

State Antidegradation Policy
18 AAC 70.015

The following regulation is an excerpt from 18 AAC 70 Alaska Water Quality Standards as adopted in 1997. This regulation can also be found in 18 AAC 70 as amended in 2003 and 2011.

18 AAC 70.015. Antidegradation policy. (a) It is the state's antidegradation policy that

(1) existing water uses and the level of water quality necessary to protect existing uses must be maintained and protected;

(2) if the quality of a water exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality must be maintained and protected unless the department, in its discretion, upon application, and after compliance with (b) of this section, allows the reduction of water quality for a short-term variance under 18 AAC 70.200, a zone of deposit under 18 AAC 70.210, a mixing zone under 18 AAC 70.240, or another purpose as authorized in a department permit, certification, or approval; the department will authorize a reduction in water quality only after the applicant submits evidence in support of the application and the department finds that

(A) allowing lower water quality is necessary to accommodate important economic or social development in the area where the water is located;

(B) except as allowed under this subsection, reducing water quality will not violate the applicable criteria of 18 AAC 70.020 or 18 AAC 70.235 or the whole effluent toxicity limit in 18 AAC 70.030;

(C) the resulting water quality will be adequate to fully protect existing uses of the water;

(D) the methods of pollution prevention, control, and treatment found by the department to be the most effective and reasonable will be applied to all wastes and other substances to be discharged; and

(E) all wastes and other substances discharged will be treated and controlled to achieve Register 186,

(i) for new and existing point sources, the highest statutory and regulatory requirements; and

(ii) for nonpoint sources, all cost-effective and reasonable best management practices;

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(3) if a high quality water constitutes an outstanding national resource, such as a water of a national or state park or wildlife refuge or a water of exceptional recreational or ecological significance, the quality of that water must be maintained and protected; and

(4) if potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy described in this section is subject to 33 U.S.C. 1326 (commonly known as sec. 316 of the Clean Water Act).

(b) An applicant for a permit, certification, or approval who seeks to reduce water quality as described in (a) of this section shall provide to the department all information reasonably necessary for a decision on the application, including the information and demonstrations required in (a) of this section and other information that the department finds necessary to meet the requirements of this section.

(c) An application received under (a) of this section is subject to the public participation and intergovernmental review procedures applicable to the permit, certification, or approval sought, including procedures for applications subject to the Alaska Coastal Management Program in AS 46.40 and 6 AAC 50, and applications subject to 18 AAC 15. If the department certifies a federal permit, the public participation and intergovernmental review procedures followed by the federal agency issuing that permit will meet the requirements of this subsection. (Eff. 11/1/97, Register 143)

DEPARTMENT OF ENVIRONMENTAL CONSERVATION



18 AAC 70

WATER QUALITY STANDARDS

As amended through June 26, 2003

Frank Murkowski
Governor

Ernesta Ballard
Commissioner

IMPORTANT NOTE TO READER: The regulations in this booklet have been prepared by the Alaska Department of Environmental Conservation and do not constitute an official version of these regulations, nor do they necessarily reflect current law. Any amendments made after the date of this booklet would appear in the published version of the Alaska Administrative Code. If any discrepancy is found between this booklet and the Alaska Administrative Code, the Code should be considered the final authority, unless the discrepancy is the result of an error in the Code.

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Chapter 70. Water Quality Standards.**Article**

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2. Exceptions to Statewide Standards (18 AAC 70.200 - 18 AAC 70.270)
3. General Provisions (18 AAC 70.900 - 18 AAC 70.990)

Editor's note: The regulations in this chapter, effective November 1, 1997, and distributed in Register 143, constitute a comprehensive reorganization and revision of this material. They replace previous regulations in this chapter that were repealed or amended simultaneously with the adoption of these regulations. The history line at the end of each section does not reflect the history of the replaced provisions before November 1, 1997, nor is the section numbering necessarily related to the numbering before that date. Some regulations in this chapter were in effect before 7/28/59. Previous amendments to this chapter may be reviewed at the Office of the Lieutenant Governor and may be found at Register 34, 5/24/70; Register 39, 8/28/71; Register 44, 10/22/72; Register 47, 8/12/73; Register 67, 8/21/78; Register 69, 2/2/79; Register 70, 4/23/79; Register 71, 9/19/79; Register 84, 12/19/82; Register 89, 3/30/84; Register 91, 9/22/84; Register 94, 6/23/85; Register 100, 1/7/87; Register 107, 9/15/88; Register 112, 11/30/89; Register 133, 1/4/95; and Register 137, 3/16/96.

Article 1. Statewide Standards**Section**

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18 AAC 70.005. Nonapplicability of groundwater provisions. (a) Except as provided in (b) of this section, the provisions of this chapter that are applicable to groundwater do not apply to a response action, a cleanup, or a corrective action approved by

(1) the department under 18 AAC 60.440, 18 AAC 60.860, 18 AAC 75, or 18 AAC 78, except as this chapter is specifically made applicable by 18 AAC 60, 18 AAC 75, or 18 AAC 78; or

(2) the United States Environmental Protection Agency (EPA) under 42 U.S.C. 9601-9675 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980) or 42 U.S.C. 6901-6992k (Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act), if the response, cleanup, or corrective action meets, at a minimum, the site cleanup rules at 18 AAC 75.325-18 AAC 75.390.

(b) This section does not affect the application of this chapter to contaminated surface water and sediment. (Eff 1/22/99, Register 149)

Authority:	AS 46.03.010	AS 46.03.070	AS 46.03.100
	AS 46.03.020	AS 46.03.080	AS 46.03.110
	AS 46.03.050	AS 46.03.090	AS 46.03.720

18 AAC 70.010. General. (a) A person may not conduct an operation that causes or contributes to a violation of the water quality standards set by this chapter.

(b) The water quality standards set by this chapter specify the degree of degradation that may not be exceeded in a waterbody as a result of human actions. The water quality standards are set by the antidegradation policy in 18 AAC 70.015, the water quality criteria in 18 AAC 70.020(b), and the limits in 18 AAC 70.030, applied in accordance with the remainder of this chapter.

(c) Except as specified in an authorization issued under 18 AAC 15, 18 AAC 60, or

18 AAC 72, the water quality standards and limits set by or under this chapter do not apply to a treatment works authorized by the department under 18 AAC 60 or 18 AAC 72, except that the water quality criteria and limits set by or under this chapter must be met in adjacent surface water and groundwater at and beyond the boundary of the treatment works. (Eff. 11/1/97, Register 143)

Authority:	AS 46.03.010	AS 46.03.080	AS 46.03.110
	AS 46.03.020	AS 46.03.090	AS 46.03.710
	AS 46.03.050	AS 46.03.100	AS 46.03.720
	AS 46.03.070		

18 AAC 70.015. Antidegradation policy. (a) It is the state's antidegradation policy that

(1) existing water uses and the level of water quality necessary to protect existing uses must be maintained and protected;

(2) if the quality of a water exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality must be maintained and protected unless the department, in its discretion, upon application, and after compliance with (b) of this section, allows the reduction of water quality for a short-term variance under 18 AAC 70.200, a zone of deposit under 18 AAC 70.210, a mixing zone under 18 AAC 70.240, or another purpose as authorized in a department permit, certification, or approval; the department will authorize a reduction in water quality only after the applicant submits evidence in support of the application and the department finds that

(A) allowing lower water quality is necessary to accommodate important economic or social development in the area where the water is located;

(B) except as allowed under this subsection, reducing water quality will not violate the applicable criteria of 18 AAC 70.020 or 18 AAC 70.235 or the whole effluent toxicity limit in 18 AAC 70.030;

(C) the resulting water quality will be adequate to fully protect existing uses of the water;

(D) the methods of pollution prevention, control, and treatment found by the department to be the most effective and reasonable will be applied to all wastes and other substances to be discharged; and

(E) all wastes and other substances discharged will be treated and controlled to achieve

(i) for new and existing point sources, the highest statutory and regulatory requirements; and

(ii) for nonpoint sources, all cost-effective and reasonable best management practices;

(3) if a high quality water constitutes an outstanding national resource, such as a water of a national or state park or wildlife refuge or a water of exceptional recreational or ecological significance, the quality of that water must be maintained and protected; and

(4) if potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy described in this section is subject to 33 U.S.C. 1326 (commonly known as sec. 316 of the Clean Water Act).

(b) An applicant for a permit, certification, or approval who seeks to reduce water quality as described in (a) of this section shall provide to the department all information reasonably necessary for a decision on the application, including the information and demonstrations required in (a) of this section and other information that the department finds necessary to meet the requirements of this section.

(c) An application received under (a) of this section is subject to the public participation and intergovernmental review procedures applicable to the permit, certification, or approval sought, including procedures for applications subject to the Alaska Coastal Management Program in AS 46.40 and 6 AAC 50, and applications subject to 18 AAC 15. If the department certifies a federal permit, the public participation and intergovernmental review procedures followed by the federal agency issuing that permit will meet the requirements of this subsection. (Eff. 11/1/97, Register 143)

Authority:	AS 46.03.010	AS 46.03.080	AS 46.03.110
	AS 46.03.020	AS 46.03.090	AS 46.03.710
	AS 46.03.050	AS 46.03.100	AS 46.03.720
	AS 46.03.070		

18 AAC 70.020. Protected water use classes and subclasses; water quality criteria; water quality standards table. (a) Classes and subclasses of use of the state's water protected by criteria set out under (b) of this section are

(1) fresh water

(A) water supply

(i) drinking, culinary, and food processing;

(ii) agriculture, including irrigation and stock watering;

(iii) aquaculture;

(iv) industrial;

(B) water recreation

(i) contact recreation;

- (ii) secondary recreation;
- (C) growth and propagation of fish, shellfish, other aquatic life, and wildlife; and
- (2) marine water
 - (A) water supply
 - (i) aquaculture;
 - (ii) seafood processing;
 - (iii) industrial;
 - (B) water recreation
 - (i) contact recreation;
 - (ii) secondary recreation;
 - (C) growth and propagation of fish, shellfish, other aquatic life, and wildlife; and
 - (D) harvesting for consumption of raw mollusks or other raw aquatic life.

(b) Except as modified by or under 18 AAC 70.220 or 18 AAC 70.235, the water quality criteria set out in the following table, and in the *Alaska Water Quality Criteria Manual for Toxic and Other Deleterious Organic and Inorganic Substances*, dated May 15, 2003 and adopted by reference, in combination with the classes and subclasses of water use set out in the (a) of this section, constitute the water quality standards for a particular waterbody; the water quality standards regulate human activities that result in alterations to waters within the state's jurisdiction:

Water Quality Standards for Fresh Water Uses	
POLLUTANT & WATER USE	CRITERIA
(1) COLOR, FOR FRESH WATER USES (See note 8)	
(A) Water Supply (i) drinking, culinary, and food processing	May not exceed 15 color units or the natural condition, whichever is greater.
(A) Water Supply (ii) agriculture, including irrigation and stock watering	Not applicable.
(A) Water Supply (iii) aquaculture	May not exceed 50 color units or the natural condition, whichever is greater.
(A) Water Supply (iv) industrial	May not cause detrimental effects on established water supply treatment levels.
(B) Water Recreation (i) contact recreation	Same as (1)(A)(i).
(B) Water Recreation (ii) secondary recreation	May not interfere with or make the water unfit or unsafe for the use.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Color or apparent color may not reduce the depth of the compensation point for photosynthetic activity by more than 10% from the seasonally established norm for aquatic life. For all waters without a seasonally established norm for aquatic life, color or apparent color may not exceed 50 color units or the natural condition, whichever is greater.
(2) FECAL COLIFORM BACTERIA (FC), FOR FRESH WATER USES (See note 1)	
(A) Water Supply (i) drinking, culinary, and food processing	In a 30-day period, the geometric mean may not exceed 20 FC/100 ml, and not more than 10% of the samples may exceed 40 FC/100 ml. For groundwater, the FC concentration must be less than 1 FC/100 ml, using the fecal coliform Membrane Filter Technique, or less than 3 FC/100 ml, using the fecal coliform most probable number (MPN) technique.
(A) Water Supply (ii) agriculture, including irrigation and stock watering	The geometric mean of samples taken in a 30-day period may not exceed 200 FC/100 ml, and not more than 10% of the samples may exceed 400 FC/100 ml. For products not normally cooked and for dairy sanitation of unpasteurized products, the criteria for drinking water supply, (2)(A)(i), apply.
(A) Water Supply (iii) aquaculture	For products normally cooked, the geometric mean of samples taken in a 30-day period may not exceed 200 FC/100 ml, and not more than 10% of the samples may exceed 400 FC/100 ml. For products not normally cooked, the criteria for drinking water supply, (2)(A)(i), apply.

Water Quality Standards for Fresh Water Uses	
POLLUTANT & WATER USE	CRITERIA
(A) Water Supply (iv) industrial	Where worker contact is present, the geometric mean of samples taken in a 30-day period may not exceed 200 FC/100 ml, and not more than 10% of the samples may exceed 400 FC/100 ml.
(B) Water Recreation (i) contact recreation	In a 30-day period, the geometric mean of samples may not exceed 100 FC/100 ml, and not more than one sample, or more than 10% of the samples if there are more than 10 samples, may exceed 200 FC/100 ml.
(B) Water Recreation (ii) secondary recreation	In a 30-day period, the geometric mean of samples may not exceed 200 FC/100 ml, and not more than 10% of the total samples may exceed 400 FC/100 ml.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Not applicable.
(3) DISSOLVED GAS, FOR FRESH WATER USES	
(A) Water Supply (i) drinking, culinary, and food processing	Dissolved oxygen (D.O.) must be greater than or equal to 4 mg/l (this does not apply to lakes or reservoirs in which supplies are taken from below the thermocline, or to groundwater).
(A) Water Supply (ii) agriculture, including irrigation and stock watering	D.O. must be greater than 3 mg/l in surface waters.
(A) Water Supply (iii) aquaculture	D.O. must be greater than 7 mg/l in surface waters. The concentration of total dissolved gas may not exceed 110% of saturation at any point of sample collection.
(A) Water Supply (iv) industrial	May not cause detrimental effects on established water supply treatment levels.
(B) Water Recreation (i) contact recreation	D.O. must be greater than or equal to 4 mg/l.
(B) Water Recreation (ii) secondary recreation	Same as (3)(B)(i).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	D.O. must be greater than 7 mg/l in waters used by anadromous or resident fish. In no case may D.O. be less than 5 mg/l to a depth of 20 cm in the interstitial waters of gravel used by anadromous or resident fish for spawning (see note 2). For waters not used by anadromous or resident fish, D.O. must be greater than or equal to 5 mg/l. In no case may D.O. be greater than 17 mg/l. The concentration of total dissolved gas may not exceed 110% of saturation at any point of sample collection.
(4) DISSOLVED INORGANIC SUBSTANCES, FOR FRESH WATER USES	

Water Quality Standards for Fresh Water Uses	
POLLUTANT & WATER USE	CRITERIA
(A) Water Supply (i) drinking, culinary, and food processing	Total dissolved solids (TDS) from all sources may not exceed 500 mg/l. Neither chlorides nor sulfates may exceed 250 mg/l.
(A) Water Supply (ii) agriculture, including irrigation and stock watering	TDS may not exceed 1,000 mg/l. Sodium adsorption ratio must be less than 2.5, sodium percentage less than 60%, and residual carbonate less than 1.25 milliequivalents/liter (see note 6).
(A) Water Supply (iii) aquaculture	TDS may not exceed 1,000 mg/l. A concentration of TDS may not be present in water if that concentration causes or reasonably could be expected to cause an adverse effect to aquatic life (see note 12).
(A) Water Supply (iv) industrial	No amounts above natural conditions that can cause corrosion, scaling, or process problems.
(B) Water Recreation (i) contact recreation	Not applicable.
(B) Water Recreation (ii) secondary recreation	Not applicable.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (4)(A)(iii).
(5) PETROLEUM HYDROCARBONS, OILS AND GREASE, FOR FRESH WATER USES	
(A) Water Supply (i) drinking, culinary, and food processing	May not cause a visible sheen upon the surface of the water. May not exceed concentrations that individually or in combination impart odor or taste as determined by organoleptic tests.
(A) Water Supply (ii) agriculture, including irrigation and stock watering	May not cause a visible sheen upon the surface of the water.
(A) Water Supply (iii) aquaculture	Total aqueous hydrocarbons (TAqH) in the water column may not exceed 15 µg/l (see note 7). Total aromatic hydrocarbons (TAH) in the water column may not exceed 10 µg/l (see note 7). There may be no concentrations of petroleum hydrocarbons, animal fats, or vegetable oils in shoreline or bottom sediments that cause deleterious effects to aquatic life. Surface waters and adjoining shorelines must be virtually free from floating oil, film, sheen, or discoloration.
(A) Water Supply (iv) industrial	May not make the water unfit or unsafe for the use.
(B) Water Recreation (i) contact recreation	May not cause a film, sheen, or discoloration on the surface or floor of the waterbody or adjoining shorelines. Surface waters must be virtually free from floating oils.

