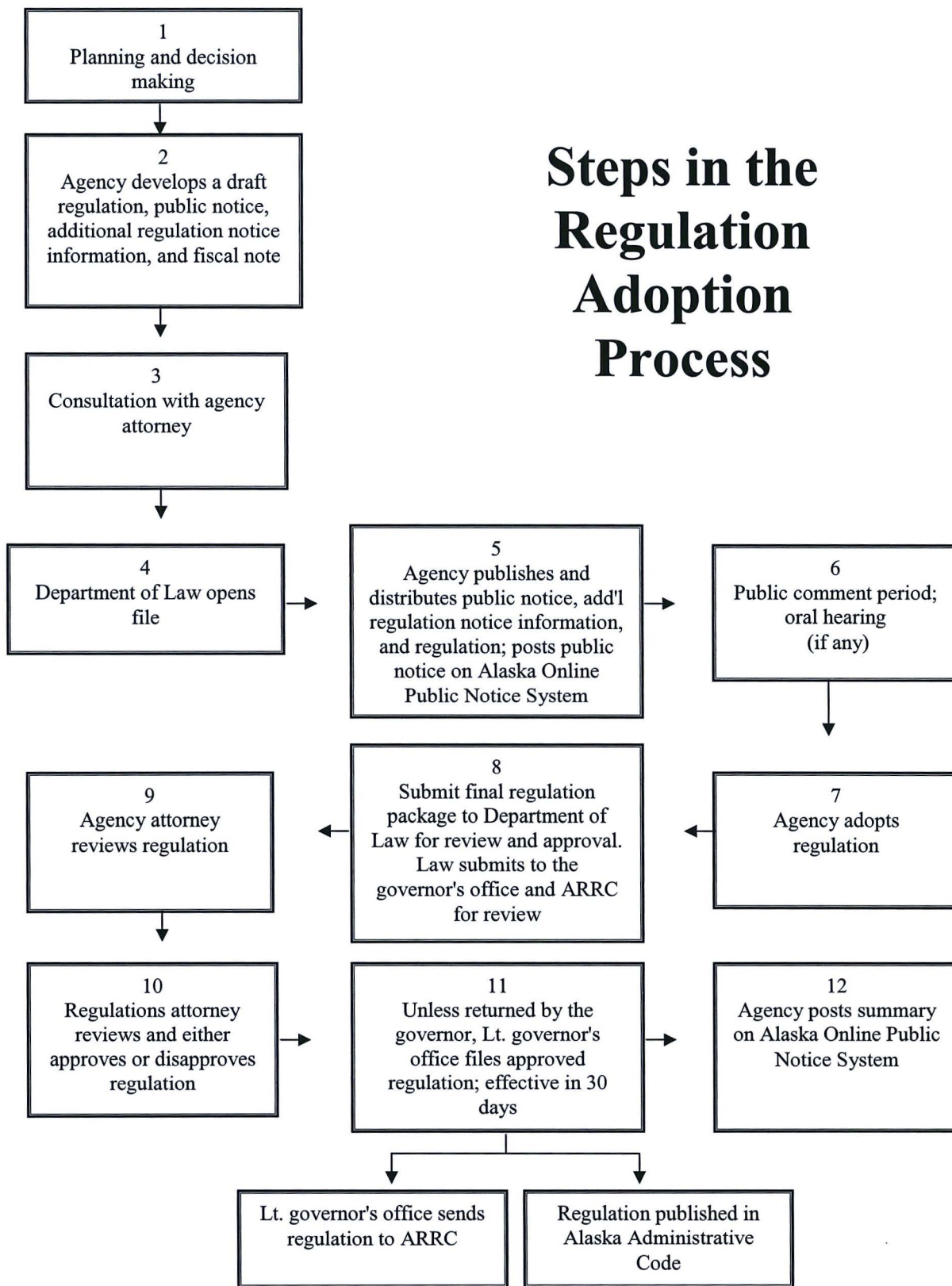
Sincerely,

Representative Dave Talerico

A handwritten signature in blue ink that reads "Dave M. Talerico".

You may contact my staff Julie Morris at 465-2847 if you have any questions regarding this bill.

Steps in the Regulation Adoption Process



recipients in the same manner in which the public notice was furnished to each of those persons (i.e., by e-mail or regular mail). See DISTRIBUTION OF ADDITIONAL REGULATION NOTICE INFORMATION in Chapter 4 for details regarding the distribution. Appendices E-1 and E-2 set out the additional regulation notice information form. Most agencies will use Appendix E-1; the exempt boards and commissions will use Appendix E-2. To avoid legal problems, the proposed form should be reviewed by the agency attorney before publication.

