

**DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION**

**DIVISION OF WATER**



**18 AAC 70**

**Water Quality Standards**

**PUBLIC NOTICE DRAFT**

July 31, 2019

18 AAC 70 is amended by adding a new section to read:

**18 AAC 70.205. Water Quality Standards Variance.** (a) Upon application or on its own initiative, the department may authorize a water quality standards variance, which allows for the establishment of a time limited designated use and the associated water quality criteria that represents the highest attainable condition, consistent with the requirements of federal regulations under 40 C.F.R.131.14, revised as of August 21, 2015, and adopted by reference.

(b) An applicant requesting a water quality standards variance under this section shall submit supporting documentation consistent with 40 CFR 131.14(b) to the department; the department will review and determine whether the information is sufficient; if determined necessary, the department may request additional information.

(c) A water quality standards variance is subject to public participation procedures under 40 C.F.R. 131.20(b) as amended through August 21, 2015, and other applicable state and federal statutes and regulations.

(d) The department may terminate, modify, or deny a subsequent water quality standards variance if the department determines it is not being implemented as authorized or is resulting in a significant adverse environmental effect.

(Eff. \_\_/\_\_/\_\_\_\_), Register\_\_)

<b>Authority:</b>	AS 46.03.020	AS 46.03.070	AS 46.03.100
	AS. 46.03.024	AS 46.03.080	AS 46.03.120
	AS 46.03.050		

18 AAC 70.230 is amended to read:

**18 AAC 70.230. Procedure for designated use reclassification; reclassified waters.**

(a) **Upon application, petition or on its own initiative, the department may adopt, modify, or repeal protected water use classes in 18 AAC 70.050 for a water of the state in accordance with 40 C.F.R. Part 131.10, as amended through August 21, 2015, adopted by reference.** [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 **131.20(b)** [131], as amended through **August 21, 2015** [AUGUST 15, 1997], and other applicable state and federal statutes and regulations.

(c) **An applicant or petitioner seeking reclassification of a waterbody under this section shall provide to the department all available evidence reasonably necessary to demonstrate that a reclassification will comply with this section.** [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.]

(Eff. 11/1/97, Register 143; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 46.03.020 AS 46.03.070 AS 46.03.080

18 AAC 70.990 is amended by adding one definition to read:

(79) “Water Quality Standards Variance” is a time-limited designated use and criterion for a specific pollutant(s) or water quality parameter(s) that reflect the highest attainable condition during the term of the water quality standard variance.

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