Water Quality Standards for Fresh Water Uses	
POLLUTANT & WATER USE	CRITERIA
(B) Water Recreation (ii) secondary recreation	Same as (5)(B)(i).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (5)(A)(iii).
(6) pH, FOR FRESH WATER USES (variation of pH for water naturally outside the specified range must be toward the range)	
(A) Water Supply (i) drinking, culinary, and food processing	May not be less than 6.0 or greater than 8.5.
(A) Water Supply (ii) agriculture, including irrigation and stock watering	May not be less than 5.0 or greater than 9.0.
(A) Water Supply (iii) aquaculture	May not be less than 6.5 or greater than 8.5. May not vary more than 0.5 pH unit from natural conditions.
(A) Water Supply (iv) industrial	May not be less than 5.0 or greater than 9.0.
(B) Water Recreation (i) contact recreation	May not be less than 6.5 or greater than 8.5. If the natural condition pH is outside this range, substances may not be added that cause an increase in the buffering capacity of the water.
(B) Water Recreation (ii) secondary recreation	Same as (6)(A)(iv).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	May not be less than 6.5 or greater than 8.5. May not vary more than 0.5 pH unit from natural conditions.
(7) RADIOACTIVITY, FOR FRESH WATER USES	
(A) Water Supply (i) drinking, culinary, and food processing	May not exceed the concentrations specified in Table I of the <i>Alaska Water Quality Criteria Manual</i> (see note 5) for radioactive contaminants and may not exceed limits specified in 10 C.F.R. 20 (see note 9) and National Bureau of Standards, <i>Handbook 69</i> (see note 10).
(A) Water Supply (ii) agriculture, including irrigation and stock watering	Same as (7)(A)(i).
(A) Water Supply (iii) aquaculture	Same as (7)(A)(i) except that concentration factors for organisms involved may not exceed maximum permissible limits for specific radioisotopes and unidentified mixtures as established by 10 C.F.R. 20 (see note 9) and National Bureau of Standards, <i>Handbook 69</i> (see note 10).
(A) Water Supply (iv) industrial	Same as (7)(A)(i).

Water Quality Standards for Fresh Water Uses	
POLLUTANT & WATER USE	CRITERIA
(B) Water Recreation (i) contact recreation	Same as (7)(A)(i).
(B) Water Recreation (ii) secondary recreation	Same as (7)(A)(i).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (7)(A)(iii).
(8) RESIDUES, FOR FRESH WATER USES: Floating solids, debris, sludge, deposits, foam, scum, or other residues (criteria are not applicable to groundwater)	
(A) Water Supply (i) drinking, culinary, and food processing	May not, alone or in combination with other substances or wastes, make the water unfit or unsafe for the use; cause a film, sheen, or discoloration on the surface of the water or adjoining shorelines; cause leaching of toxic or deleterious substances; or cause a sludge, solid, or emulsion to be deposited beneath or upon the surface of the water, within the water column, on the bottom, or upon adjoining shorelines.
(A) Water Supply (ii) agriculture, including irrigation and stock watering	May not be present in quantities to cause soil plugging or reduced crop yield, or to make the water unfit or unsafe for the use.
(A) Water Supply (iii) aquaculture	May not, alone or in combination with other substances or wastes, make the water unfit or unsafe for the use.
(A) Water Supply (iv) industrial	Same as (8)(A)(iii).
(B) Water Recreation (i) contact recreation	Same as (8)(A)(i).
(B) Water Recreation (ii) secondary recreation	Same as (8)(A)(i).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	May not, alone or in combination with other substances or wastes, make the water unfit or unsafe for the use, or cause acute or chronic problem levels as determined by bioassay or other appropriate methods. May not, alone or in combination with other substances, cause a film, sheen, or discoloration on the surface of the water or adjoining shorelines; cause leaching of toxic or deleterious substances; or cause a sludge, solid, or emulsion to be deposited beneath or upon the surface of the water, within the water column, on the bottom, or upon adjoining shorelines.
(9) SEDIMENT, FOR FRESH WATER USES (criteria are not applicable to groundwater)	

Water Quality Standards for Fresh Water Uses	
POLLUTANT & WATER USE	CRITERIA
(A) Water Supply (i) drinking, culinary, and food processing	No measurable increase in concentration of settleable solids above natural conditions, as measured by the volumetric Imhoff cone method (see note 11).
(A) Water Supply (ii) agriculture, including irrigation and stock watering	For sprinkler irrigation, water must be free of particles of 0.074 mm or coarser. For irrigation or water spreading, may not exceed 200 mg/l for an extended period of time.
(A) Water Supply (iii) aquaculture	No imposed loads that will interfere with established water supply treatment levels.
(A) Water Supply (iv) industrial	Same as (9)(A)(iii).
(B) Water Recreation (i) contact recreation	Same as (9)(A)(i).
(B) Water Recreation (ii) secondary recreation	May not pose hazards to incidental human contact or cause interference with the use.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	The percent accumulation of fine sediment in the range of 0.1 mm to 4.0 mm in the gravel bed of waters used by anadromous or resident fish for spawning may not be increased more than 5% by weight above natural conditions (as shown from grain size accumulation graph). In no case may the 0.1 mm to 4.0 mm fine sediment range in those gravel beds exceed a maximum of 30% by weight (as shown from grain size accumulation graph) (see notes 3 and 4). In all other surface waters no sediment loads (suspended or deposited) that can cause adverse effects on aquatic animal or plant life, their reproduction or habitat may be present.
(10) TEMPERATURE, FOR FRESH WATER USES	
(A) Water Supply (i) drinking, culinary, and food processing	May not exceed 15° C.
(A) Water Supply (ii) agriculture, including irrigation and stock watering	May not exceed 30° C.
(A) Water Supply (iii) aquaculture	May not exceed 20° C at any time. The following maximum temperatures may not be exceeded, where applicable: Migration routes 15° C Spawning areas 13° C Rearing areas 15° C Egg & fry incubation 13° C For all other waters, the weekly average temperature may not exceed site-specific requirements needed to preserve normal species diversity or to prevent appearance of nuisance organisms.

Water Quality Standards for Fresh Water Uses	
POLLUTANT & WATER USE	CRITERIA
(A) Water Supply (iv) industrial	May not exceed 25° C.
(B) Water Recreation (i) contact recreation	Same as (10)(A)(ii).
(B) Water Recreation (ii) secondary recreation	Not applicable.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (10)(A)(iii).
(11) TOXIC AND OTHER DELETERIOUS ORGANIC AND INORGANIC SUBSTANCES, FOR FRESH WATER USES	
(A) Water Supply (i) drinking, culinary, and food processing	The concentration of substances in water may not exceed the criteria shown in Table I and in Table V, column A of the <i>Alaska Water Quality Criteria Manual</i> (see note 5).
(A) Water Supply (ii) agriculture, including irrigation and stock watering	The concentration of substances in water may not exceed the criteria shown in Table I and in Table II of the <i>Alaska Water Quality Criteria Manual</i> (see note 5).
(A) Water Supply (iii) aquaculture	Same as (11)(C).
(A) Water Supply (iv) industrial	Concentrations of substances that pose hazards to worker contact may not be present.
(B) Water Recreation (i) contact recreation	The concentration of substances in water may not exceed the criteria shown in Table I of the <i>Alaska Water Quality Criteria Manual</i> (see note 5).
(B) Water Recreation (ii) secondary recreation	Concentrations of substances that pose hazards to incidental human contact may not be present.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	The concentration of substances in water may not exceed the criteria shown in Table III and in Table V, column B of the <i>Alaska Water Quality Criteria Manual</i> (see note 5), or any chronic and acute criteria established in this chapter, for a toxic pollutant of concern to protect sensitive and biologically important life stages of resident species of this state. There may be no concentrations of toxic substances in water or in shoreline or bottom sediments, that, singly or in combination, cause, or reasonably can be expected to cause, adverse effects on aquatic life or produce undesirable or nuisance aquatic life, except as authorized by this chapter. Substances may not be present in concentrations that individually or in combination impart undesirable odor or taste to fish or other aquatic organisms, as determined by either bioassay or organoleptic tests.

Water Quality Standards for Fresh Water Uses	
POLLUTANT & WATER USE	CRITERIA
(12) TURBIDITY, FOR FRESH WATER USES (criteria are not applicable to groundwater)	
(A) Water Supply (i) drinking, culinary, and food processing	May not exceed 5 nephelometric turbidity units (NTU) above natural conditions when the natural turbidity is 50 NTU or less, and may not have more than 10% increase in turbidity when the natural turbidity is more than 50 NTU, not to exceed a maximum increase of 25 NTU.
(A) Water Supply (ii) agriculture, including irrigation and stock watering	May not cause detrimental effects on indicated use.
(A) Water Supply (iii) aquaculture	May not exceed 25 NTU above natural conditions. For all lake waters, may not exceed 5 NTU above natural conditions.
(A) Water Supply (iv) industrial	May not cause detrimental effects on established water supply treatment levels.
(B) Water Recreation (i) contact recreation	May not exceed 5 NTU above natural conditions when the natural turbidity is 50 NTU or less, and may not have more than 10% increase in turbidity when the natural turbidity is more than 50 NTU, not to exceed a maximum increase of 15 NTU. May not exceed 5 NTU above natural turbidity for all lake waters.
(B) Water Recreation (ii) secondary recreation	May not exceed 10 NTU above natural conditions when natural turbidity is 50 NTU or less, and may not have more than 20% increase in turbidity when the natural turbidity is greater than 50 NTU, not to exceed a maximum increase of 15 NTU. For all lake waters, turbidity may not exceed 5 NTU above natural turbidity.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (12)(A)(iii).

Water Quality Standards for Marine Water Uses	
POLLUTANT & WATER USE	CRITERIA
(13) COLOR, FOR MARINE WATER USES (see note 8)	
(A) Water Supply (i) aquaculture	May not exceed 50 color units or the natural condition, whichever is greater.
(A) Water Supply (ii) seafood processing	May not exceed 15 color units or the natural condition, whichever is greater.
(A) Water Supply (iii) industrial	Not applicable.
(B) Water Recreation (i) contact recreation	Same as (13)(A)(ii).
(B) Water Recreation (ii) secondary recreation	Surface waters must be free of substances that produce objectionable color.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Color or apparent color may not reduce the depth of the compensation point for photosynthetic activity by more than 10% from the seasonally established norm for aquatic life. For all waters without a seasonally established norm for aquatic life, color or apparent color may not exceed 50 color units or the natural condition, whichever is greater.
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Same as (13)(C).
(14) FECAL COLIFORM BACTERIA (FC), FOR MARINE WATER USES, (see note 1)	
(A) Water Supply (i) aquaculture	For products normally cooked, the geometric mean of samples taken in a 30-day period may not exceed 200 FC/100 ml, and not more than 10% of the samples may exceed 400 FC/100 ml. For products not normally cooked, the geometric mean of samples taken in a 30-day period may not exceed 20 FC/100 ml, and not more than 10% of the samples may exceed 40 FC/100 ml.
(A) Water Supply (ii) seafood processing	In a 30-day period, the geometric mean of samples may not exceed 20 FC/100 ml, and not more than 10% of the samples may exceed 40 FC/100 ml.
(A) Water Supply (iii) industrial	Where worker contact is present, the geometric mean of samples taken in a 30-day period may not exceed 200 FC/100 ml, and not more than 10% of the samples may exceed 400 FC/100 ml.
(B) Water Recreation (i) contact recreation	In a 30-day period, the geometric mean of samples may not exceed 100 FC/100 ml, and not more than one sample, or more than 10% of the samples if there are more than 10 samples, may exceed 200 FC/100 ml.
(B) Water Recreation (ii) secondary recreation	In a 30-day period, the geometric mean of samples may not exceed 200 FC/100 ml, and not more than 10% of

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	the samples may exceed 400 FC/100 ml.

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(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Not applicable.
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Based on a 5-tube decimal dilution test, the fecal coliform median MPN may not exceed 14 FC/100 ml, and not more than 10% of the samples may exceed a fecal coliform median MPN of 43 FC/100 ml.
(15) DISSOLVED GAS, FOR MARINE WATER USES	
(A) Water Supply (i) aquaculture	Surface dissolved oxygen (D.O.) concentration in coastal water may not be less than 6.0 mg/l for a depth of one meter except when natural conditions cause this value to be depressed. D.O. may not be reduced below 4 mg/l at any point beneath the surface. D.O. concentrations in estuaries and tidal tributaries may not be less than 5.0 mg/l except where natural conditions cause this value to be depressed. In no case may D.O. levels exceed 17 mg/l. The concentration of total dissolved gas may not exceed 110% of saturation at any point of sample collection.
(A) Water Supply (ii) seafood processing	D.O. must be greater than or equal to 5 mg/l.
(A) Water Supply (iii) industrial	Not applicable.
(B) Water Recreation (i) contact recreation	Same as (15)(A)(i).
(B) Water Recreation (ii) secondary recreation	Same as (15)(A)(i).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (15)(A)(i).
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Same as (15)(A)(i).
(16) DISSOLVED INORGANIC SUBSTANCES, FOR MARINE WATER USES	
(A) Water Supply (i) aquaculture	Human-induced alteration may not cause a change in the water's isohaline patterns of more than $\pm 10\%$ of the natural variations.
(A) Water Supply (ii) seafood processing	Not applicable.
(A) Water Supply (iii) industrial	No amounts above natural conditions that can cause corrosion, scaling, or process problems.

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(B) Water Recreation (i) contact recreation	Not applicable.								
(B) Water Recreation (ii) secondary recreation	Not applicable.								
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	<p>Maximum allowable variation above natural salinity:</p> <table> <thead> <tr> <th>Natural Salinity*</th> <th>Human-Induced Salinity*</th> </tr> </thead> <tbody> <tr> <td>0.0 to 3.5</td> <td>1</td> </tr> <tr> <td>Greater than 3.5 to 13.5</td> <td>2</td> </tr> <tr> <td>Greater than 13.5 to 35.0</td> <td>4</td> </tr> </tbody> </table> <p>* parts per thousand</p>	Natural Salinity*	Human-Induced Salinity*	0.0 to 3.5	1	Greater than 3.5 to 13.5	2	Greater than 13.5 to 35.0	4
Natural Salinity*	Human-Induced Salinity*								
0.0 to 3.5	1								
Greater than 3.5 to 13.5	2								
Greater than 13.5 to 35.0	4								
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Same as (16)(A)(i) or (16)(C), whichever is more stringent.								
(17) PETROLEUM HYDROCARBONS, OILS AND GREASE, FOR MARINE WATER USES									
(A) Water Supply (i) aquaculture	Total aqueous hydrocarbons (TAqH) in the water column may not exceed 15 µg/l (see note 7). Total aromatic hydrocarbons (TAH) in the water column may not exceed 10 µg/l (see note 7). There may be no concentrations of petroleum hydrocarbons, animal fats, or vegetable oils in shoreline or bottom sediments that cause deleterious effects to aquatic life. Surface waters and adjoining shorelines must be virtually free from floating oil, film, sheen, or discoloration.								
(A) Water Supply (ii) seafood processing	May not cause a film, sheen, or discoloration on the surface or floor of the waterbody or adjoining shorelines. Surface waters must be virtually free from floating oils. May not exceed concentrations that individually or in combination impart odor or taste as determined by organoleptic tests.								
(A) Water Supply (iii) industrial	May not make the water unfit or unsafe for the use.								
(B) Water Recreation (i) contact recreation	May not cause a film, sheen, or discoloration on the surface or floor of the waterbody or adjoining shorelines. Surface waters must be virtually free from floating oils.								
(B) Water Recreation (ii) secondary recreation	Same as (17)(B)(i).								