Affidavit of notice. Following publication and distribution of the public notice and distribution of the additional regulation notice information, the agency should prepare an affidavit of notice (Appendix H) for submission to the Department of Law with the final regulation package (see Step 8). Additionally, after publication of the notice in a newspaper or other publication, the agency will receive from each publisher the proof-of-publication affidavit (or "publisher's affidavit"). The agency must retain the *original* of the publisher's affidavit for submission to the Department of Law with the final regulation package.

STEP 6: PUBLIC COMMENT AND ORAL HEARING. The agency should retain all public comments received according to the agency's records retention schedule and must make those comments available for public and Department of Law review, if requested; this includes printing and retaining comments received by e-mail or by the Alaska Online Public Notice System.

If an oral hearing is held, the hearing should be recorded and witnesses should be asked to identify themselves and any organization they represent; a person is not, however, required to give their identity in order to testify. Ground rules for hearings may be established, including time limits on speaking and whether specific technical questions will be answered at the hearing or later by the agency in writing in a public format. Basic fairness should govern the hearing process, and effort should be made to gather information and expressions of public opinion. Contact the Department of Law if additional advice is needed regarding how to conduct a hearing.

Following an oral hearing, the agency must prepare an affidavit of oral hearing (Appendix I) for submission to the Department of Law with the final regulation package (see Step 8).

Under AS 24.20.105, the Legislative Affairs Agency reviews the proposed regulation (except for a regulation of the Board of Fisheries and Board of Game). This review may result in a confidential written notification or other communication from the Legislative Affairs Agency to the adopting agency. The notification or communication *would not be a public comment* (see Step 7). If a written notification or other communication is received, the adopting agency should immediately contact the agency attorney for the project and the regulations attorney in the Department of Law.

Additionally, before adoption of the regulation, the agency should consider the Legislative Affairs Agency's notification or communication (if any) and the Department of Law advice regarding it. When a board or commission considers a notification or other communication received from the Legislative Affairs Agency (and the Department of Law advice regarding the notification or communication), it should do so in executive session under the procedures in AS 44.62.310. However, under AS 24.20.105(h), the Legislative Affairs Agency's review process does not affect an agency's ability to complete its proposed action regarding the regulation, and any suggestions for changes to a proposed regulation made by that agency are not binding on an agency.

#2
Adopted

30-LS0732J.3
Bannister
4/10/17

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 190(), Draft Version "J"

1 Page 1, line 2:

2 Delete "**and**"

3

4 Page 1, line 3, following "**regulations**":

5 Insert "**; and relating to the identification of a person who comments on the**
6 **proposed adoption, amendment, or repeal of regulations**"

7

8 Page 3, line 4, following "orally.":

9 Insert "**The agency shall require a person who presents a statement, argument, or**
10 **contention in writing or orally to give the person's name and, unless acting on the**
11 **person's own behalf, the person's affiliation.**"

#1

Adopted

30-LS0732\J.2
Bannister
4/7/17

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 190(), Draft Version "J"

1 Page 1, line 1, following "Act":

2 Insert "**relating to the adoption, amendment, or repeal of regulations;**"

3

4 Page 1, line 2:

5 Delete "**and**"

6

7 Page 1, line 3, following "regulations":

8 Insert "**; and relating to the consideration of the cost to the state of the proposed**
9 **adoption, amendment, or repeal of regulations"**

10

11 Page 3, line 9, following "persons":

12 Insert "**and to the state**"

13

14 Page 3, following line 9:

15 Insert a new bill section to read:

16 "*** Sec. 4.** AS 44.62.210 is amended by adding a new subsection to read:

17 (c) If an agency has taken both written and oral testimony under this section,
18 the agency shall limit extensions to one extension in 45 days."

19

20 Renumber the following bill sections accordingly.

Fiscal Notes Still to Come:

- DFG zero FN. There will be cost but the department can absorb.
- CFEC zero FN. There will be cost but the department can absorb
- DNR positive note. Department can't absorb any additional costs to component.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 190
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB190CS(STA)-LAW-CIV-04-11-17
Title: REGULATION ADOPTION/ORAL COMMENT
Sponsor: TALERICO
Requester: House State Affairs

Department: Department of Law
Appropriation: Civil Division
Allocation: Legislation/Regulations
OMB Component Number: 2209

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version. This fiscal note is written based on the committee substitute vs. J.

