

Nancy Dahlstrom
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Gary Mendivil, Department of Environmental Conservation

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: March 27, 2024

RE: Filed Permanent Regulations: Department of Environmental Conservation
Department of Environmental Conservation regulations re: Water Quality Standards and
Alaska Pollutant Discharge Elimination System (18 AAC 70, 83)

Attorney General File:	2020200526
Regulation Filed:	3/27/2024
Effective Date:	4/26/2024
Print:	250, July 2024

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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March 26, 2024

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *18 AAC 70, 83: DEC - Water Quality Standards and Alaska Pollutant
Discharge Elimination System*
Our file: 2020200526

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Environmental Conservation against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Environmental Conservation after the close of the public comment period.

The regulations concern updates to the *Standard Methods for the Examination of Water and Wastewater*, adopted by reference, and 40 C.F.R. Part 136 (guidelines establishing test procedures for the analysis of pollutants), adopted by reference, for purposes of state water quality standards (18 AAC 70) and the Alaska Pollutant Discharge Elimination System (18 AAC 83).

The May 2, 2022 public notice and the March 20, 2024 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

No technical corrections were necessary to conform the regulations in accordance with AS 44.62.060.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Digitally signed by
Rebecca C. Polizzotto
Date: 2024.03.26
15:18:10 -08'00'
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

RCP/SCW

CC w/enclosure: Gary Mendivil, Regulations Contact
Department of Environmental Conservation

Jennifer Seely, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached 2 pages of regulations, dealing with Water Quality Standards at 18 AAC 70 are adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 46.03.020 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action as required by AS 46.03.024. In considering public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: March 20, 2024

Emma
Pokon

Digitally signed
by Emma Pokon
Date: 2024.03.20
11:42:33 -08'00'

Emma Pokon, Commissioner

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

March 27, 2024, at 10:14 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


for Lieutenant Governor Nancy Dahlstrom

Effective: April 26, 2024.

Register: 250, July 2024.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

18 AAC 70.020(c)(1) is amended to read:

(1) *Standard Methods for the Examination of Water and Wastewater*, **22nd edition, 2012 or 23rd edition, 2017** [18TH EDITION, 1992, 19TH EDITION, 1995, 20TH EDITION, 1998, OR 21ST EDITION, 2005], published jointly by the American Public Health and American Water Works Associations [,] and the Water Environment Federation; the editions of *Standard Methods for the Examination of Water and Wastewater* listed in this paragraph are adopted by reference, except for analytical methods where the most recently EPA approved version is required under **(3)** [(c)(3)] of this **subsection** [SECTION] and later versions of those methods are not adopted by reference and are not approved;

18 AAC 70.020(c)(3) is amended to read:

(3) **40 C.F.R. Part 136 (guidelines establishing test procedures for the analysis of pollutants), revised as of July 1, 2021** [EPA’S *GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT: ANALYSIS AND SAMPLING PROCEDURES*, 77 FED. REG. 29758 - 29846 (MAY 18, 2012)], adopted by reference;

(Eff. 11/1/97, Register 143; am 4/29/99, Register 150; am 5/27/99, Register 150; am 6/22/2003, Register 166; am 6/13/2006, Register 178; am 9/1/2006, Register 179; am 9/19/2009, Register 191; am 5/26/2011, Register 198; am 2/19/2016, Register 217; am 2/5/2017, Register 221; am 11/13/2022, Register 244; am 4 / 26 / 2024, Register 250)

Authority:	AS 46.03.010	AS 46.03.050	AS 46.03.080
	AS 46.03.020	AS 46.03.070	AS 46.03.710

18 AAC 70.990 is amended by adding new paragraphs to read:

(80) "fresh waters" means waters in which salinity is equal to or less than one part per thousand based on the 95th percentile of the dataset of salinity values; the applicable criteria are the fresh water criteria as set out in 18 AAC 70.020(b)(1) - (12), except as set out in 18 AAC 70.040;

(81) "marine waters" means waters in which the salinity is equal to or greater than 10 parts per thousand based on the 95th percentile of the dataset of salinity values; the applicable criteria are the marine criteria as set out in 18 AAC 70.020(b)(13) - (24).

(Eff. 11/1/97, Register 143; am 4/29/99, Register 150; am 6/22/2003, Register 166; am 3/23/2006, Register 177; am 6/13/2006, Register 178; am 2/5/2017, Register 221; am 4/6/2018, Register 226; am 3/5/2020, Register 233; am 4 / 26 / 2024, Register 250)

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

((Publisher: Please change the period at the end of 18 AAC 70.990(79)(B) to a semicolon.)))

18 AAC 83.010(f) is amended to read:

(f) The provisions of 40 C.F.R. Part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants), revised as of July 1, 2021 [SEPTEMBER 18, 2014], are adopted by reference.

(Eff. 7/29/2006, Register 179; am 11/10/2007, Register 184; am 10/23/2008, Register 188; am 2/19/2016, Register 217; am 4 / 26 / 2024, Register 250)

Authority:	AS 44.46.020	AS 46.03.020	AS 46.03.100
	AS 46.03.010	AS 46.03.050	AS 46.03.110