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(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (17)(A)(i).
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	May not exceed concentrations that individually or in combination impart undesirable odor or taste to organisms as determined by bioassay or organoleptic tests.
(18) pH, FOR MARINE WATER USES (variation of pH for waters naturally outside the specified range must be toward the range)	
(A) Water Supply (i) aquaculture	May not be less than 6.5 or greater than 8.5, and may not vary more than 0.2 pH unit outside of the naturally occurring range.
(A) Water Supply (ii) seafood processing	May not be less than 6.0 or greater than 8.5.
(A) Water Supply (iii) industrial	May not be less than 5.0 or greater than 9.0.
(B) Water Recreation (i) contact recreation	May not be less than 6.0 or greater than 8.5. If the natural pH condition is outside this range, substances may not be added that cause any increase in buffering capacity of the water.
(B) Water Recreation (ii) secondary recreation	Same as (18)(A)(iii).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (18)(A)(i).
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Same as (18)(A)(ii).
(19) RADIOACTIVITY. FOR MARINE WATER USES	
(A) Water Supply (i) aquaculture	May not exceed the concentrations specified in Table I of the <i>Alaska Water Quality Criteria Manual</i> (see note 5) for radioactive contaminants. Concentration factors for organisms involved may not exceed maximum permissible limits for specific radioisotopes and unidentified mixtures as established in 10 C.F.R. 20 (see note 9) and National Bureau of Standards, <i>Handbook 69</i> (see note 10).
(A) Water Supply (ii) seafood processing	May not exceed the concentrations specified in Table I of the <i>Alaska Water Quality Criteria Manual</i> , (see note 5) for radioactive contaminants and may not exceed limits specified in 10 C.F.R. 20 (see note 9) or National Bureau of Standards, <i>Handbook 69</i> (see note 10).

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(A) Water Supply (iii) industrial	Same as (19)(A)(ii).
(B) Water Recreation (i) contact recreation	Same as (19)(A)(ii).
(B) Water Recreation (ii) secondary recreation	Same as (19)(A)(ii).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (19)(A)(i).
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Same as (19)(A)(i).
(20) RESIDUES, FOR MARINE WATER USES: Floating solids, debris, sludge, deposits, foam, scum, or other residues	
(A) Water Supply (i) aquaculture	May not, alone or in combination with other substances or wastes, make the water unfit or unsafe for the use. May not cause detrimental effects on established water supply treatment levels.
(A) Water Supply (ii) seafood processing	May not, alone or in combination with other substances or wastes, make the water unfit or unsafe for the use; cause a film, sheen, or discoloration on the surface of the water or adjoining shorelines; cause leaching of toxic or deleterious substances; or cause a sludge, solid, or emulsion to be deposited beneath or upon the surface of the water, within the water column, on the bottom, or upon adjoining shorelines.
(A) Water Supply (iii) industrial	May not, alone or in combination with other substances or wastes, make the water unfit or unsafe for the use.
(B) Water Recreation (i) contact recreation	Same as (20)(A)(ii).
(B) Water Recreation (ii) secondary recreation	Same as (20)(A)(ii).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	May not, alone or in combination with other substances or wastes, make the water unfit or unsafe for the use, or cause acute or chronic problem levels as determined by bioassay or other appropriate methods. May not, alone or in combination with other substances, cause a film, sheen, or discoloration on the surface of the water or adjoining shorelines; cause leaching of toxic or deleterious substances; or cause a sludge, solid, or emulsion to be deposited beneath or upon the surface of the water, within the water column, on the bottom, or upon adjoining shorelines.
(D) Harvesting for Consumption of Raw Mollusks or Other	May not make the water unfit or unsafe for the use; cause a film, sheen, or discoloration on the surface of

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(22) SEDIMENT, FOR MARINE WATER USES	
(A) Water Supply (i) aquaculture	No imposed loads that will interfere with established water supply treatment levels.
(A) Water Supply (ii) seafood processing	Below normally detectable amounts.
(A) Water Supply (iii) industrial	Same as (21)(A)(i).
(B) Water Recreation (i) contact recreation	No measurable increase in concentration of settleable solids above natural conditions, as measured by the volumetric Imhoff cone method (see note 11).
(B) Water Recreation (ii) secondary recreation	May not pose hazards to incidental human contact or cause interference with the use.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (21)(B)(i).
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Not applicable.
(10) TEMPERATURE, FOR MARINE WATER USES	
(A) Water Supply (i) aquaculture	May not cause the weekly average temperature to increase more than 1° C. The maximum rate of change may not exceed 0.5° C per hour. Normal daily temperature cycles may not be altered in amplitude or frequency.
(A) Water Supply (ii) seafood processing	May not exceed 15° C.
(A) Water Supply (iii) industrial	May not exceed 25° C.
(B) Water Recreation (i) contact recreation	Not applicable.
(B) Water Recreation (ii) secondary recreation	Not applicable.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	Same as (22)(A)(i).

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(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Same as (22)(A)(i).
(23) TOXIC AND OTHER DELETERIOUS ORGANIC AND INORGANIC SUBSTANCES, FOR MARINE WATER USES	
(A) Water Supply (i) aquaculture	Same as (23)(C).
(A) Water Supply (ii) seafood processing	The concentration of substances in water may not exceed the criteria shown in Table IV of the <i>Alaska Water Quality Criteria Manual</i> (see note 5).
(A) Water Supply (iii) industrial	Concentrations of substances that pose hazards to worker contact may not be present.
(B) Water Recreation (i) contact recreation	There may be no concentrations of substances in water, that alone or in combination with other substances, make the water unfit or unsafe for the use.
(B) Water Recreation (ii) secondary recreation	Concentrations of substances that pose hazards to incidental human contact may not be present.
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	The concentration of substances in water may not exceed the criteria shown in Table IV and in Table V, column B of the <i>Alaska Water Quality Criteria Manual</i> (see note 5), or any chronic and acute criteria established in this chapter, for a toxic pollutant of concern, to protect sensitive and biologically important life stages of resident species of this state. There may be no concentrations of toxic substances in water or in shoreline or bottom sediments, that, singly or in combination, cause, or reasonably can be expected to cause, adverse effects on aquatic life or produce undesirable or nuisance aquatic life, except as authorized by this chapter. Substances may not be present in concentrations that individually or in combination impart undesirable odor or taste to fish or other aquatic organisms, as determined by either bioassay or organoleptic tests.
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Same as (23)(C).
(24) TURBIDITY, FOR MARINE WATER USES	
(A) Water Supply (i) aquaculture	May not exceed 25 nephelometric turbidity units (NTU).
(A) Water Supply (ii) seafood processing	May not interfere with disinfection.

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(A) Water Supply (iii) industrial	May not cause detrimental effects on established levels of water supply treatment.
(B) Water Recreation (i) contact recreation	Same as (24)(A)(i).
(B) Water Recreation (ii) secondary recreation	Same as (24)(A)(i).
(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife	May not reduce the depth of the compensation point for photosynthetic activity by more than 10%. May not reduce the maximum secchi disk depth by more than 10%.
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	Same as (24)(C).

Notes:

1. Wherever criteria for fecal coliform bacteria are provided in this section, fecal coliform bacteria must be determined by the membrane filter technique or most probable number procedure according to *Standard Methods for the Examination of Water and Wastewater*, 18th edition, 1992, as described in (c)(1) of this section, and adopted by reference, or in accordance with other standards approved by the department and the United States Environmental Protection Agency (EPA).
2. Wherever criteria for dissolved oxygen (DO) are provided in this chapter, dissolved oxygen (DO) concentrations in interstitial waters of gravel beds will be measured using the technique found in *Variations in the Dissolved Oxygen Content of Intragravel Water in Four Spawning Streams of Southeastern Alaska*, by William J. McNeil, United States Department of the Interior, United States Fish and Wildlife Service, Special Scientific Report - Fisheries No. 402, February 1962, adopted by reference.
3. Wherever criteria for fine sediments are provided in this chapter, fine sediments must be sampled by the method described in *An Improved Technique for Freeze Sampling Streambed Sediments*, by William J. Walkotten, United States Department of Agriculture, United States Forest Service, Forest Service Research Note PNW-281, October 1976, adopted by reference, or by the technique found in *Success of Pink Salmon Spawning Relative to Size of Spawning Bed Materials*, by William J. McNeil and W.H. Ahnell, United States Department of the Interior, United States Fish and Wildlife Service, Special Scientific Report - Fisheries No. 469, January 1964, pages 1 - 3, adopted by reference.
4. Wherever criteria for fine sediments are provided in this chapter, percent accumulation of fine sediments will be measured by the technique found in the *Manual on Test Sieving Methods, Guidelines for Establishing Sieve Analysis Procedures*, by the American Society for Testing and Materials (ASTM), STP 447A, 1972 edition.
5. Wherever cite in this subsection, the *Alaska Water Quality Criteria Manual* means the *Alaska Water Quality Criteria for Toxic and Other Deleterious Organic and Inorganic Substances*, dated May 15, 2003, adopted by reference in this subsection.
6. *The Report of the Committee on Water Quality Criteria*, United States Department of the Interior, Federal Water Pollution Control Administration, Washington, D.C., April 1, 1968, is adopted by reference.
7. Samples to determine concentrations of total aromatic hydrocarbons (TAH) and total aqueous

hydrocarbons (TAqH) must be collected in marine and fresh waters below the surface and away from any observable sheen; concentrations of TAqH must be determined and summed using a combination of: (A) EPA Method 602 (plus xylenes) or EPA Method 624 to quantify monoaromatic hydrocarbons and to measure TAH; and (B) EPA Method 610 or EPA Method 625 to quantify polynuclear aromatic hydrocarbons listed in EPA Method 610; use of an alternative method requires department approval; the EPA methods referred to in this note may be found in 40 C.F.R. 136, Appendix A, as revised as of July 1, 2002 and adopted by reference.

8. Color is as measured in color units on the platinum-cobalt scale according to *Standard Methods for the Examination of Water and Wastewater*, 18th edition, 1992 as described in (c)(1) of this section and adopted by reference.

9. Wherever cited in this chapter, 10 C.F.R. 20 means the Standards for Protection Against Radiation as of January 1, 1978, adopted by reference.

10. Wherever cited in this chapter, National Bureau of Standards, *Handbook 69* means *Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and Water for Occupational Exposure*, United States Department of Commerce, National Bureau of Standards Handbook 69, June 5, 1959, adopted by reference

11. Volumetric measurements of settleable solids must be determined according to the following procedure:

(A) first, an Imhoff cone must be filled to the one-liter mark with thoroughly mixed sample;

(B) second, the sample must settle for 45 minutes;

(C) third, the sides of the cone must be gently stirred with a rod or by spinning;

(D) fourth, the sample must settle 15 minutes longer, and the volume of settleable matter in the cone must be recorded as milliliters per liter;

(E) fifth, if the settled matter contains pockets of liquid between large settled particles, the volume of these pockets must be estimated and subtracted from the volume of settled matter.

12. If a permit applicant proposes to raise the total dissolved solids (TDS) levels in the receiving water to result in a concentration in the waterbody between 500 mg/l and 1,000 mg/l for all sources or above 110 mg/l for the potassium ion, the department will require a permit applicant to provide information that the department identifies as necessary to determine if the proposed TDS level will cause or can reasonably be expected to cause an adverse effect to aquatic life; based on its analysis, the department will limit the TDS level in the waterbody as necessary to prevent an adverse effect, and will set permit effluent limits accordingly; the burden of proof to demonstrate no adverse effect is on the permit applicant; implementation of the "no adverse effect" criterion is not subject to 18 AAC 70.235.

(c) Water quality will be analyzed according to

(1) *Standard Methods for the Examination of Water and Wastewater*, 18th edition, 1992, published jointly by the American Public Health and American Water Works Associations, and the Water Environment Federation (publication office: American Public Health Association, 1015 15th Street NW, Washington, D.C. 20005);

(2) *Methods for Chemical Analysis of Water and Wastes*, March 1979, Technical Report No. EPA 600-4-79-020, Environmental Monitoring and Support Laboratory, Office of Research and Development, United States Environmental Protection Agency, Cincinnati, Ohio 45268 (available from the National Technical Information Service, United States Department of

Commerce, Springfield, Virginia 22161, Order No. PB 297686);

(3) Guidelines Establishing Test Procedures for the Analysis of Pollutants; Final Rule and Interim Final Rule and Proposed Rule, Federal Register Part VIII, EPA, Friday, October 26, 1984, 40 C.F.R. Part 136, Vol. 49, No. 209;

(4) Guidelines Establishing Test Procedures for the Analysis of Pollutants; Final Rule and Interim Final Rule and Proposed Rule; Corrections, Federal Register Part VI, EPA, Friday, January 4, 1985, 40 C.F.R. Part 136, pages 690 through 697;

(5) *Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater*, July 1982 Technical Report No. EPA 600 14-82-057, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268;

(6) methods cited in (b) of this section; or

(7) other methods of analysis approved by the department and EPA.

(d) In applying acute aquatic life criteria, a one-hour averaging period typically is used for ammonia and other fast-acting toxic substances; a 24-hour averaging period is used for all other toxic substances, unless otherwise specified by the department. (Eff. 11/1/97, Register 143; am 4/29/99, Register 150; am 5/27/99, Register 150; am 6/22/2003, Register 166)

Authority: AS 46.03.020 AS 46.03.050 AS 46.03.070
AS 46.03.080

Editor's note: Federally-promulgated water quality standards for the State of Alaska regarding toxic substances, including human health criteria and aquatic life criteria, are found at 40 C.F.R. 131.36. The documents adopted by reference in 18 AAC 70.020 may be viewed at the department's Anchorage, Fairbanks, and Juneau offices. The United States Department of Interior documents adopted by reference in 18 AAC 70.020(b), notes 2 and 3, are also available from that agency. The United States Department of Agriculture document adopted by reference in 18 AAC 70.020(b), note 2, is also available from the USDA Forest Service Pacific Northwest Forest and Range Experiment Station, P.O. Box 909, Juneau, Alaska 99802. The document adopted by reference in 18 AAC 70.020(v), note 4 is also available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. The documents adopted by reference in 18 AAC 70.020(b), notes 6 and 10, are also available from the Superintendent of Documents, United States Government Printing Office, Washington, D.C.

18 AAC 70.025. Human health risk level for carcinogenic substances. After November 1, 1997, when, to protect human health, the department adopts water quality criteria for a carcinogenic substance, the criteria will be based on a lifetime incremental cancer risk level of 1 in 100,000 for exposed individuals. (Eff. 11/1/97, Register 143)

Authority: AS 46.03.020 AS 46.03.070 AS 46.03.080
AS 46.03.050

Editor's note: The substance of 18 AAC 70.025 was previously found in 18 AAC 70.022. The comprehensive revision and reorganization of this chapter, effective November 1, 1997, did not include any changes to water quality criteria for carcinogenic substances previously set out in this chapter.

18 AAC 70.030. Whole effluent toxicity limit. (a) An effluent discharged to a water may not impart chronic toxicity to aquatic organisms, expressed as 1.0 chronic toxic unit, at the point of discharge, or if the department authorizes a mixing zone in a permit, approval, or certification, at or beyond the mixing zone boundary, based on the minimum effluent dilution achieved in the mixing zone. If the department determines that an effluent has reasonable potential to cause or contribute to exceedance of the whole effluent toxicity limit, the department will require whole effluent toxicity testing as a condition of a permit, approval, or certification. The permittee shall use methods and species approved by the United States Environmental Protection Agency in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (2d ed. 1989) (Office of Research and Development, Cincinnati, OH, EPA-600/4-89/001), *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms* (1988) (Office of Research and Development, Cincinnati, OH, EPA-600/4-87/028), and *Supplement to "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Surface Waters to Freshwater Organisms"* (September 1989) (Office of Research and Development, Cincinnati, OH, EPA-600/4-89/001a, Revision 1), or alternate methods and species approved by the department that provide equivalent estimates of chronic toxicity. The department will require that the testing use sensitive and biologically important life stages of indigenous species, as the department considers necessary and feasible to protect aquatic life fully. The department will reduce the frequency of, or eliminate, whole effluent toxicity testing if

- (1) the results of a sufficient database of testing conclusively demonstrate that an effluent does not have a reasonable potential to exceed the whole effluent toxicity limit;
- (2) significant changes in effluent quality are not expected over the life of the permit; and
- (3) the department determines that aquatic life will be adequately protected.