Prepared By:	Valerie Rose, Budget Analyst	Phone:	(907)465-3674
Division:	Administrative Services Division	Date:	04/07/2017 09:21 AM
Approved By:	Jahna Lindemuth, Attorney General	Date:	04/11/17
Agency:	Department of Law		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 190

Analysis

The committee substitute for HB 190 would amend the Alaska Administrative Procedure Act (APA) (AS 44.62) in two main areas. First, secs. 1, 2, and 4 of the bill would remove the requirement that a notice of proposed regulations and a notice of amended material previously adopted by reference be published in a newspaper of general circulation, but would retain a requirement that notice be published in a "trade or industry publication." Bill secs. 1 and 4 would add a requirement that notice be posted on "the state agency's Internet website." Second, bill sec. 3 would amend AS 44.62.210(a) addressing public proceedings on proposed regulations, to require that, on the date and at the time and place designated in a notice of proposed regulations, an agency give an "interested person, the person's authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing or orally." [Emphasis added.] Section 3 of the bill would delete the phrase "with or without the opportunity to present them" that appears before "orally" in the current statute.

As legal counsel for executive agencies, including boards and commissions that adopt regulations under the APA, the Department of Law's role includes advising agencies on legal issues regarding regulation projects, attending agency meetings on proposed regulations, advising agencies on compliance with the APA, and preparing the *Drafting Manual for Administrative Regulations*. Although the Department of Law is the adopting authority for regulations related to oversight of charitable organizations and consumer protection laws, the department itself does not typically adopt many regulations. However, the department reviews agency regulations. In fiscal year 2016 the department's Legislation and Regulation section reviewed approximately 117 regulation projects.

Costs to the department to remove the requirement for publication of regulations in a newspaper of general circulation are indeterminate, but likely minimal. The department is uncertain of what trade or industry publication is available and appropriate for a subject of regulations that the legislature has assigned to the department for proposal and adoption. Also, if a trade or industry publication were available, the department is uncertain whether the publication would accept advertising, or whether the costs of publishing a notice would be higher than publishing notice in a newspaper of general circulation.

Section 5 of the bill would repeal AS 41.21.123(b), a subject-specific requirement requiring an opportunity for oral comments if the Department of Natural Resources proposes regulations on incompatible uses in Chugach State Park. Alaska Statute 41.21.123(b) would presumably become redundant if sec. 3 of the bill were enacted. The Department of Law does not expect a fiscal impact from sec. 5, recognizing that sec. 5 is only a small portion of the bill.

If the bill were enacted into law, the department would need to revise the *Drafting Manual for Administrative Regulations* and forms used by agencies to notice and adopt regulation projects to reflect the changes in law, but the department expects to be able to do this work with current staff and resources.

If the bill were enacted into law, the department would be required to assist with additional hearings. The impact of these additional hearings would include the costs of increased attorney and paralegal time to assist agencies with public proceedings on proposed regulations. Attorney time includes time assisting an agency with questions before a public meeting, and time spent at meetings. If oral comment becomes a required option for all proposed regulations, attorney time required to assist at board meetings may increase. In fiscal year 2016, of the 117 regulations projects reviewed by the department, approximately 38 (32 percent) were supported by the department's general funds, and the remaining 79 (68 percent) were projects where work was billed to the agency through a reimbursable services agreement; this includes legal assistance provided to professional licensing boards. The costs to the department to assist with additional hearings are indeterminate.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 190
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB190CS(STA)-DOT-COM-04-11-17
Title: REGULATION ADOPTION/ORAL COMMENT
Sponsor: TALERICO
Requester: House State Affairs

Department: Department of Transportation and Public Facilities
Appropriation: Administration and Support
Allocation: Commissioner's Office
OMB Component Number: 530

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version - drafted to committee substitute vs. J.

Prepared By:	Mike Lesmann	Phone:	(907)465-4772
Division:	Commissioner's Office	Date:	04/11/2017 12:00 PM
Approved By:	Amanda Holland	Date:	04/11/17
Agency:	DOT&PF		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 190

Analysis

This proposal amends AS 44.62.210, public proceedings under the Administrative Procedures Act. Currently, state agencies, boards or commissions have the option of providing an opportunity for oral comment on a regulations proposal. HB 190 would amend current law to allow a member of the public to request an oral hearing, and therefore potentially (yet unquantifiably) increase the department's number of public meetings held on regulation packages.

The department's regulatory work is generally confined to three areas: Statewide Aviation; the International Airport System; and Commercial Vehicle Enforcement. Combined, those pieces of the department average 12 public meetings annually. On average, three staff prepare and administer these meetings. The average salary of these staff is SR21.

HB 190 also amends AS 44.62.190(a), Notice of Proposed Regulation, to remove the requirement that notice of proposed regulations be published in a newspaper of general circulation but instead requires that a notice be placed in a trade or industry publication to which the state agency subscribes.

Commercial Vehicle Enforcement staff are not aware of any trade or industry publications, but our statewide and international airport staff are familiar with an Alaska Airmen Association publication called "The Transponder." This is an aviation quarterly publication that charges approximately \$420.00 for a ¼ page ad and \$736.00 for a ½ page ad. Since this publication is produced quarterly, it would be a challenge to publish a regulations public notice without experiencing a significant time delay in the regulations process.