(b) In this section, "chronic toxic unit" means an expression of the chronic toxicity of an effluent, determined as $(100/\text{NOEC})$, where NOEC, the "No Observed Effects Concentration," is the highest tested percentage concentration of an effluent, established by direct testing of toxicity to aquatic organisms, that causes no observable adverse effects, including effects on growth, development, behavior, reproduction, or survival, over a test duration that generally is one-tenth or more of the lifespan of the test organism. Other equivalent chronic toxicity endpoints approved by the department, such as the "25 percent Inhibition Concentration (IC_{25})", may be used in place of NOEC, and may incorporate shorter test durations. (Eff. 11/1/97, Register 143; am 4/29/99, Register 150)

Authority: AS 46.03.020 AS 46.03.070 AS 46.03.080
AS 46.03.050

18 AAC 70.040. Procedure for applying water quality criteria. In applying the

appropriate water quality criteria for any waterbody or portion of a waterbody, the department will use the following procedure:

(1) if a waterbody is protected for more than one use class under 18 AAC 70.050 or 18 AAC 70.230(e), the most stringent water quality criteria for all the included use classes will apply;

(2) at the boundary between waters protected for different use classes under 18 AAC 70.050 or 18 AAC 70.230(e), the water quality criteria for the more stringent use class will apply; and

(3) in estuaries, where the fresh and marine water quality criteria differ within the same use class, the standard will be determined on the basis of salinity; however, the marine water quality criteria will apply for

(A) dissolved oxygen if the salinity is one part per thousand or greater;
and

(B) fecal coliform bacteria if the salinity is 10 parts per thousand or greater. (Eff. 11/1/97, Register 143)

Authority: AS 46.03.020 AS 46.03.070 AS 46.03.080

18 AAC 70.050. Classification of state water. Except as specified in 18 AAC 70.230(e), state water is protected for the following use classes:

(1) fresh water - Classes (1)(A), (1)(B), and (1)(C);

(2) groundwater - Class (1)(A);

(3) marine water - Classes (2)(A), (2)(B), (2)(C), and (2)(D). (Eff. 11/1/97, Register 143)

Authority: AS 46.03.020 AS 46.03.070
AS 46.03.050 AS 46.03.080

Article 2. Exceptions to Statewide Standards

Section

- 200. Short-term variance
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18 AAC 70.200. Short-term variance. (a) In its discretion, the department will grant a short-term variance from the antidegradation policy standard of 18 AAC 70.015 or the water quality criteria of 18 AAC 70.020(b) for

(1) a one-time, temporary activity that is a nonpoint source of water pollution;
and

(2) a temporary activity associated with the placement of dredged or fill material affecting a specific waterbody.

(b) The department will grant a short-term variance only if an applicant shows to the department's satisfaction that

(1) wastes or substances that might adversely affect water quality are controlled, using methods the department finds most effective;

(2) the activity will be conducted in a manner to mitigate water quality impacts, using methods the department finds most effective; and

(3) the activity, when completed, will not cause a long-term, chronic, or recurring violation of the water quality standards.

(c) The department will, in its discretion, grant a short-term variance by geographic area or project, or for a specific event. The term of a variance will be as short as practicable, and will, at the latest, expire when the project is completed.

(d) A person seeking a short-term variance shall submit a written request and proceed in accordance with 18 AAC 15.020 - 18 AAC 15.100. The request must state the

(1) location, time, duration, and type of activity for which the variance is sought;

- (2) reasons why the activity is required;
- (3) areal extent and quantified degree of variance from the applicable criteria;
- (4) detailed construction and operating plans, including water pollution control and mitigation measures; and
- (5) activity's estimated impact on the uses of the water involved, including recreation and use for habitat, rearing, growth, or migration by fish, shellfish, other aquatic life, and wildlife.

(e) The department will, in its discretion, treat an application for a permit under Sec. 404 of the Clean Water Act as an application for a short-term variance. (Eff. 11/1/97, Register 143)

Authority: AS 46.03.020 AS 46.03.070 AS 46.03.080

18 AAC 70.210. Zones of deposit. (a) The department will, in its discretion, issue or certify a permit that allows deposit of substances on the bottom of marine waters within limits set by the department. The water quality criteria of 18 AAC 70.020(b) and the antidegradation requirement of 18 AAC 70.015 may be exceeded in a zone of deposit. However, the standards must be met at every point outside the zone of deposit. In no case may the water quality standards be violated in the water column outside the zone of deposit by any action, including leaching from, or suspension of, deposited materials. Limits of deposit will be defined in a short-term variance issued under 18 AAC 70.200 or a permit issued or certified under 18 AAC 15.

(b) In deciding whether to allow a zone of deposit, the department will consider, to the extent the department determines to be appropriate,

- (1) alternatives that would eliminate, or reduce, any adverse effects of the deposit;
- (2) the potential direct and indirect impacts on human health;
- (3) the potential impacts on aquatic life and other wildlife, including the potential for bioaccumulation and persistence;
- (4) the potential impacts on other uses of the waterbody;
- (5) the expected duration of the deposit and any adverse effects; and
- (6) the potential transport of pollutants by biological, physical, and chemical processes.

(c) The department will, in its discretion, require an applicant to provide information that the department considers necessary to adequately assess (b)(1)-(6) of this section. In all cases, the burden of proof for providing the required information is on the person seeking to

establish a zone of deposit. (Eff. 11/1/97, Register 143)

Authority: AS 46.03.020 AS 46.03.080 AS 46.03.110
AS 46.03.070 AS 46.03.100

18 AAC 70.220. Thermal discharges. Under section 316(a) of the Clean Water Act, if the owner or operator of a thermal discharge source, after opportunity for public hearing, can show to the department's satisfaction that application of the temperature criterion in 18 AAC 70.020 is more stringent than needed to assure the protection and propagation of diverse indigenous and anadromous populations of aquatic life in waters to which the discharge would occur, the department will, in its discretion, apply a new temperature criterion to the waterbody affected. The new criterion will assure the protection and propagation of diverse indigenous and anadromous populations of aquatic life, and other wildlife, in and on that waterbody, according to its protected use classes. (Eff. 11/1/97, Register 143)

Authority: AS 46.03.020 AS 46.03.070 AS 46.03.080

18 AAC 70.230. Procedure for reclassification; reclassified waters. (a) At least once each year, the department will hold one or more public hearings for the purpose of reviewing the classification of state water under 18 AAC 70.050 or (e) of this section. The department will consider information obtained from that process, and from other sources considered appropriate by the department, in determining whether to proceed with reclassification of state water under (b) of this section.

(b) Before changing 18 AAC 70.050 or (e) of this section to reclassify state water, the department will hold at least one public hearing and otherwise comply with 40 C.F.R. Part 131, as amended through August 15, 1997, and other applicable state and federal statutes and regulations.

(c) An interested person may petition the department to adopt or repeal a classification of state water under 18 AAC 70.050 or (e) of this section in accordance with AS 44.62.220 - 44.62.230.

(d) The following water may not be reclassified under this chapter:

(1) water in areas administered under the National Wilderness Preservation System under 16 U.S.C. 1131-1136;

(2) water in state and national parks, national preserves and monuments, national recreation areas, and national wildlife refuges;

(3) wild and scenic rivers established under 16 U.S.C. 1271-1287.;

(4) marine sanctuaries established under 16 U.S.C. 1431-1445b;

(5) estuarine sanctuaries established under 16 U.S.C. 4151-1464.;

(6) water in critical habitat areas established under AS 16.20.220 - 16.20.270;

(7) water in Land Use Designation (LUD) II areas established by the United States Forest Service under 16 U.S.C. 471a-545b.

(e) Specific state water reclassified under this section is protected only for the designated use class shown, as follows:

18 AAC 70.230(e)		LATITUDE LONGITUDE**	LOCATION	DESIGNATED USE CLASS	REACH OF WATER AFFECTED
WATERSHED					
TYPE/NAME	NUMBER*				
(1) Amy Creek	19040509	65°32'30"N 148°26'55"W	Near Livengood	(1)(A)(i) (1)(A)(iii) (1)(A)(iv) (1)(B)(ii) (1)(C)	Headwaters of Amy Creek to its confluence with Livengood Creek
(2) Chena River	19040506	64E47'45"N 147E54'45"W	Near Fairbanks	(1)(A)(ii) (1)(A)(iii) (1)(A)(iv) (1)(B) (1)(C)	Confluence of Chena River and Chena Slough to the confluence of Chena River and Tanana River
(3) Connie Creek	19050404	68°04'04"N 162°49'09"W	Near Red Dog Mine	(1)(A)(iv) (1)(B)(i)*** (1)(B)(ii)**** (1)(C)	Tributary of Middle Fork Red Dog Creek
(4) Franklin Creek	19040509	65°33'07"N 148°30'08"W	Near Livengood	(1)(A)(iv)	Headwaters of Franklin Creek to Hess Creek Dam/reservoir diversion ditch
(5) Gertrude Creek	19040509	65°32'05"N 148°30'05"W	Near Livengood	(1)(A)(i) (1)(A)(iv) (1)(B)(ii) (1)(C)	Headwaters of Gertrude Creek to its confluence with Livengood Creek
(6) Heine Creek	19040509	65°33'60"N 148°25'12"W	Near Livengood	(1)(A)(iv) (1)(C)	Headwaters of Heine Creek to Hess Creek Dam/reservoir diversion ditch
(7) Hilltop Creek	19050404	68°03'47"N 162°49'12"W	Near Red Dog Mine	(1)(A)(iv) (1)(B)(ii)****	Tributary of Middle Fork Red Dog Creek

18 AAC 70.230(e)		LATITUDE LONGITUDE**	LOCATION	DESIGNATED USE CLASS	REACH OF WATER AFFECTED
WATERSHED					
TYPE/NAME	NUMBER*				
(8) Ikalukrok Creek	19050404	67°53'26"N 163°37'18"W	Near Red Dog Mine	(1)(A)(iv) (1)(B)(i)** (1)(B)(ii) (1)(C)	Confluence with Red Dog Creek to confluence with the Wulik River
(9) Isabell Creek (Upper)	19040509	65°32'22"N 148°31'10"W	Near Livengood	(1)(A)(iv)	Headwaters of Isabell Creek to Hess Creek Dam road crossing
(10) Isabell Creek (Diversion)	19040509	65°34'35"N 148°23'26"W	Near Livengood	(1)(A)(iv) (1)(C)	Hess Creek Dam road crossing to Hess Creek Dam/reservoir diversion ditch
(11) Lillian Creek	19040509	65°30'40"N 148°34'23"W	Near Livengood	(1)(A)(iv)	Headwaters of Lillian Creek to its confluence with Livengood Creek
(12) Lucille Creek	19040509	65°32'25"N 148°27'25"W	Near Livengood	(1)(A)(iv)	Headwaters of Lucille Creek to its confluence with Livengood Creek
(13) Nolan Creek and all its tributaries excluding Acme Creek	19040601	67E27'35"N 150E14'49"W	Near Wiseman	(1)(A)(iv)	Headwaters of Nolan Creek to its con- fluence with Wiseman Creek, and from the headwaters of each tributary of Nolan Creek to its confluence with Nolan Creek excluding Acme Creek
(14) Olive Creek (Upper)	19040509	65°29'27"N 148°30'08"W	Near Livengood	(1)(A)(iv)	Headwaters of Olive Creek to 1.5 miles above its confluence with the Tolovana River
(15) Olive Creek (Lower)	19040509	65°28'18"N 148°30'53"W	Near Livengood	(1)(A)(i) (1)(A)(iii) (1)(A)(iv) (1)(B)(i) (1)(B)(ii) (1)(C)	1.5 miles above the confluence with the Tolovana River to its confluence with the Tolovana River

18 AAC 70.230(e)		LATITUDE LONGITUDE**	LOCATION	DESIGNATED USE CLASS	REACH OF WATER AFFECTED
WATERSHED					
TYPE/NAME	NUMBER*				
(16) Rachael Creek	19050404	68° 03'47"N 162°49'12"W	Near Red Dog Mine	(1)(A)(iv) (1)(B)(i)*** (1)(B)(ii)**** (1)(C)	Tributary of Middle Fork Red Dog Creek
(17) Ready Bullion Creek	19040509	65°29'43"N 148°35'30"W	Near Livengood	(1)(A)(i) (1)(A)(iii) (1)(A)(iv) (1)(B)(ii) (1)(C)	Headwaters of Ready Bullion Creek to its confluence with Livengood Creek
(18) Red Dog Creek (Main Stem)	19050404	68°05'23"N 162°56'48"W	Near Red Dog Mine	(1)(A)(iv) (1)(B)(i)*** (1)(B)(ii) (1)(C)	Confluence with North Fork Red Dog Creek to confluence with Ikalukrok Creek
(19) Red Dog Creek (Upper Middle Fork)	19050404	68° 04'32"N 162°51'21"W	Near Red Dog Mine	(1)(A)(iv)	Headwaters to terminus of the Red Dog Mine Water Management System
(20) Red Dog Creek (Lower Middle Fork)	19050404	68°05'02"N 162°53'04"W	Near Red Dog Mine	(1)(A)(iv) (1)(B)(i)*** (1)(B)(ii)****	Terminus of the Red Dog Mine Water Management System to confluence with North Fork Red Dog Creek
(21) Ruth Creek	19040509	65°31'26"N 148°32'30"W	Near Livengood	(1)(A)(iv)	Headwaters of Ruth Creek to its confluence with Livengood Creek

18 AAC 70.230(e)		LATITUDE LONGITUDE**	LOCATION	DESIGNATED USE CLASS	REACH OF WATER AFFECTED
WATERSHED					
TYPE/NAME	NUMBER*				
(22) Shelly Creek	19050404	68°04'19"N 162°49'26"W	Near Red Dog Mine	(1)(A)(iv) (1)(B)(i)*** (1)(B)(ii)**** (1)(C)	Tributary of Middle Fork Red Dog Creek
(23) Steel Creek	19040509	65°28'12"N 148°24'50"W	Near Livengood	(1)(A)(i) (1)(A)(iii) (1)(A)(iv) (1)(B)(ii) (1)(C)	Headwaters of Steel Creek to its confluence with the Tolovana River
(24) Sulfur Creek	19050404	68°04'32"N 162°50'15"W	Near Red Dog Mine	(1)(A)(iv) (1)(B)(i)*** (1)(B)(ii)**** (1)(C)	Tributary of Middle Fork Red Dog Creek
(25) Wonder Creek	19040509	65°33'33"N 148°27'21"W	Near Livengood	(1)(A)(iv) (1)(C)	Headwaters of Wonder Creek to Hess Creek Dam/reservoir diversion ditch

* Watershed numbers refer to watersheds established by the United States Department of Interior, Geological Survey AHydrologic Unit Map - 1987 State of Alaska,≡ adopted by reference. This document is for sale by the United States Geological Survey, Fairbanks, Alaska 99701; Denver, Colorado 80225; or Reston, Virginia 22092. This document is on file in the Lieutenant Governor's Office and may be seen at the department's Anchorage, Fairbanks, and Juneau offices.

** River latitudes and longitudes are set at the downstream end of the affected river reach.

*** Protected for contact recreation, wading only.

**** Protected for secondary recreation, except fishing

(Eff. 11/1/97, Register 143)

Authority: AS 46.03.020 AS 46.03.070 AS 46.03.080

AAC 70.235. Site-specific criteria. (a) The department will, in its discretion, establish a site-specific water quality criterion that modifies a water quality criterion set out in 18 AAC 70.020(b)

- (1) in a permit, certification, or approval as described in (b) of this section; or
- (2) in regulation as described in (c) of this section.

(b) If the department finds that the natural condition of a waterbody is demonstrated to be of lower quality than a water quality criterion set out in 18 AAC 70.020(b), the natural condition constitutes the applicable water quality criterion. Upon application or on its own initiative, the department will determine whether a natural condition should be approved as a site-specific water quality criterion. Before making the determination, the department will issue public notice of a proposed approval under this subsection and provide opportunity for public comment. If a natural condition varies with time, the natural condition will be determined to be the prevailing highest quality natural condition measured during an annual, seasonal, or shorter time period before discharge or operation, or as the actual natural condition measured concurrent with discharge or operation. The department will, if necessary to adequately protect water quality,

- (1) determine a natural condition for one or more seasonal or shorter periods to reflect variable ambient conditions; and

- (2) require additional or continuing monitoring of natural conditions as a condition of a permit, certification, or approval.

(c) Upon application, or on its own initiative, the department will, in its discretion, set site-specific criteria in regulation if the department finds that the evidence reasonably demonstrates that the site-specific criterion will fully protect designated uses in 18 AAC 70.020(b) and that

- (1) for reasons specific to a certain site, a criterion in 18 AAC 70.020(b) is more stringent or less stringent than necessary to ensure full protection of the corresponding use class; or

- (2) a criterion would be better expressed in terms different from those used in 18 AAC 70.020(b).

(d) The department will set a site-specific criterion under (c) of this section for the Agrowth and propagation of fish, shellfish, other aquatic life, and wildlife use classes in 18 AAC 70.020(a)(1)(C) and 18 AAC 70.020(a)(2)(C) only if the department finds that the evidence is sufficient to reasonably demonstrate that

- (1) the species or habitats present, or expected to be present under natural

conditions, are more sensitive or less sensitive to a substance than indicated by the criterion, and a site-specific criterion is required to prevent adverse effects or to alleviate an unnecessarily restrictive general criterion; or

(2) the natural characteristics of the receiving environment would increase or reduce the biological availability or the toxicity of a substance, or otherwise alter the substance, and a site-specific criterion is required to prevent adverse effects or to alleviate unnecessarily restrictive general criterion.

(e) An applicant seeking a site-specific criterion under this section shall provide all information that the department determines is necessary to modify an existing criterion. The department will, in a timely manner, request and review for completeness, information submitted under this subsection. In all cases, the burden of proof is on the applicant seeking a site-specific criterion. (Eff. 11/1/97, Register 143; am 4/29/99, Register 150)

Authority:	AS 46.03.010	AS 46.03.080	AS 46.03.110
	AS 46.03.020	AS 46.03.090	AS 46.03.710
	AS 46.03.050	AS 46.03.100	AS 46.03.720
	AS 46.03.070		

Editor's note: The development documents for site-specific criteria established under 18 AAC 70.235(b) in a permit, certification, or approval may be reviewed in or requested from the department's Juneau office.

18 AAC 70.236. Waterbodies subject to site-specific criteria. (a) Under 18 AAC 70.235, the department has established site-specific criteria that modify certain general criteria set out in 18 AAC 70.020(b) for the waterbodies listed in (b) of this section. The site-specific criteria apply only to the affected designated use class indicated in (b) of this section. All other criteria set out in 18 AAC 70.020(b) continue to apply to the waterbodies listed in (b) of this section.

(b) Waterbodies subject to site-specific criteria, and the applicable site-specific criteria, are:

18 AAC 70.236(b) WATERSHED		LATITUDE LONGITUDE **	LOCATION	REACH OF WATER AFFECTED	WATER QUALITY PARAMETER	DESIGNATED USE CLASS AFFECTED	SITE-SPECIFIC CRITERIA
TYPE/NAME NUMBER*							
(4) Cook Inlet	19020401*	61°12' 22.5" N 150°01' 8.7" W (end of outfall pipe for Municipality of Anchorage wastewater treatment plant)	Vicinity of Point Woronzof, Anchorage	see footnote***	Arsenic ****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	36 µg/l (chronic) 69 µg/l (acute) measured as dissolved metal
					Cadmium ****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	9.3 µg/l (chronic) 42 µg/l (acute) measured as dissolved metal
					Chromium VI ****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	50 µg/l (chronic) 1100 µg/l (acute) measured as dissolved metal
					Copper****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	3.1 µg/l (chronic) 4.8 µg/l (acute) measured as dissolved metal
					Lead****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	8.1 µg/l (chronic) 210 µg/l (acute) measured as dissolved metal
					Mercury****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	0.025 µg/l (chronic) 1.8 µg/l (acute) measured as dissolved metal
					Nickel****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	8.2 µg/l (chronic) 74 µg/l (acute) measured as dissolved metal
					Selenium****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	71 µg/l (chronic) 290 µg/l (acute) measured as dissolved metal
					Silver****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	1.9 µg/l (acute) measured as dissolved metal
					Zinc****	(2)(A)(i), (2)(A)(ii) (2)(B)(i) (2)(C) & (2)(D)	81 µg/l (chronic) 90 µg/l (acute) measured as dissolved metal
					Turbidity	(2)(A)(i), (2)(B)(i) (2)(B)(ii) (2)(C) & (2)(D)	May not exceed the natural condition

18 AAC 70.236(b) WATERSHED		LATITUDE LONGITUDE **	LOCATION	REACH OF WATER AFFECTED	WATER QUALITY PARAMETER	DESIGNATED USE CLASS AFFECTED	SITE-SPECIFIC CRITERIA
TYPE/NAME NUMBER*							
(5) Red Dog Creek (Main Stem)	19050404*	68°05'23" N 162°56'48"W	Near Red Dog Mine	Red Dog Creek from the confluence of the Middle Fork and North Fork to the confluence of Red Dog Creek and Ikalukrok Creek	Dissolved inorganic substances	(1)(C)	Total dissolved solids (TDS), with calcium greater than 50% by weight of the total cations, may not exceed 1,500 mg/l, and may not exceed 500 mg/l during the spawning period for Arctic grayling. ***** For TDS with calcium less than or equal to 50% by weight of the total cations, the statewide standard in 18 AAC 70.020(b)(4)(C) applies.

* Watershed numbers refer to watersheds established by the United States Department of Interior, Geological Survey, "Hydrologic Unit Map - 1987 State of Alaska," adopted by reference in 18 AAC 70.230; information about how to obtain this document is set out in the footnote to the table in 18 AAC 70.230(e).

** River latitudes and longitudes are set at the downstream end of the affected river reach.

*** Upper Cook Inlet in the vicinity of Point Woronzof, an area bounded by the constriction of Knik Arm at Cairn Point to the northeast, by the southern shoreline of Cook Inlet southwest to Point Campbell, by a line from Point Campbell to the northeast end of Fire Island, by a line due north from the northeast end of Fire Island to the northern shoreline of Cook Inlet at a point east of the mouth of the Little Susitna River, by the northern shoreline of upper Cook Inlet north and east to a point directly west of Cairn Point; and from that point by a line due east to Cairn Point; a map of the area subject to these site-specific criteria is available at the department's offices in Anchorage, Fairbanks, and Juneau.

**** This metal is a toxic substance as defined in 18 AAC 70.990, and falls under the parameter of "Toxics and Other Deleterious Organic and Inorganic Substances" in 18 AAC 70.020(b).

***** The spawning period for Arctic grayling in Red Dog Creek occurs approximately from late May through mid-June and will be determined by the department. (Eff. 12/12/97, Register 144; am 3/1/98, Register 145; am 4/24/99, Register 150; am 6/26/2003, Register 166)

Authority: AS 46.03.020 AS 46.03.070 AS 46.03.080
AS 46.03.050

18 AAC 70.240. Mixing zones: department authorization. (a) The water quality criteria and limits set by or under this chapter may be exceeded within a mixing zone authorized by the department. In applying the water quality criteria and limits set by or under this chapter the department will, in its discretion, upon application, authorize a mixing zone in a discharge permit, certification, or order. The department will authorize a mixing zone only if the department finds that available evidence reasonably demonstrates that

(1) the applicable requirements of this chapter will be met;

(2) the mixing zone will be as small as practicable; and

(3) an effluent or substance will be treated to remove, reduce, and disperse pollutants, using methods found by the department to be the most effective and technologically and economically feasible, consistent with the highest statutory and regulatory treatment requirements.

(b) Ongoing compliance with 18 AAC 70.240 - 18 AAC 70.270 is a condition of any permit, certification, or order of the department authorizing a mixing zone. (Eff. 11/1/97, Register 143)

Authority: AS 46.03.010 AS 46.03.080 AS 46.03.110
AS 46.03.020 AS 46.03.090 AS 46.03.710
AS 46.03.050 AS 46.03.100 AS 46.03.720
AS 46.03.070

18 AAC 70.245. Mixing zones: appropriateness and size determination. (a) In determining the appropriateness and size of a mixing zone, the department will ensure that existing uses of the waterbody outside the mixing zone are maintained and fully protected so that any discharge will

(1) neither partially nor completely eliminate an existing use of the waterbody outside the mixing zone; and

(2) not impair the overall biological integrity of the waterbody.

(b) In making a determination under this section, the department will consider

(1) the physical, biological, and chemical characteristics of the receiving water, including volume and flow rate;

(2) the effects that the discharge might have on the uses of the receiving water;

(3) the flushing and mixing characteristics of the receiving water;

(4) effluent treatment technology requirements under federal or state law;

(5) the characteristics of the effluent, including volume, flow rate, dispersion, and quality after treatment;

(6) methods to analyze and model near-field and far-field mixing; and

(7) the cumulative effects of multiple mixing zones and diffuse, nonpoint source inputs located within, or affecting, the receiving water. (Eff. 11/1/97, Register 143)

Authority:	AS 46.03.020	AS 46.03.080	AS 46.03.110
	AS 46.03.050	AS 46.03.100	AS 46.03.710
	AS 46.03.070		

18 AAC 70.250. Mixing zones: general conditions. (a) The department will not authorize a mixing zone if the department finds that available evidence reasonably demonstrates that

(1) the pollutants discharged could

(A) bioaccumulate, bioconcentrate, or persist above natural levels in sediments, water, or biota to significantly adverse levels, based on consideration of bioaccumulation and bioconcentration factors, toxicity, and exposure;

(B) be expected to cause carcinogenic, mutagenic, or teratogenic effects on, or otherwise present a risk to, human health; when evaluating a discharge under this paragraph, the department will, in its discretion, require the applicant to perform a department-approved, site-specific analysis based on exposure pathways, including exposure duration of affected aquatic organisms in the proposed mixing zone and patterns of fisheries use and consumption of water, fish, or shellfish in the area; in the absence of a site-specific analysis, the evaluation of a discharge under this paragraph will be based on the most protective assumptions, as determined by the department, regarding exposure pathways, including exposure duration of affected aquatic organisms in the

proposed mixing zone and patterns of fisheries use and consumption of water, fish, or shellfish in the area; or

(C) otherwise create a public health hazard through encroachment on water supply or contact recreation uses of the waterbody;

(2) there could be

(A) an adverse impact on anadromous or resident fish or shellfish spawning or rearing;

(B) a barrier formed to migratory species;

(C) failure to provide a zone of passage; or

(D) an adverse effect on threatened or endangered species;

(3) flushing or mixing of the waterbody is not adequate to ensure full protection of uses of the waterbody outside the proposed mixing zone; or

(4) there could be an environmental effect, or damage to the ecosystem that the department considers to be so adverse that a mixing zone is not appropriate.

(b) The department will reduce in size or deny a mixing zone if the department finds that available evidence reasonably demonstrates that the pollutants discharged could

(1) result in undesirable or nuisance aquatic life;

(2) produce objectionable color, taste, or odor in aquatic resources harvested for human consumption; or

(3) preclude or limit established processing activities or commercial, sport, personal-use, or subsistence fish and shellfish harvesting.

(c) For purposes of this section, the department will find that something A could happen if the department determines that it is reasonably expected to occur. (Eff. 11/1/97, Register 143)

Authority:	AS 46.03.020	AS 46.03.080	AS 46.03.110
	AS 46.03.050	AS 46.03.100	AS 46.03.710
	AS 46.03.070		

18 AAC 70.255. Mixing zones: in-zone quality and size specifications. (a) The size, location, or other limits of a mixing zone set by or under this chapter will be established in a discharge permit, certification, or order issued by the department under the appropriate chapter in this title.

(b) Water quality criteria must be met at the boundary of the mixing zone. A discharge

may not cause or reasonably be expected to cause

(1) lethality to passing organisms in the mixing zone; or

(2) a toxic effect in the water column, sediments, or biota outside the boundaries of the mixing zone.

(c) Human health and chronic aquatic life criteria apply at and beyond the boundaries of the mixing zone.

(d) Acute aquatic life criteria apply at and beyond the boundaries of a smaller initial mixing zone surrounding the outfall. The smaller initial mixing zone for application of acute criteria must be sized to prevent lethality to passing organisms. Methods for calculating the boundaries of the smaller initial mixing zone for application of acute criteria, unless otherwise specified by the department, must follow procedures under Alternatives 2, 3, or 4 in Section 5.1.2 of the United States Environmental Protection Agency's Water Quality Standards Handbook, Second Edition, August 1994, EPA-823-B-94-005a.

(e) Unless the department finds that evidence is sufficient to reasonably demonstrate, in accordance with this section, that the size limitations of a mixing zone can be safely increased, a mixing zone must comply with the following size restrictions:

(1) for estuarine and marine waters, measured at mean lower low water,

(A) the cumulative linear length of all mixing zones intersected on any given cross section of an estuary, inlet, cove, channel, or other marine water may not exceed 10 percent of the total length of that cross section; and

(B) the total horizontal area allocated to mixing zones may not exceed 10 percent of the surface area;

(2) for lakes, the total horizontal area allocated to all mixing zones may not exceed 10 percent of the lake's surface area; and

(3) for streams, rivers, or other flowing fresh waters, subject to (f), (g), and (h) of this section, the length of a mixing zone may not extend downstream beyond the limits described in (A) or (B) of this paragraph, whichever is closer to the point of discharge, as follows:

(A) beyond the computed point where the variation in the concentration of a water quality parameter across a stream, river, or other flowing fresh water is predicted to be less than five percent, as determined using a standard river flow mixing model accepted by the department; or

(B) beyond the location where the department determines that a public health hazard reasonably could be expected to occur.

(f) For streams, rivers, or other flowing fresh waters subject to (e)(3) of this section, in calculating the maximum pollutant discharge limitations, the volume of flow available for dilution must be determined using

(1) the actual flow as determined by gauging data collected concurrent with the discharge; or

(2) for conventional or nontoxic substances, the default 2-year, 3-day low flow (3Q2) appropriate to the period of discharge; for toxic substances, the 10-year, 7-day low flow (7Q10) as the chronic criteria design flow and the 10-year, 1-day (1Q10) as the acute criteria design flow for protection of aquatic life; for carcinogens, the harmonic mean flow as the design

flow for the protection of human health; these low flows must be calculated using methods of Ashton and Carlson, *Determination of Seasonal, Frequency and Durational Aspects of Streamflow with Regard to Fish Passage Through Roadway Drainage Structures* (1984), Carlson, *Seasonal, Frequency and Durational Aspects of Streamflow in Southeast and Coastal Alaska* (1987), or another appropriate regional regression flow model approved by the department; numeric water quality criteria apply at all design flows that are equal to or greater than these critical low flows.

(g) For streams, rivers, or other flowing fresh waters subject to (e)(3) of this section, a mixing zone may not result in

- (1) permanent or irreparable displacement of indigenous organisms; or
- (2) a reduction in fish or shellfish population levels.

(h) For streams, rivers, or other flowing fresh waters subject to (e)(3) of this section, a mixing zone will not be authorized in an area of

- (1) anadromous fish spawning; or
- (2) resident fish spawning redds for Arctic grayling, northern pike, rainbow trout, lake trout, brook trout, cutthroat trout, whitefish, sheefish, Arctic char (Dolly Varden), burbot, and landlocked coho, king, and sockeye salmon. (Eff. 11/1/97, Register 143)

Authority:	AS 46.03.020	AS 46.03.080	AS 46.03.110
	AS 46.03.030	AS 46.03.100	AS 46.03.710
	AS 46.03.070		

18 AAC 70.260. Mixing zones: application requirements. An applicant requesting a mixing zone shall provide to the department all available evidence reasonably necessary for a decision, including the information and demonstrations required by 18 AAC 70.240 - 18 AAC 70.270 and other information the department determines is necessary to meet the requirements of 18 AAC 70.240 - 18 AAC 70.270. The burden of proof for justifying a mixing zone through demonstrating compliance with the requirements of 18 AAC 70.240 - 18 AAC 70.270 rests with the applicant. The department will, in a timely manner, request and review for completeness, information submitted under this section. (Eff. 11/1/97, Register 143)

Authority:	AS 46.03.020	AS 46.03.080	AS 46.03.110
	AS 46.03.030	AS 46.03.100	AS 46.03.710
	AS 46.03.070		

18 AAC 70.270. Mixing zones: termination, modification, or denial of renewal. If the department finds that available evidence reasonably demonstrates that a mixing zone authorized by the department has a significant unforeseen adverse environmental effect, the department will terminate, modify, or deny renewal of a permit, certification, or order authorizing the mixing zone. (Eff. 11/1/97, Register 143)

Authority:	AS 46.03.010	AS 46.03.080	AS 46.03.110
	AS 46.03.020	AS 46.03.090	AS 46.03.710
	AS 46.03.050	AS 46.03.100	AS 46.03.720
	AS 46.03.070		

Article 3. General Provisions.**Section**

900. Enforcement discretion

910. Compliance schedule

990. Definitions

18 AAC 70.900. Enforcement discretion. In determining whether to initiate an enforcement action on a water quality violation, the department will consider whether the activity in question was conducted in compliance with

- (1) permit conditions established in accordance with AS 46.03.100 or 46.03.110(e), and with 18 AAC 15;
- (2) engineering plans approved in accordance with AS 46.03.720; or
- (3) best management practices as determined by the department. (Eff. 11/1/97, Register 143)

Authority: AS 46.03.020 AS 46.03.050

18 AAC 70.910 Compliance schedule. (a) If the department determines that more time is required for a facility to come into full compliance with the water quality standards under this chapter, and if the department determines that allowing a facility more time to come into full compliance will not harm or threaten public health or the environment, the department will include as a condition of a permit, certification, or approval issued under this chapter, or as a means for complying with water quality standards under this chapter, a compliance schedule for a requirement

- (1) with which a facility is not in compliance when a permit or certification is issued; or
 - (2) that becomes effective during the life of the permit or certification and with which a facility will not be in compliance.
- (b) A compliance schedule issued under this section must
- (1) contain a narrative description of how the facility will achieve compliance;
 - (2) include remedial measures specified as a sequence of actions enforceable by the department, and with completion dates leading to compliance for each requirement;
 - (3) require compliance in as brief a time as feasible;
 - (4) if compliance is not achievable in one year, include a schedule for the permittee to submit regular progress reports to the department; a progress report submitted as required under that schedule must include

(A) the activities and completion dates required in the compliance schedule and the dates when those activities were achieved; and

(B) an explanation of why a completion date was not or cannot be met and a description of corrective measures taken;

(5) include requirements comparable to and at least as stringent as any compliance plan requirement contained in a judicial consent decree or administrative order that applies to the facility; and

(6) include a statement that the compliance schedule does not prevent the department from pursuing an enforcement action for noncompliance with a permit condition not covered by the compliance schedule.