If HB 190 were to become law, the department would expect personnel costs each time an oral hearing was requested by a member of the public. Without knowing how many of these requests would come in, it is difficult to evaluate if the added workload could be absorbed with current staffing, or whether additional positions would be needed. The fiscal impact of this legislation cannot be accurately determined at this time.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 190
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB190CS(STA)-DPS-COM-04-10-17
Title: REGULATION ADOPTION/ORAL COMMENT
Sponsor: TALERICO
Requester: (H) STA

Department: Department of Public Safety
Appropriation: Statewide Support
Allocation: Commissioner's Office
OMB Component Number: 523

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version. Fiscal note drafted to committee substitute vs. J.

Prepared By:	Kelly Howell	Phone:	(907)465-4336
Division:	Administrative Services	Date:	04/10/2017 03:30 PM
Approved By:	Walt Monegan	Date:	04/10/17
Agency:	Public Safety		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 190

Analysis

Under current AS 44.62.190, state agencies that adopt regulations under the Administrative Procedures Act (AS 44.62) are required to publish notice of proposed regulation changes in the newspaper of general circulation or trade or industry publication that the agency subscribes to. Section 1 of this legislation removes the requirement to publish in the newspaper of general circulation, leaves intact the requirement to publish in a trade or industry publication, and adds a new requirement to post on the agency's Internet website.

Under current AS 44.62.210, agencies are required to provide an opportunity for interested persons to submit public comments on proposed regulation changes in writing, and agencies have the option of scheduling a public hearing to also receive oral comments. Section 3 of this legislation makes it mandatory for agencies to provide interested persons the opportunity to provide comments orally.

The Department of Public Safety (DPS) has statutory authority to adopt regulations in several areas of its operations, including but not limited to:

- Motor/commercial vehicle and driving offenses;
- Sex offender and child kidnapper registration;
- Concealed handgun permits;
- Security guard and process server licensing;
- Forensic alcohol testing;
- Village Public Safety Officer Program;
- Minimum standards for police, probation, parole, and correctional officers;
- Domestic violence and sexual assault program standards; and
- Fire service codes, standards, and operations.

If passed, Section 1 of this legislation is not expected to result in a fiscal impact as there are no trade or industry publications DPS subscribes to, and posting proposed changes on the DPS website can be accomplished without additional resources.

The requirement under Section 4 to hold public hearings will result in a fiscal impact, as DPS does not generally schedule public hearings as a means of accepting public comment on proposed regulation changes. However, given the infrequency of regulations projects within DPS, the department will strive to absorb any additional costs within its current budget. Therefore, a zero fiscal note is being submitted.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 190
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB190CS(STA)-DEC-CO-04-10-17
Title: REGULATION ADOPTION/ORAL COMMENT
Sponsor: TALERICO
Requester: House State Affairs

Department: Department of Environmental Conservation
Appropriation: Administration
Allocation: Office of the Commissioner
OMB Component Number: 633

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018					
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version. Fiscal note drafted to committee substitute vs. J.

Prepared By: Tom Cherian, Director
Division: Administration
Approved By: Larry Hartig, Commissioner
Agency: Department of Environmental Conservation

Phone: (907)465-5256
Date: 04/10/2017 02:30 PM
Date: 04/10/17

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 190

Analysis

HB 190 would require the Department of Environmental Conservation to provide the opportunity for public comment on proposed regulations to be given orally. This bill would also remove the requirement that public notice of proposed regulations be published in a newspaper of general circulation. Public notice would still require publication to the Alaska Online Public Notice System and in a trade or industry publication prescribed by the Department, with an added requirement that it be posted to the Department's website.

The Department produces roughly 15 to 20 regulations packages annually. It is impossible to reasonably estimate how many individuals would utilize an option to provide public comment orally. To facilitate oral comment and ensure these comments are documented thoroughly and accurately, the Department would need to establish a dedicated phone line with an 800 number that went directly to a dedicated voicemail box. The Department can absorb the cost of the additional phone line.

Transcriptionist services would need to be employed, which will cost an estimated \$60/hr, plus an additional \$4-\$5 per/page. The majority of regulations packages receive little to no public comment, however it is not uncommon for a high profile or controversial regulations package to receive hundreds of comments. If these comments are received orally via the dedicated phone line, there will be a significant cost to the Department to transcribe them all.

The Department would publish the phone number with every regulations package to avoid the delays and extra costs if oral comment was requested and not previously noticed. This additional text would increase the cost of each public notice.