(c) The department will revise a compliance schedule if the department determines that

(1) the permittee has shown good cause for the revision;

(2) a shorter period for achieving compliance is required to adequately protect water quality; or

(3) a shorter period for achieving compliance is feasible because one or more steps in the compliance schedule become unnecessary or achievable in less time.

(d) A permittee who fails to comply with an interim or final compliance date set out in a compliance schedule is in violation of the permit, certification, or approval to which the compliance schedule applies, and is subject to enforcement action by the department, including modification, suspension, or revocation of the permit, certification, or approval.

(e) A compliance schedule included in an NPDES permit issued by EPA, or a revision of that compliance schedule, is subject to federal regulations, including 40 C.F.R. part 122. (Eff. 4/29/99, Register 150)

Authority:	AS 46.03.020	AS 46.03.100	AS.46.03.120
	AS 46.03.050	AS.46.03.110	

18 AAC 70.990. Definitions. Unless the context indicates otherwise, in this chapter

(1) "acute" means of, relating to, or resulting from a level of toxicity of a substance, a substance combination, or an effluent sufficient to produce observable lethal or sublethal effects in aquatic organisms exposed for short periods of time, typically 96 hours or less;

(2) "anadromous fish" has the meaning given that term in the definitions section of the Catalog of Waters Important for Spawning, Rearing, or Migration of Anadromous Fishes, adopted by reference in 5 AAC 95.010;

(3) "apparent color" means the condition of water that results in the visual

sensations of hue and intensity, due both to substances in solution and to suspended matter;

(4) "aquaculture" means the cultivation of aquatic plants or animals for human use or consumption;

(5) "available evidence" means all relevant and applicable data and information the applicant has or can obtain, and all relevant and applicable data and information available to the department from other sources; "available evidence" does not include data and information that the collection or preparation of which, in the department's determination, is not practicable.

(6) "bioaccumulation" means the ability of a substance or chemical to be taken up by an organism either directly from exposure to a contaminated medium or by consumption of food containing the substance or chemical;

(7) "bioconcentration" means the ability of a substance or chemical to be absorbed from water through gills or epithelial tissue and concentrate in the body of an organism;

(8) "boundary" means a line or landmark that serves to clarify, outline, or mark a limit, border, or interface;

(9) "carcinogenic" means a substance that is expected to cause cancer in aquatic life or, for human health purposes, that is classified as a Group A or Group B carcinogen according to the United States Environmental Protection Agency *Guidelines for Carcinogen Risk Assessment*, 51 Fed. Reg. 33992, 33999 - 34000 (1986), adopted by reference; Group A includes substances that have been shown to cause cancer in humans; Group B, based on epidemiologic and other studies, includes "probable human carcinogens" and is divided between

(A) "B1", for which there is limited evidence of carcinogenicity in humans; and

(B) "B2", for which there is sufficient evidence of carcinogenicity in animals, but inadequate or no evidence of carcinogenicity in humans from epidemiologic studies;

(10) "certification" means the certificate of reasonable assurance the department may issue under 33 U.S.C. 1341 (Clean Water Act, sec. 401), as amended through February 4, 1987;

(11) "chronic" means of, relating to, or resulting from a level of toxicity of a substance, a substance combination, or an effluent sufficient to produce observable lethal or sublethal effects, including effects on growth, development, behavior, reproduction, or survival, in aquatic organisms exposed for a period of time that generally is one-tenth or more of their life span;

(12) "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. 1251 - 1387), as amended through February 4, 1987;

(13) "color" means the condition that results in the visual sensations of hue and intensity as measured after turbidity is removed;

(14) "commissioner" means the commissioner of the Department of Environmental Conservation, or the commissioner's designee;

(15) "compensation point for photosynthetic activity" means the point at which incident light penetration allows plankton to photosynthetically produce enough oxygen to balance their respiration requirements;

(16) "contact recreation" means activities in which there is direct and intimate contact with water; "contact recreation" includes swimming, diving, and water skiing; "contact recreation" does not include wading;

(17) "criterion" means a set concentration or limit of a water quality parameter that, when not exceeded, will protect an organism, a population of organisms, a community of organisms, or a prescribed water use with a reasonable degree of safety; a criterion might be a narrative statement instead of a numerical concentration or limit;

(18) "department" means the Department of Environmental Conservation;

(19) "designated uses" means those uses specified in 18 AAC 70.020 as protected use classes for each waterbody or segment, regardless of whether those uses are being attained;

(20) "dissolved oxygen" means the concentration of oxygen in water as determined either by the Winkler (iodometric) method and its modifications or by the membrane electrode method;

(21) "ecosystem" means a system made up of a community of animals, plants, and bacteria, and the system's interrelated physical and chemical environment;

(22) "effluent" means the segment of a wastewater stream that follows the final step in a treatment process and precedes discharge of the wastewater stream to the receiving environment;

(23) "EPA" means the United States Environmental Protection Agency;

(24) "existing uses" means those uses actually attained in a waterbody on or after November 28, 1975;

(25) "fecal coliform bacteria" means those bacteria that can ferment lactose at $44.5^{\circ} \pm 0.2^{\circ}$ C to produce gas in a multiple tube procedure; "fecal coliform bacteria" also means all bacteria that produce blue colonies within $24 \pm$ hours of incubation at $44.5^{\circ} \pm 0.2^{\circ}$ C in an M-FC broth medium;

(26) "fish" means any of the group of cold-blooded vertebrates that live in water

and have permanent gills for breathing and fins for locomotion;

(27) "grain size accumulation graph" means a plot of sediment-sieving data showing logarithm of grain size in millimeters on the horizontal axis and percent accumulation by weight (linear scale) on the vertical axis;

(28) "groundwater" means water in the zone of saturation; in this paragraph, "zone of saturation" is the zone below the water table, where all interstices are filled with water;

(29) "harmonic mean flow" means a long-term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows;

(30) "highest statutory and regulatory treatment requirements" means

(A) any federal technology-based effluent limitation identified in 40 C.F.R. 125.3 and 40 C.F.R. 122.29, as amended through August 15, 1997, adopted by reference;

(B) minimum treatment standards in 18 AAC 72.040; and

(C) any treatment requirement imposed under another state law that is more stringent than a requirement of this chapter;

(31) "industrial use" means use of a water supply for a manufacturing or production enterprise except food processing, and includes mining, placer mining, energy production, or development;

(32) "irreparable displacement" means a change in aquatic organism use or presence due to a decrease in water quality that is irreversible by natural processes so that the biological system will not return to a state functionally equivalent to the original after cessation of discharge;

(33) "lake" means an inland waterbody of substantial size that occupies a basin or hollow in the earth's surface and that might or might not have a current or a single direction of flow;

(34) "mean" means the average of values obtained over a specified time period and, for fecal coliform analysis, is computed as a logarithm;

(35) "mean lower low water" means the tidal datum plane of the average of the lower of the two low waters of each day, as would be established by the National Geodetic Survey, at any place subject to tidal influence;

(36) "micrograms per liter ($\mu\text{g}/\text{l}$)" means the concentration at which one millionth of a gram (10^{-6} g) is found in a volume of one liter;

(37) "milligrams per liter (mg/l)" means the concentration at which one

thousandth of a gram (10^{-3} g) is found in a volume of one liter; it is approximately equal to the unit "parts per million (ppm)," formerly of common use;

(38) "mixing zone" means an area in a waterbody surrounding, or downstream of, a discharge where the effluent plume is diluted by the receiving water within which specified water quality criteria may be exceeded;

(39) "most probable number (MPN)" means the statistic that represents the number of individuals most likely present in a given sample, based on test data;

(40) "mutagenic" means the ability of a substance or chemical to increase the frequency or extent of a significant and basic alteration in an organism's chromosomes or genetic material as determined according to the United States Environmental Protection Agency *Guidelines for Mutagenicity Risk Assessment*, 51 Fed. Reg. 34006 (1986), adopted by reference;

(41) "natural condition" means any physical, chemical, biological, or radiological condition existing in a waterbody before any human-caused influence on, discharge to, or addition of material to, the waterbody;

(42) "nonpoint source" means a source of pollution other than a point source;

(43) "oils and grease" means oils and grease as defined by the procedure used under 18 AAC 70.020(c)(1);

(44) "persist" means the ability of a substance or chemical not to decay, degrade, transform, volatilize, hydrolyze, or photolyze;

(45) "pH" means the negative logarithm of the hydrogen-ion concentration, expressed as moles per liter: $\text{pH} = -\log_{10} (\text{H}^+)$;

(46) "point source" means a discernible, confined, and discrete conveyance, including a pipe, ditch, channel, tunnel, conduit, well, container, rolling stock, or vessel or other floating craft, from which pollutants are or could be discharged;

(47) "pollution" has the meaning given in AS 46.03.900;

(48) "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes;

(49) "residues" means floating solids, debris, sludge, deposits, foam, scum, or any other material or substance remaining in a waterbody as a result of direct or nearby human activity;

(50) "secondary recreation" means activities in which incidental water use can occur; "secondary recreation" includes boating, camping, hunting, hiking, wading, and recreational fishing; in this paragraph "recreational fishing" does not include fish consumption;

(51) "sediment" means solid material of organic or mineral origin that is transported by, suspended in, or deposited from water; Asediment \cong includes chemical and biochemical precipitates and organic material, such as humus;

(52) "settleable solids" means solid material of organic or mineral origin that is transported by and deposited from water, as measured by the volumetric Imhoff cone method and at the method detection limits specified in method 2540(F), *Standard Methods for the Examination of Water and Wastewater*, 18th edition (1992);

(53) "sheen" means an iridescent appearance on the water surface;

(54) "significantly adverse levels" means concentrations of pollutants that would impair the productivity or biological integrity of the overall waterbody, including reducing or eliminating the viability or sustainability of a given species or community of species in the overall waterbody;

(55) "sodium adsorption ratio (SAR)" means the estimated degree to which sodium from a given water will be adsorbed in soil, as proposed in *Diagnosis and Improvement of Saline and Alkali Soils*, Agriculture Handbook No. 60, United States Salinity Laboratory Staff, United States Department of Agriculture, and is expressed as the quotient of the sodium ion concentration and the square root of half the sum of the calcium and magnesium ion concentrations:

$$\frac{(Na^+)}{\sqrt{\frac{(Ca^{++}) + (Mg^{++})}{2}}}$$

(56) "spawning" means the process of producing, emitting, or depositing eggs, sperm, seed, germ, larvae, young, or juveniles, especially in large numbers, by aquatic life;

(57) "teratogenic" means the ability of a substance or chemical to cause developmental malformations and monstrosities, as determined according to the United States Environmental Protection Agency *Guidelines for Health Assessment of Suspect Developmental Toxicants*, 51 Fed. Reg. 34028 (1986), adopted by reference;

(58) "thermocline" means a zone of water between a warmer, surface zone and a colder, deep-water zone in a thermally stratified waterbody, in which water temperature decreases rapidly with depth;

(59) "total aqueous hydrocarbons (TAqH)" means those collective dissolved and water-accommodated monoaromatic and polynuclear aromatic petroleum hydrocarbons that are persistent in the water column; "total aqueous hydrocarbons" does not include floating surface oil or grease;

(60) "total aromatic hydrocarbons (TAH)" means the sum of the following volatile monoaromatic hydrocarbon compounds: benzene, ethylbenzene, toluene, and the xylene isomers, commonly called BETX;

(61) "toxic" means of, relating to, or resulting from a substance or substance combination that causes in affected organisms or their offspring

(A) death, disease, malignancy, or genetic mutations;

(B) abnormalities or malfunctions in growth, development, behavior, or reproduction; or

(C) other physical or physiological abnormalities or malfunctions;

(62) "toxic substances" means those substances or substance combinations, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available, cause a toxic effect in the affected organism or its offspring; "toxic substances" includes the following substances, and any other substance identified as a toxic pollutant under 33 U.S.C. 1317(a) (Clean Water Act, sec. 307(a)):

2-chlorophenol; 2,4-dichlorophenol; 2,4-dimethylphenol; acenaphthene; acrolein; acrylonitrile; Aldrin/Dieldrin; ammonia; antimony; arsenic; asbestos; benzene; benzidine; beryllium; cadmium; carbon tetrachloride; Chlordane; chlorinated benzenes; chlorinated naphthalene; chlorinated ethanes; chlorine; chloroalkyl ethers; chloroform; chlorophenols; chlorophenoxy herbicides; chromium; copper; cyanide; DDT; Demeton; dichlorobenzenes; dichlorobenzidine; dichloroethylenes; dichloropropane; dichloropropene; dinitrotoluene; diphenylhydrazine; Endosulfan; Endrin; ethylbenzene; fluoranthene; Guthion; haloethers; halomethanes; Heptachlor; hexachlorobutadiene; hexachlorocyclohexane; hexachlorocyclopentadiene; isophorone; lead; Lindane; Malathion; mercury; methoxychlor; Mirex; naphthalene; nickel; nitrobenzene; nitrophenols; nitrosamines; p-dioxin; Parathion; PCBs; pentachlorophenol; phenol; phthalate esters; polynuclear aromatic hydrocarbons; selenium; silver; tetrachloroethylene; thallium; toluene; Toxaphene; trichloroethylene; vinyl chloride; and zinc;

(63) "treatment works" has the meaning given in AS 46.03.900;

(64) "turbidity" means an expression of the optical property that causes light to be scattered and absorbed rather than transmitted in straight lines through a water sample; turbidity in water is caused by the presence of suspended matter such as clay, silt, finely divided organic and inorganic matter, plankton, and other microscopic organisms;

(65) "water," "waterbody," and "waters" have the meaning given the term "waters" in AS 46.03.900;

(66) "water of the United States" has the meaning given the term "waters of the United States" in 40 C.F.R. 122.2, as amended through August 15, 1997;

(67) "water recreation" means contact recreation or secondary recreation;

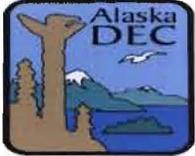
(68) "water supply" means any of the waters of the state that are designated in this chapter to be protected for fresh water or marine water uses; A water supply \cong includes waters used for drinking, culinary, food processing, agricultural, aquacultural, seafood processing, and industrial purposes; "water supply" does not necessarily mean that water in a waterbody that is protected as a supply for the uses listed in this paragraph is safe to drink in its natural state;

(69) "wildlife" means all species of mammals, birds, reptiles, and amphibians;

(70) "milliequivalents per liter" or "meq/l" mean milligrams per liter divided by the molecular weight of the chemical compound;

(71) "sodium percentage" means the quotient of (sodium x 100) divided by the sum of (sodium + calcium + magnesium + potassium); in this paragraph "sodium," "calcium," "magnesium," and "potassium" mean amounts of those substances expressed as milliequivalents per liter. (Eff. 11/1/97, Register 143; am 4/29/99, Register 150; am 6/22/2003, Register 166)

Authority:	AS 46.03.010	AS 46.03.080	AS 46.03.110
	AS 46.03.020	AS 46.03.090	AS 46.03.710
	AS 46.03.050	AS 46.03.100	AS 46.03.720
	AS 46.03.070		

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SECTION Division of Water	CHAPTER Permits/Authorizations	APPROVED BY  Lynn J. Tomich Kent, Director	

PURPOSE AND SCOPE

The purpose of this *Interim Antidegradation Implementation Methods* is to provide staff with a framework to implement the state's antidegradation policy. This serves as interim guidance to be used while the Division works with other agencies, permittees, and the public to develop more detailed procedures. The Division expects to develop the final implementation methods through a rule-making process.

PROCEDURE

See attached.

AUTHORITY

To prevent unnecessary lowering of water quality, 40 CFR §131.12 requires states to develop and adopt an antidegradation policy, as well as to identify methods to implement the policy. Alaska's antidegradation policy is established at 18 AAC 70.015. This guidance serves as the interim implementation methods.

IMPLEMENTATION RESPONSIBILITY

Division of Water staff that develop water quality standards regulations or develop and issue permits, or certify federal permits, for discharges to waters of the U.S are responsible to implement the attached methods.