The Department estimates there may be some savings realized from not being required to publish public notice of proposed regulations in a newspaper, although that option may still be utilized regularly to ensure the targeted community is aware of the proposed package. There are few industry and trade publications relevant to the Department, and they have never been used for public notice so the cost is unknown, though it is anticipated that the cost to publish public notice in them would be significantly higher than in a newspaper. The frequency of when industry and trade publications are published may be a challenge and could delay a regulations package. In many cases, the Department already posts public notice of regulations packages to its website, and any addition workload can be absorbed by existing staff.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 190
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB190CS(STA)-DCCED-DW-04-10-17
Title: REGULATION ADOPTION/ORAL COMMENT
Sponsor: TALERICO
Requester: (H) State Affairs

Department: Department of Commerce, Community and
Economic Development
Appropriation: Executive Administration
Allocation: Commissioner's Office
OMB Component Number: 1027

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES								
Personal Services	91.9		91.9	91.9	91.9	91.9	91.9	91.9
Travel								
Services	146.7		146.7	146.7	146.7	146.7	146.7	146.7
Commodities	12.0		2.0	2.0	2.0	2.0	2.0	2.0
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	250.6	0.0	240.6	240.6	240.6	240.6	240.6	240.6

Fund Source (Operating Only)

1005 GF/Prgm (DGF)	14.2		14.2	14.2	14.2	14.2	14.2
1156 Rcpt Svcs (DGF)	222.2		212.2	212.2	212.2	212.2	212.2
1178 temp code (UGF)	14.2		14.2	14.2	14.2	14.2	14.2
Total	250.6	0.0	240.6	240.6	240.6	240.6	240.6

Positions

Full-time	1.0		1.0	1.0	1.0	1.0	1.0
Part-time							
Temporary							

Change in Revenues

1156 Rcpt Svcs (DGF)	211.5		201.5	201.5	201.5	201.5	201.5
Total	211.5	0.0	201.5	201.5	201.5	201.5	201.5

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version:

Not applicable, initial version. Fiscal note drafted to committee substitute vs. J.

Prepared By:	Catherine Reardon, Director	Phone:	(907)465-2505
Division:	Division of Administrative Services, DCCED	Date:	04/10/2017 06:56 PM
Approved By:	Catherine Reardon, Director	Date:	04/10/17
Agency:	Division of Administrative Services, DCCED		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 190

Analysis

HB190 changes the Administrative Procedures Act to require the opportunity for oral testimony on regulations packages. Currently regulations are required to be published in a newspaper of general circulation, trade or industry publications, or in a regularly published agency newsletter. This bill removes the requirement to publish in a newspaper of general circulation. This legislation will affect multiple divisions within the department. The department completes approximately 35 regulations packages per year, most of which are related to professional licensing programs.

The change in publication requirements will result in increased advertising costs for regulations packages. The department does not currently publish or print a regular agency newsletter, so regulations under this legislation will be published in trade or industry publications. Industry publication advertising rates are generally higher than newspapers.

The department will require one full-time Regulations Specialist to schedule and coordinate the hearings, review and categorize transcribed testimony, and coordinate advertising. This position will be housed in the Division of Corporations, Business, and Professional Licensing.

Oral hearings are estimated as one-half day of public testimony per regulations package. For packages relating to professional licensing or other boards, boards are anticipated to participate telephonically instead of travelling. Department conference rooms may be scheduled in regional hubs to minimize the number of teleconference lines per location.

Transcription fees are estimated assuming \$6.00 per page for 20 testifiers per meeting, with an average of three pages of transcription per testifier. Telephone bridge and operator facilitation of public comment are estimated at \$0.25 per minute for 20 testifiers for 4 hours per meeting. Increases in advertising are assumed at \$2,000.00 per regulations package to account for higher advertising rates in industry publications.

Estimated amounts per component are detailed below. Amounts for the Alaska Industrial Development and Export Authority (AIDEA) and the Regulatory Commission of Alaska (RCA) are combined in the temporary fund code on page 1.

- Banking and Securities - 1005 GF/PR - 2 package/year: \$7.1 annually
- Corporations, Business and Professional Licensing - 1156 RSS - 26 packages/year: \$211.5 in the first year, \$201.5 in subsequent years. Costs include funding for one Regulations Specialist as well as their associated startup costs and annual support costs.
- Insurance - 1156 RSS - 3 packages/year: \$10.7 annually
- Alcohol and Marijuana Control Office - 1005 GF/PR - 2 package/year: \$7.1 annually
- Alaska Industrial Development and Export Authority - 1102 AIDEA Receipts - 2 packages/year: \$7.1 annually
- Regulatory Commission of Alaska - 1141 RCA Rcpts - 2 packages/year: \$7.1 annually

Professional licensing programs within the Division of Corporations, Business and Professional Licensing are funded by Receipt Supported Services, fund source 1156 Rcpt Svcs (DGF). Licensing fees for each occupation are set per AS 08.01.065 so the total amount of revenue collected approximately equals the occupation's actual regulatory costs. This results in a change in revenues for some of the costs associated with this fiscal note.

ALASKA STATE HOUSE

Session:

State Capitol Building,
Room 104
Juneau, AK 99801
Phone: (907) 465-4922



Interim:

1292 Sadler Way, Suite 308
Fairbanks, AK 99701
Phone: (907) 451-2875
Fax: (907) 456-3346

REPRESENTATIVE DAVE TALERICO Administrative Procedure Act

Explanation of Changes to HB 190 Version A to Version J

Sec. 1 AS 44.62.190(a)(1) deletes newspaper from a requirement of publication., and includes the Internet address of the state Agency's Internet website.

Sec. 2 AS 44.62.200 (d) deletes the newspaper requirement.

Sec. 3 AS 44.62.210(a) deleted language (when requested by the person or the person's authorized representative).

Sec. 4 AS 44.62.245 (b)(2) amends post to the agency's Internet website and deletes requirement in newspaper of general circulation.

Sec. AS.21.123 (b) repealed the oral requirement in this statute since it will be covered now in Section 3.

Sec. 6 Applicability applies to regulations amended, adoption or repealed on or after effective date.

Please contact Rep. Dave Talerico office at 465-2847 for further information.

30-LS0732J
Bannister
3/31/17

CS FOR HOUSE BILL NO. 190()
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES TALERICO, Gara, Reinbold

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to giving notice of the proposed adoption, amendment, or repeal of**
2 **regulations; and relating to the presentation of oral comments on the proposed**
3 **adoption, amendment, or repeal of regulations."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 44.62.190(a) is amended to read:

6 (a) At least 30 days before the adoption, amendment, or repeal of a regulation,
7 notice of the proposed action shall be

8 (1) published in the [NEWSPAPER OF GENERAL CIRCULATION
9 OR] trade or industry publication that the state agency prescribes and posted on the
10 Alaska Online Public Notice System **and the state agency's Internet website**; in the
11 discretion of the state agency giving the notice, the requirement of publication in a
12 [NEWSPAPER OR] trade or industry publication may be satisfied by using a
13 combination of publication and broadcasting; when broadcasting the notice, an agency
14 may use an abbreviated form of the notice if the broadcast provides the name and date

1 of the [NEWSPAPER OR] trade or industry journal, the Internet address of the state
2 agency's Internet website, and the Internet address of the Alaska Online Public
3 Notice System where the full text of the notice can be found;

4 (2) furnished to every person who has filed a request for notice of
5 proposed action with the state agency;

6 (3) if the agency is within a department, furnished to the commissioner
7 of the department;

8 (4) when appropriate in the judgment of the agency,

9 (A) furnished to a person or group of persons whom the agency
10 believes is interested in the proposed action; and

11 (B) published in the additional form and manner the state
12 agency prescribes;

13 (5) furnished to the Department of Law together with a copy of the
14 proposed regulation, amendment, or order of repeal for the department's use in
15 preparing the opinion required after adoption and before filing by AS 44.62.060;

16 (6) furnished by electronic format to all incumbent State of Alaska
17 legislators, and furnished to the Legislative Affairs Agency;

18 (7) furnished by electronic format, along with a copy of the proposed
19 regulation, amendment, or order of repeal, as required by AS 24.20.105(c).

20 * **Sec. 2.** AS 44.62.200(d) is amended to read:

21 (d) When a state agency, other than the Regulatory Commission of Alaska, the
22 Board of Fisheries, or the Board of Game, posts, furnishes, or otherwise provides a
23 notice of the proposed adoption, amendment, or repeal of a regulation under
24 AS 44.62.190, a brief description of the changes made by the proposed adoption,
25 amendment, or repeal must accompany the notice. However, if, under
26 AS 44.62.190(a), the notice is published in a [NEWSPAPER OR] trade or industry
27 publication or is broadcast, this subsection does not require that the brief description
28 otherwise required by this subsection accompany the publication or the broadcast. To
29 the extent practicable, the brief description shall be written in clear, easily readable
30 language that a person without a legal background is able to understand.

31 * **Sec. 3.** AS 44.62.210(a) is amended to read:

1 (a) On the date and at the time and place designated in the notice, the agency
2 shall give each interested person or the person's authorized representative, or both, the
3 opportunity to present statements, arguments, or contentions in writing or [, WITH
4 OR WITHOUT OPPORTUNITY TO PRESENT THEM] orally. The state agency
5 may accept material presented by any form of communication authorized by this
6 chapter and shall consider all factual, substantive, and other relevant matter presented
7 to it before adopting, amending, or repealing a regulation. When considering the
8 factual, substantive, and other relevant matter, the agency shall pay special attention to
9 the cost to private persons of the proposed regulatory action.