Interim Antidegradation Implementation Methods July 14, 2010

Introduction.

Federal law requires that each state, as part of its program to protect water quality, adopt a statewide antidegradation policy and also identify methods for implementing the policy. 40 CFR § 131.12(a). The State of Alaska, acting through ADEC, has adopted an antidegradation policy at 18 AAC 70.015, and EPA has approved that policy. The purpose of this guidance document is to describe the methods that ADEC staff should follow to implement the existing policy.

Staff should understand that the policy, having been adopted as a regulation, is part of state law, and compliance with that policy is required. In contrast, this guidance has not been adopted as a regulation, and is designed simply as a tool to help staff implement the policy itself. In the event of any conflict between this guidance and the policy, or any question about the proper interpretation of this guidance, the terms of the policy itself always govern. Also, there may be particular situations where ADEC staff must depart from the terms of this guidance in order to fully comply with state and/or federal law. If such situations arise, compliance with any governing laws will always take precedence over this guidance.

When the policy applies.

The general purpose of the antidegradation (“AD”) policy is to protect the quality of the state’s waters. Thus, any time someone proposes an operation or activity that could have the effect of lowering the quality of a waterbody, ADEC staff should presume that the AD policy applies, and should comply with it. While this could arise in a variety of contexts, by far the most common is the permitting of proposed discharges into state surface water. Thus, this guidance focuses on that common scenario.

When a permit application, or an application for state certification of a federal permit under Section 401 of the Clean Water Act, is received, staff should evaluate it to see if issuing the requested permit or certification would allow activities that would degrade the quality of a water body. If the application is for a new operation, the answer will usually be ‘yes’, because most discharges will add some pollutant at levels that exceed the natural condition of the receiving water. And that is what is meant by ‘degradation’: increasing the concentration of a pollutant in a receiving water. Even a discharge that meets the water quality standards may have the effect of

increasing the concentration of a pollutant in a receiving water. Again, most new discharges would have this effect.

An application for a permit renewal would also trigger analysis under the AD policy if the renewed permit would allow an increase in discharge of pollutants from what had previously been permitted. Thus, staff should compare the effluent limits of the old permit with the proposed renewed permit, to see if the applicant is asking for permission to degrade any state water. Even if the proposed degradation is only for one particular pollutant, analysis under the AD policy would be triggered for that pollutant.

The permitter must document the anti-degradation analysis in the draft and final permit fact sheet or the draft and final state certification of a federal permit. The anti-degradation analysis is not a substitute for the need to document the permitter's rationale for authorizing exceptions to the water quality standards (18 AAC 70.200.240) such as zones of deposit or mixing zones – these must also be documented in the permit fact sheet or state certification of a federal permit.

If the permit renewal would not relax any of the effluent limits or allow a reduction of water quality, no tier 2 or tier 3 AD analysis is required. However, a tier 1 analysis is still triggered, as discussed below. You should document in the permit fact sheet or permit certification that no lowering of water quality will occur and no further tier 2 or 3 analysis is required.

If staff have any doubt about whether AD analysis is triggered by a particular circumstance, they should consult with more experienced peers or with supervisors to answer that threshold inquiry.

How the policy works.

There are three ascending levels of protection offered by the AD policy. These are commonly referred to as “tiers,” even though the regulation itself does not use that term. The level of protection afforded to a particular water body depends upon which tier applies to it.

The lowest level of protection, or tier 1, applies to water bodies whose existing quality is no better than the state-wide water quality criteria for the designated uses of “growth and propagation of fish, shellfish, other aquatic life and wildlife” [see 18 AAC 70.020(a)(1)(C)] and contact recreation [see 18 AAC 70.020(a)(1)(B)(i)]. These two uses are often referred to together as the “fishable/swimmable” uses, entitled to particular protection under the federal Clean Water Act.

The next level of protection is tier 2, and it applies to water bodies whose quality is better than the criteria applicable to the fishable/swimmable uses.

See 18 AAC 70.015(a)(2). Most water of the state will fall into this category, because the quality of most of our surface waters is higher than the statewide criteria for those two designated uses. Among other things, the quality of tier 2 waters must be protected by ensuring that all statutory and regulatory requirements are met for all new and existing point sources and all cost-effective and reasonable best management practices are used to control nonpoint sources.

The highest level of protection is reserved for tier 3 waters, which are also referred to as outstanding national resource waters, or ONRWs. ONRWs are entitled to the highest level of protection because they are special for one reason or another. See 18 AAC 70.015(a)(3).

When you begin your AD analysis under the policy, figuring out what tier of protection applies to your case is the first step.

How to decide what tier applies.

For reasons explained below, as a practical matter, for most waters the question will be whether tier 1 or tier 2 applies. You need to evaluate the available information about the existing quality of the water in question, to determine which of those two tiers applies. Finding water quality data showing the current condition of the water body may be a challenge. The permit application may include ambient monitoring data for the proposed receiving water, and you should research whether ADEC, the U.S. Geological Survey, or another agency has any other useful water quality data on that water body. In some circumstances, regional water quality may be appropriate to consider. If you can't locate sufficient data to make a determination about the water quality, you should presume that it is of high quality, and subject to at least tier 2 protection.

One question will quickly arise: what water quality parameters should you focus on? The permit process will normally identify parameters for which effluent limits will be established through a "Reasonable Potential Analysis" or some other process. At a minimum, you need to consider each parameter for which a permit effluent limit will be established. For each parameter that has a corresponding water quality criterion (as listed at 18 AAC 70.020(b)), such as TDS, metals, fecal coliform, etc., you need to decide whether the quality of the receiving water exceeds (i.e. is of higher quality than) the criteria for the fishable/swimmable uses. If it does not, then the water is tier 1 for that parameter. If it does, then it is tier 2.

This decision is made on a parameter-by-parameter basis. So, for example, the same water body could be tier 1 for arsenic, if it already has arsenic levels equal to or above levels allowed under the fishable/swimmable criteria for arsenic, but tier 2 for everything else that the applicant proposes to

discharge into it.¹ As you make these determinations for the various parameters, you need to document your reasoning, so you can include it in your ultimate AD analysis and findings.

At the time this guidance is issued, ADEC has not yet designated any tier 3 waters. Designation of a waterbody as tier 3 is a significant decision with far reaching effects on future use of a waterbody as well as nearby land use. To qualify as a tier 3, or “outstanding national resource” water, one of two criteria must be met. The water must either be in a national or state park or wildlife refuge or be a water with exceptional recreational or ecological significance. The department’s past practice has been to consider a water’s potential tier 3 designation as part of the public notice and comment process on a draft wastewater discharge permit. However, EPA has recently recommended that the state establish a stand-alone tier 3 designation process, outside the permit process. As a consequence, the department will consider whether and how to establish a separate procedure for designating tier 3 waters, as it develops the final AD guidance.

In the meantime, in addition to considering possible tier 3 designation as part of a permit action, waters could also be designated as tier 3 through two other existing legal mechanisms, prior to any permitting action. A person could propose a tier 3 designation as part of the division’s existing triennial review process, where the public is invited to suggest changes to the state’s water quality standards. Tier 3 nominations made this way would be handled in conjunction with the rest of the triennial review, and any final decision would likely be held in abeyance until the final AD implementation guidance establishes the procedures to be used for formal tier 3 designations.² Given the public policy and land management implications, ultimate decisions on tier 3 nominations may even end up before the legislature, as some other states have opted to do. Of course, people seeking tier 3 designations during this interim period may also pursue that goal before the state legislature in the first instance, by advocating for a bill recognizing an ONRW water. In either case, the criteria that the division, and presumably the legislature, would use in considering tier 3 nominations would be those already contained in 18 AAC 70.015(a)(3). Any designation of tier 3 waters reached through either of these other legal mechanisms will be conveyed to permitting staff so they will be able to incorporate those decisions into future permitting actions.

How to do a “tier 1” analysis.

¹ While ADEC is following this “parameter-by-parameter” approach for purposes of this interim guidance, it is still considering the relative advantages of both this approach and the alternative “waterbody-by-waterbody” approach as it develops its final guidance.

² Further details on how the tier 3 nomination process will be integrated with the on-going triennial review process will be posted on DEC’s website, at <http://dec.alaska.gov/water/wqsar/trireview/index.htm>.

If you decide that a water body is tier 1 for a given parameter, then the tier 1 protection that applies to it under the AD policy is simply that the existing uses, and the level of water quality necessary to support them, are maintained and protected. See 18 AAC 70.015(a)(1). Note that “existing uses” is a defined term, meaning “those uses actually attained in a water body on or after November 28, 1975.” So, under a tier 1 AD analysis, you need to document in the draft and final permit fact sheet or the draft and final state certification of a federal permit that those existing uses, and the water quality necessary to protect them, are maintained and protected. Often protecting existing uses will amount to specifying effluent limits in a permit or certification that are based on the corresponding water quality criteria for those uses or other information that relates to how good water quality must be to protect the specific “existing uses.” Note that some degradation may be allowed, as long as it won’t harm any existing uses. Tier 1 applies regardless of whether the proposed discharge would allow lower water quality (i.e., Tier 1 is not limited, as Tiers 2 and 3 are, to situations where the new or increased discharge would lower water quality).

If you find that you don’t have sufficient information to make a tier 1 determination, you may require the applicant to provide any information you deem to be reasonably necessary. See 18 AAC 70.015(b). You may also consider asking other state, local or federal agencies for information on existing uses of the particular water body. Use your judgment about how much information you need. The greater the level of degradation proposed by the applicant, the more information you may consider necessary and appropriate to inform your tier 1 determination.

How to do a “tier 2” analysis.

Tier 2 AD analysis is much more complicated than tier 1. Just compare 18 AAC 70.015(a)(1) with .015(a)(2). For a tier 2 analysis, you can only allow degradation of water quality if you first make five findings. This guidance will discuss the five findings in the order they are listed in the policy. See 18 AAC 70.015(a)(2)(A)-(E).

- (A)** Lowering water quality is necessary to accommodate important economic or social development in the area.

You should evaluate the economic and social consequences of the proposed project. For example, for a new operation, will it provide jobs for a community? For an on-going operation whose permit renewal triggers AD analysis: how important is its continued operation to the regional economy? Will the facility treat and dispose of sewage and reduce risk to public health? The essence of this prong is to force the department to consciously evaluate whether the proposed degradation is justified by the economic and social benefits the project would bring. Degradation of a tier 2 parameter for

purposes other than those that have associated social and economic benefits is prohibited.

Again, the depth and rigor of your evaluation should be appropriate to the level of degradation contemplated. A large new project may well deserve more thorough scrutiny than minor changes in a permit renewal for an on-going operation. Remember, you can always ask the applicant for more information you think is necessary for your evaluation, under 18 AAC 70.015(b). Use your judgment, and ask for help if you're not sure what level of analysis a given project requires.

- (B)** The reduced water quality won't violate applicable water quality criteria except as allowed under 18 AAC 70.015(a).

If the applicant proposes a discharge that would violate the state-wide criteria in 18 AAC 70.020, site-specific criteria established under 18 AAC 70.235, or the whole effluent toxicity limit in 18 AAC 70.030, then you must determine whether such an exceedance is allowed under 18 AAC 70.015(a). Common examples of exceedances are associated with mixing zones, short-term variances and zones of deposit, all of which are allowed exceptions to the state-wide standards. See 18 AAC 70.240 (mixing zones), 18 AAC 70.200 (short-term variances), and 18 AAC 70.210 (zones of deposit). If you encounter an applicant who seeks permission to violate criteria in some other context, seek advice from your supervisor and/or experienced peers. Most authorized exceedances of criteria fall into those three categories and are governed by additional regulatory requirements. The AD policy does not preclude use of these other regulatory tools. Rather, it is best understood as an analytical overlay, requiring its own evaluations and findings. Under a tier 1 AD analysis, you need to document in the draft and final permit fact sheet or the draft and final state certification of a federal permit that those existing uses, and the water quality necessary to protect them, are maintained and protected.

- (C)** Resulting water quality will fully protect existing uses.

This finding, while worded slightly differently in the regulation, is functionally equivalent to the tier 1 analysis discussed above. Just as for tier 1 waters, the existing uses of tier 2 waters must also be fully protected.

- (D)** The most effective and reasonable methods of pollution prevention control and treatment will be applied to all wastes and other substances to be discharged.

and

- (E)** Wastes and other substances discharged will be treated and controlled to achieve the highest statutory and regulatory requirements.

These two required findings are closely related and should be considered together. They address the level of pollution prevention, control and treatment that ADEC should require before allowing degradation of water quality.

The first finding, .015(a)(2)(D), requires use of “the most effective and reasonable” methods. Note that this is not a defined term. This finding requires you to use your best professional judgment to evaluate the adequacy of the proposed methods. You must find a reasonable balance between the effectiveness of the possible technologies and their cost, as requiring the most effective methods may place an unreasonable economic burden on the applicant. For a larger project, you may choose to ask the applicant to perform and submit a “treatability study” that evaluates the effectiveness and cost of the various candidate technologies that could be used to treat their wastes and discharge. If you do not feel qualified to make a judgment as to which methods are “most effective and reasonable,” you should consult with other staff on what we have required at comparable operations.

Implementing the related finding, that operations follow “the highest statutory and regulatory requirements” in the control and treatment of their wastes/discharge, is more complicated. The phrase “highest statutory and regulatory requirements” was defined at 18 AAC 70.990(30) until the 2006 revision of the standards, when ADEC dropped that definition. But because EPA has not yet approved ADEC’s deletion of that definition, the former definition still remains in effect for purposes of the federal Clean Water Act. See 40 CFR § 131.21(e).

What this means is that if you are doing an AD analysis for a state certification of an EPA-issued NPDES permit, or for an ADEC-issued APDES permit, you need to retrieve and implement the definition formerly found at 18 AAC 70.990(30). That definition reads as follows:

- (30) “highest statutory and regulatory treatment requirements” means
- (A) any federal technology-based effluent limitation identified in 40 C.F.R. 125.3 and 40 C.F.R. 122.29, as amended through August 15, 1997, adopted by reference;
 - (B) minimum treatment standards in 18 AAC 72.040; and
 - (C) any treatment requirement imposed under another state law that is more stringent than a requirement of this chapter;

So, for you to make the fifth finding required by the AD policy for tier 2 waters, the treatment and control methods to be used must satisfy all three prongs listed in this definition. Prong (A) refers to the technology-based effluent limitation guidelines (ELGs) that EPA promulgates for specific industries. You will find these at 40 CFR Parts 400-471. If you are certifying a NPDES permit, EPA will have already identified the ELGs that apply to the operation in question. If you are issuing an APDES permit, it has to comply with applicable ELGs in any case. See 18 AAC 83.430(a) and 18 AAC 83.010(g).

The other two prongs in the definition refer to state law requirements. Prong (B) cites to the “minimum treatment standards in 18 AAC 72.040” which appears to be an incorrect reference, since the “minimum treatment” standards are found at 18 AAC 72.050 instead.³ Note that those treatment standards only apply to domestic wastewater. The final prong, (C), is a generic reference to other state law requirements that may be more stringent than the requirements of the water quality standards chapter, 18 AAC 70. You should consider whether any such requirements may exist, consulting with your peers as needed.

As you can see, the AD analysis for a tier 2 water is considerably more exhaustive than for tier 1. Since most state waters are relatively pristine, tier 2 AD analysis is the norm, and tier 1 the exception. Again, the level of rigor that you bring to your tier 2 analysis should be commensurate with the degradation to be caused by the proposed operation. Different degrees of degradation will deserve different levels of analysis. But all degradation of tier 2 waters must be evaluated under the framework outlined above, and the required findings must be made, supported and documented in writing.

How to do a “tier 3” analysis.

If the waterbody at issue in your case is in a state or federal park, or in a wildlife refuge, or may have exceptional recreational or ecological significance you should bring this fact to the attention of management early in the project design or permit application review process to consider the appropriateness of making a tier 3 designation as part of the permitting process itself. In considering whether to make a tier 3 designation, ADEC will, at a minimum, coordinate with other state and federal resources agencies with jurisdiction and/or expertise in parks, refuges, and waters that may have exceptional recreational or ecological significance. ADEC will public notice any draft decision to make a tier 3 designation for a minimum 30-day public comment period which may occur independently or in conjunction with the public notice for a draft permit.

³ ADEC corrected this mistake in its mixing zone regulations, also awaiting EPA approval. See 18 AAC 70.240(c)(1)(B).