10 * **Sec. 4.** AS 44.62.245(b) is amended to read:

11 (b) When the amended version of a document or other material incorporated
12 by reference in a regulation as described in (a) of this section becomes available, the
13 state agency shall

14 (1) make the amended version of the document or other material
15 available to the public for review; and

16 (2) post on the Alaska Online Public Notice System, post on the
17 agency's Internet website, and publish in a [NEWSPAPER OF GENERAL
18 CIRCULATION OR] trade or industry publication or in a regularly published agency
19 newsletter or similar printed publication, not later than 15 days after the amended
20 version of the document or other material becomes available, a notice that describes
21 the affected regulation, the effective date of the amended version of the document or
22 other material, and how a copy of the amended version may be obtained or reviewed.

23 * **Sec. 5.** AS 41.21.123(b) is repealed.

24 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 APPLICABILITY. This Act applies to a proposed adoption, amendment, or repeal of
27 a regulation if notice of the proposed adoption, amendment, or repeal is first given under
28 AS 44.62.190 on or after the effective date of this Act.

Mr. Ed Meggert
455 D and M Road
Fairbanks, AK. 99712

Senator John Coghill
1292 Sadler Way Suite 340
Fairbanks, Alaska 99701

Re: Alaska Department of Environmental Conservation (ADEC) proposed adoption of new regulations for Class 2 Facilities (oil tanks)

Dear Senator Coghill;

The ADEC Spill Prevention and Response Division (SPAR) is proposing the adoption of regulations that would require registration of all facilities in the State of Alaska with storage capacity of 1000 gallons of gasoline or fuel oil or more.

I am not in favor of these regulation for the following reasons:

- Clearly there will be more regulations following and the department has not communicated to the public what their regulatory interest is in these facilities.
- ~~There has been no discussion of the need for this registration by the department.~~
- There has been no discussion of the cost for the department of the registration.
- Although the cost to churches, groups, local business and industry may be very small to register with the department, the cost for future regulations may be very high. This needs discussion now.
- Future oversight costs for the department are likely to be quite high, how will that be paid for? This answer should be clearly laid out before requiring the registration of these tanks.
- Currently the department only requires the registration for facilities with tankage of 420,000 gallons or greater. These facilities are required to have an Oil Discharge Prevention and Contingency Plan that costs those facilities many tens of thousands of dollars to put into place and millions of dollars for the department to oversee. Requiring registration of tanks down to 1000 gallons is in my opinion a huge over-reach.
- These proposed regulations where put out for comment for only a short window of time over the holiday season. Considering the potential future scope of these regulations the rule making deserves greater input from both the potentially regulated public and our law makers.

Would you please look into these proposed new regulations and see if they could either be stopped or at least have the wider discussion as I have laid out above? Public comment period closes on the proposed regulations on January 19, 2017.

Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Ed Meggert". The signature is written in a cursive style with a large, stylized "E" and "M".

Ed Meggert

Attachments

Additional Regulations Notice Information SPAR Class 2 Amendments.pdf

SPAR Aboveground Storage Tank Class 2 Amendments.pdf

Revision History

Created 12/14/2016 10:16:38 AM by cfishwick
Modified 12/14/2016 10:17:31 AM by cfishwick
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Details

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Sub-Category: Notice of Proposed Regulations

Location(s): Statewide

Project/Regulation #:

Publish Date: 12/14/2016

Archive Date: 1/20/2017

Events/Deadlines: public comments due
1/19/2017 5:00pm

- email -

**Department of Environmental Conservation
Division of Spill Prevention & Response**



**18 AAC Chapter 75 – Oil and Other Hazardous Substances Pollution
Control**

Proposed Regulation Revisions

December 13, 2016

**Bill Walker
Governor**

**Larry Hartig
Commissioner**

**Public Comment period ends
January 19, 2017, 5:00 p.m.**

**Please see public notice for
details about how to comment**

Background and changes addressed

This packet is being proposed to adopt new regulations in 18 AAC 75 for the registration of Class 2 facilities – facilities that store noncrude oil in aboveground storage tanks and have storage capacities of 1,000 gallons or greater but less than 420,000 gallons.

Understanding the changes

In the following text, the proposed changes follow the formatting requirements of the “Drafting Manual for Administrative Regulations,” August 2015, as promulgated by the State of Alaska Department of Law. The draft changes are indicated as follows:

Lead-in text explains the changes to the text that follows.

For comparison purposes, a complete copy of the current 18 AAC 75 regulations can be found online at: <http://dec.alaska.gov/commish/regulations/index.htm>

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.915. Applicability of Class 2 Facility Regulations. (a) The requirements of 18 AAC 75.915 - 18 AAC 75.985 apply to all owners and operators of a Class 2 facility as defined in 18 AAC 75.985.

(b) The requirements of 18 AAC 75.915 - 18 AAC 75.985 apply to all aboveground storage tanks (ASTs) as defined in 18 AAC 75.985 located at a Class 2 facility unless the AST

(1) is used in a waste water collection system regulated under 18 AAC 72 or 18 AAC 83; or

(2) has a storage capacity of less than 500 gallons. (Eff. __/__/__, Register ____)

Authority: AS 46.03.020 AS 46.04.070

18 AAC 75 is amended by adding a new section to read:

~~18 AAC 75.920. Registration and notification requirements.~~ (a) ~~An owner or operator~~ of a Class 2 facility shall register the facility and each AST at the facility with the department using the paper or electronic form supplied by the department as follows:

(1) not later than November 1, 2017 for a facility in existence before August 1, 2017; and

(2) not later than 30 days after

(A) a facility is placed into service on or after August 1, 2017; and

(B) an AST is placed into service on or after August 1, 2017.

(b) Any person who assumes ownership of a Class 2 facility shall notify the department using the paper or electronic form supplied by the department not later than 30 days after the

change in ownership.

(c) An owner or operator of a Class 2 facility shall notify the department using the paper or electronic form supplied by the department not later than 30 days after an AST is removed from service.

(d) An owner or operator of a Class 2 facility shall notify the department using the paper or electronic form supplied by the department not later than 30 days after the facility no longer meets the definition of a Class 2 facility due to a change in storage capacity. (Eff. __/__/__, Register __)

Authority: AS 46.03.020 AS 46.04.070

Editor's note: The forms referenced in 18 AAC 75.920 are available on the department's Internet website.

18 AAC 75 is amended by adding a new section to read:

~~18 AAC 75.985. Definitions for 18 AAC 75.915 - 18 AAC 75.985. In 18 AAC 75.915~~

18 AAC 75.985, unless the context indicates otherwise,

(1) "aboveground oil storage tank" or "AST" means a container, including a storage and surge tank, that is used to store bulk quantities of oil; "aboveground oil storage tank" does not include

(A) an underground storage tank as defined in AS 46.03.450;

(B) a surface impoundment, pit, pond, or lagoon; or

(C) a vehicle, such as a tank truck or railroad tank car, designed and used

to transport oil from one location to another unless:

(i) the vehicle contains oil and remains in the same location more

than 30 consecutive days; or

(ii) the vehicle dispenses oil and is refilled while in the same location;

(2) "Class 2 facility" means an onshore facility that stores noncrude oil in aboveground oil storage tanks and has a storage capacity of 1,000 gallons or greater but less than 420,000 gallons; "Class 2 facility" does not include

(A) facilities required under AS 46.04.030 to have an oil discharge prevention and contingency plan; or

(B) residential structures with aboveground oil storage tanks used solely to store heating oil for consumptive use on the premises;

(3) "dwelling unit" means real or personal property inhabited as a primary or secondary residence; "dwelling unit" includes an individual unit within a multiple unit residential structure;

~~(4) "placed into service" means~~

(A) for an aboveground oil storage tank, at the start of operational use after initial construction or installation; or

(B) for a Class 2 facility, at the start of operational use of a facility after

(i) initial construction; or

(ii) installation or removal of an AST or ASTs that changes the facility's storage capacity causing the facility to meet the definition of a Class 2 facility;

(5) "removed from service" means not in regular use for the service intended;

(6) "residential structure" means a structure used as a dwelling unit; "residential

structure" does not include

(A) a structure with both residential and nonresidential uses and a common AST to store heating oil;

(B) transient lodging;

(C) a residential school or residence hall;

(D) a state or local correctional facility;

(E) a nursing home;

(F) a hospital; and

(G) a place constructed primarily for recreation activities;

(7) "storage capacity" means

(A) for an aboveground oil storage tank, the full physical volume of the tank; and

(B) for a Class 2 facility, the full physical volume of the aboveground oil storage tanks subject to the requirements of 18 AAC 75.915 - 18 AAC 75.985;

(8) "transient lodging" means a room or suite of rooms which is occupied not as a primary residence by persons for periods of less than 30 consecutive days or with services normally offered by hotels, including maid and linen service, a front desk, or telephone switchboard, regardless of the length of occupancy of a person; "transient lodging" does not include dwelling units. (Eff. __/__/__, Register __)

Authority: AS 46.03.020 AS 46.04.070