Once ADEC establishes tier 3, or ONRW, waters, then degradation of those waters is not allowed under the AD policy. Because of the high level of protection afforded to tier 3 waters, a tier 3 designation could have significant public policy consequences, by limiting potential future development. The permitting approaches for tier 3 waters include zero discharge (denial of wastewater discharge permit applications); a permit limited to activities that result in short term and temporary changes in the water quality; or a permit with effluent limits that mirror the natural condition or otherwise do not allow for any change from the existing water quality.

Public notice and comment.

Just like a state-issued permit or a certification of a federal permit, your AD analysis must go through public notice and comment. Typically you simply include draft AD analysis and findings in the draft permit fact sheet or certification that goes out to public notice. For projects that also require federal permits, ADEC's public notice process is sometimes combined with the federal agencies' process. Either of these approaches will comply with the AD policy. See 18 AAC 70.015(c). Your job is simply to ensure that, one way or another, the public has the opportunity to review and comment upon ADEC's AD analysis before it becomes final.

General permits.

Doing AD analysis for general permits (GPs) presents unique challenges. For example, until you know what specific operations may apply for coverage under the GP, it may be difficult to evaluate whether a particular receiving water parameter is tier 1 or tier 2, and to determine existing uses. Lacking information about potential discharges to specific waters, you should assume that the waterbodies are Tier 2. Also, evaluating the economic and social impacts of permitted activity may be difficult at the time the GP is first issued. Other AD findings, such as the appropriate methods for pollution control and treatment, may be more amenable to analysis at the time of GP issuance, since GPs are typically used to authorize very similar operations.

Due to the variety of circumstances in which GPs are used, it is difficult to generalize about how to complete an AD analysis for one. In some cases you may be able to complete the AD analysis at the time the GP is issued, while in other cases you may have to complete the analysis when you authorize particular operations under the GP. Again, this is an area where consultation with peers may be necessary, as ADEC has issued many GPs in recent years, for various industry sectors and geographical areas. Reviewing some of those examples may help you tailor the required AD analysis and findings to your situation. Also, as a general rule, you should do your best to ensure that no tier 3 waters are covered under a GP. So you should evaluate the scope of the

GP to identify potential tier 3 waters, and make sure to exclude from coverage any that you can identify or reasonably anticipate.

Resources.

Attached is a list of resources, examples, and sources of factual information that may assist you with the AD analysis. ADEC will amend the resources list over time.

Conclusion.

This interim guidance will hopefully help you to understand and comply with our AD policy. But as you engage in AD analysis in particular cases, questions are sure to arise that this guidance doesn't address. Conferring with your supervisor and peers on such questions will yield dual benefits. First, it will give you the benefit of greater experience and collective expertise. Second, it will alert ADEC management about the kinds of questions and issues that can arise in the AD context. As mentioned above, ADEC plans to issue more comprehensive AD implementation guidance in the future. Keeping track of the AD issues that arise in the interim will help ADEC management make the final guidance both useful to staff and consistent with the AD policy itself.

ATTACHMENT [UNDER DEVELOPMENT]

Antidegradation Resources

- Current unemployment rate (available from Department of Administration) <http://almis.labor.state.ak.us/?PAGEID=67&SUBID=188>
- ADEC's [*Reasonable Potential Procedure for Water Quality-Based Effluent Limits, APDES Permits*](#). January 2009.
- [*Alaska Water Quality Criteria Manual for Toxic and Other Deleterious Organic and Inorganic Substances*](#). ADEC. December 12, 2008
- [*Antidegradation Policy Implementation, Internal Management Directive for NPDES Permits and Section 401 Water Quality Certifications*](#). Oregon Department of Environmental Quality. March 2001
- APDES Permit Fact Sheet template: [Mixing Zone Analysis Checklist](#)
- [*U.S EPA NPDES Permit Writers' Manual*](#). EPA. December 1996
- EPA's [*Technical Support Document for Water Quality-Based Toxics Control*](#)
- [*Interim Economic Guidance for Water Quality Standards*](#). US EPA. Office of Water. EPA-823-B-95-002. March 1995
<http://water.epa.gov/scitech/swguidance/standards/economics/index.cfm>
- [*Water Quality Standards Handbook*](#). Second Edition. EPA. August 1994 with revisions July 2007.
<http://water.epa.gov/scitech/swguidance/standards/handbook/index.cfm>
- [*Evaluation of Options for Antidegradation Implementation Guidance*](#). Tetra Tech, Inc. October 6, 2008
- [Log Transfer Facility – Notice of Intent Checklist](#)
- §401 Certification of NPDES Permit No. AKG-31-5000 Cook Inlet Oil and Gas Exploration, Development and Production Facilities Located in State and Federal Waters. ADEC. May 18, 2007. [401 Certification for AKG-31-5000](#)
- Ketchikan Gateway Borough, Ward Cove Log Storage Facility, Wastewater Disposal Permit, [Decision Document](#). ADEC. May 14, 2004.

Antidegradation Final Implementing Methods Work Plan December 2011

Background

The federal Clean Water Act requires states to have an antidegradation policy and implementation procedures. This requirement is primarily designed to require states to look carefully during the wastewater discharge permitting process at the advantages and disadvantages of authorizing a new discharge of pollutants that will lower the quality of a waterbody of the state. Among other factors, states are to look at: (1) water quality degradation from both point and nonpoint (storm water and melt water runoff) sources of pollution, (2) whether there are cost effective alternatives to a new or increased discharge, and (3) what social and economic benefit to the state would be necessary to justify any degradation. States must include a process for nomination and designation of Outstanding National Resource Waters (ONRW or “tier 3”), which allows special protections for these designated water bodies.

Alaska’s current anti-degradation policy, adopted in 1996, is found in the Water Quality Standards regulations at 18 AAC 70. As for the required implementing methods, DEC adopted interim methods in July 2010, but has yet to develop and adopt final implementing procedures.

Purpose

This document sets out DEC’s plan for developing final procedures for implementing the state’s antidegradation policy. It discusses actions to date, as well as those planned for the future.

Actions to Date

DEC contracted with Tetra Tech, Inc. to produce an October 6, 2008 report, titled “Evaluation of Options for Antidegradation Implementation Guidance.” The report presents Alaska’s antidegradation policy and how other states implement their policies. It describes the major elements of implementation procedures and includes options for Alaska’s implementation procedures. The report is available on the DEC website at http://dec.alaska.gov/water/wqsar/wqs/pdfs/Antidegradation_tetrtech_final.pdf

DEC hosted a public workshop on antidegradation issues in December 2009 that included presentations by attorneys, the Environmental Protection Agency, an environmental interest group, and other states that have significant experience implementing antidegradation policies and defending against legal challenges to their policies and implementation procedures.

DEC adopted “Interim Antidegradation Implementation Methods” in July 2010. A copy can be found at

http://dec.alaska.gov/water/wqsar/Antidegradation/docs/P&P-Interim_Antidegradation_Implementenation_Methods.pdf

Future Actions

DEC plans additional work including finishing final implementation procedures. In contrast to the interim methods issued as agency guidelines, DEC expects the final implementation procedures to involve at a minimum regulatory rulemaking and, perhaps, legislation. Additionally, under the interim methods, persons may nominate waterbodies for “Tier 3” status. Tier 3, or outstanding national resource waters, are entitled to the highest level of protection under the antidegradation policy because they are special for reasons such as being in a state or national park, or being of exceptional recreational or ecological significance. See 18 AAC 70.015(a)(3). The process for making Tier 3 designations is an important part of the antidegradation implementation procedures. Any Tier 3 nominations received will be handled in accordance with the process prescribed by the final implementation procedures.

Workgroup Concept

DEC will establish a workgroup of representatives of key interests. The workgroup will be advisory in nature, providing DEC with various perspectives and informing the department’s development of draft implementation procedures for public notice and comment. The objective is to seek overall efficiency and a better final product through early involvement of stakeholders.

Workgroup Process (Phase 1)

The workgroup effort will focus on the first phase of a two-phase development process. Phase 1 consists of a workgroup developing and recommending a preferred approach. Phase 2 consists of DEC drafting regulations that will go through the formal rulemaking process and, perhaps, legislative processes necessary to enact the approach.

The workgroup effort will be supported by a contractor that will provide research and other assistance, and ultimately prepare draft and final reports describing preferred implementation procedures for Alaska. Public notice will be provided for workgroup meetings and the meetings will be open to the public. Subcommittees may be formed to address specific issues.

Antidegradation implementation procedures usually contain two separate components: guidance for ranking lower quality, higher quality and outstanding national resource waters; and guidance for when and how to do an antidegradation analysis as part of permitting. These two components may be considered independently.

The general sequence of tasks to be addressed includes:

- Task 1.a Review alternative approaches
- Task 1.b Compare and evaluate options
- Task 1.c Identify preferred elements for Alaska
- Task 1.d Assemble elements into a preferred conceptual approach
- Task 1.e Prepare draft and final reports describing the preferred approach
- Task 1.f Parse conceptual approach into regulatory and statutory elements

Phase 1 is anticipated to be completed by the end of calendar year 2012. Meetings will be held in Anchorage. DEC envisions a series of meetings, bi-monthly for up to 12 months. Participants will not be compensated.

Each meeting will produce identified “action items” for DEC staff. A meeting summary and identified actions items will be posted to the DEC website and e-mailed to a mailing list of interested parties maintained by DEC.

Rulemaking and Legislation (Phase 2)

Once a preferred approach has been decided upon, rulemaking will be required. Depending on the approach selected, legislation may also be needed.

- Task 2.a Draft regulations and (if needed) legislation
- Task 2.b Rulemaking and (if needed) legislative processes

Phase 2 is anticipated to be completed by mid 2013.

Code of Federal Regulations

Title 40 - Protection of Environment

Volume: 22

Date: 2011-07-01

Original Date: 2011-07-01

Title: Section 131.12 - Antidegradation policy.

Context: Title 40 - Protection of Environment. CHAPTER I - ENVIRONMENTAL PROTECTION AGENCY (CONTINUED). SUBCHAPTER D - WATER PROGRAMS. PART 131 - WATER QUALITY STANDARDS. Subpart B - Establishment of Water Quality Standards.

§ 131.12 Antidegradation policy.

(a) The State shall develop and adopt a statewide antidegradation policy and identify the methods for implementing such policy pursuant to this subpart. The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following:

(1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

(2) Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

(3) Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

(4) In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with section 316 of the Act.



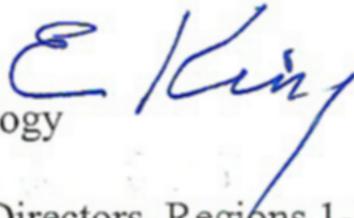
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
WATER

AUG 10 2005

MEMORANDUM

SUBJECT: Tier 2 Antidegradation Reviews and Significance Thresholds

FROM: Ephraim S. King, Director 
Office of Science and Technology

TO: Water Management Division Directors, Regions 1-10

I would like to share with you OST's current recommendation regarding significance thresholds and lowering of water quality in high quality waters in the context of tier 2 antidegradation reviews. This memorandum is intended to provide the Regions with technical recommendations for your consideration as you work with states and authorized tribes and as you review antidegradation implementation methods that adopt significance thresholds. Within this context, EPA will make decisions on a state's or tribe's antidegradation policy on a case-by-case basis, guided by the applicable requirements of the Clean Water Act and implementing regulations, and taking into account best available information.

Antidegradation is an integral part of a state's or tribe's water quality standards, as it provides important protections that are critical to the fulfillment of the Clean Water Act objective "to restore and *maintain* the chemical, physical, and biological integrity of the Nation's waters." Of the three tiers of antidegradation protection, perhaps the most detailed in terms of implementation is tier 2, or high quality water protection. The intent of tier 2 protection is to maintain and protect high quality waters and not to allow for any degradation beyond a de minimis level without having made a demonstration, with opportunity for public input, that such a lowering is necessary and important. The available assimilative capacity of a waterbody - the difference between the applicable water quality criterion for a pollutant parameter and the ambient water quality for that pollutant parameter where it is better than the criterion - is a valuable natural resource. EPA's regulations provide for public participation in decisions regarding whether a lowering of water quality is necessary (i.e., there are no alternatives to allowing a new or increased discharge that will lower water quality) to accommodate important development (i.e., the activity causing the lowering will provide for important economic or social development in the area in which the waters are located). See 40 CFR 131.12(a)(2).

We recognize that some states and tribes have chosen to target their antidegradation efforts by defining a significance threshold above which the effects on water quality require tier 2 antidegradation findings of necessity and social and economic importance. Applying antidegradation review requirements only to those activities that may result in significant degradation of water quality is a useful approach that allows states and tribes to focus their resources where they may result in the greatest environmental protection. However, it is important that states and tribes set their significance thresholds at a level that can be demonstrated to be consistent with the purpose of tier 2 antidegradation requirements. Otherwise, a new or increased discharge may result in significant degradation that will not be subject to antidegradation review, and decisions about the lowering of water quality in high quality waters may be made without public consideration of necessity and importance, resulting in the loss or diminishment of a valuable natural resource.

EPA has afforded the states and tribes some discretion in determining what constitutes a significant lowering of water quality. EPA has accepted a range of approaches to defining a "significance threshold" over which a full antidegradation review is required. This issue was considered at length in the process of developing the Water Quality Guidance for the Great Lakes. Relying upon input offered during a four-year open public process involving environmental groups, industry representatives, and other experts, with numerous opportunities for public input, the directors of the eight Great Lakes states and EPA technical experts reached a consensus on a significance threshold value of ten percent (10%) of the available assimilative capacity, coupled with a cumulative cap. They determined that this threshold represented a reasonable balance between the need of the regulatory agencies to limit the number of actions involving non-BCCs (bioaccumulative chemicals of concern) that are subjected to the detailed antidegradation demonstration requirements, and the need to protect and maintain water quality. They believed that any individual decision to lower water quality for non-BCCs that is limited to 10% of the available assimilative capacity represents minimal risk to the receiving water and is fully consistent with the objectives and goals of the Clean Water Act. A ten percent (10%) value is within the range of values for significance thresholds that EPA has approved in other states as well. EPA considers this approach to be workable and protective in identifying those significant lowerings of water quality that should receive a full tier 2 antidegradation review, including public participation.

Given the different approaches states and tribes have taken recently to define significance, it is important to clarify that the most appropriate way to define a significance threshold is in terms of assimilative capacity. Other approaches for defining significance, such as considering only increases in pollutant loading, may not take into account the resulting changes in water quality, and in some cases may allow most or all of the remaining assimilative capacity of a waterbody to be used without an antidegradation review. Evaluations of significance based solely on the magnitude of the proposed increase without reference to the amount of change in the ambient condition of the waterbody need to be very carefully evaluated to determine how they translate to reduction in assimilative capacity in order to understand whether a significant decrease in assimilative capacity will occur. This analysis can be technically difficult when applied to all possible waterbody types and flow situations, thus making justifications of these expressions by states and tribes and approvals by EPA more

challenging. Further, given the importance of public participation and transparency, it is clear that a definition of significance that directly links to the resource to be protected (assimilative capacity) is more likely to be understood by the public. Therefore, OST strongly recommends that new or revised submissions of antidegradation implementation procedures to EPA that define "significant" lowering of water quality define significance in terms of assimilative capacity, unless the state or tribe demonstrates that another approach is equally or more protective of the state's high quality water resources. Increased loadings of BCCs to surface waters of the Great Lakes System must be consistent with the Great Lakes Water Quality Initiative Antidegradation Policy (40 CFR Part 132, Appendix E, II.A. "Significant Lowering of Water Quality"). States and tribes that are concerned that new or increased discharges would not trigger antidegradation review on large waterbodies where the assimilative capacity is great should consider other approaches to defining significance, such as a combination of use of assimilative capacity and increase in pollutant loading.

To address situations where there are multiple or repeated increases in discharges, OST recommends that states and tribes incorporate a cumulative cap on the use of total assimilative capacity (i.e., the baseline assimilative capacity of a waterbody established at a specified point in time). This approach creates a backstop so that multiple or repeated discharges to a waterbody over time do not result in the majority of the total assimilative capacity being used without a single antidegradation review. For instance, the state or tribe may choose to subject any lowering of water quality to antidegradation review after a certain percentage of the total assimilative capacity has been used. This ensures that where the ambient water quality is lowered closer to the criteria levels, the state or tribe will conduct an antidegradation review after a certain point to evaluate the necessity and importance of each lowering, regardless of the amount of assimilative capacity that would be used.

OST recommends that, where states and tribes desire to establish a significance threshold, you work with them as they develop or revise their antidegradation implementation methods to ensure that any significance thresholds are consistent with the approaches described in this memorandum.

If you have any questions or concerns, please do not hesitate to call me, or Denise Keehner, Director of the Standards and Health Protection Division, at (202) 566-1566.

cc: Robbi Savage, ASIWPCA
Water Quality Standards Branch Chiefs, Regions 1-10

