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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Jessalynn Rintala, Environmental Program Specialist IV
Department of Environmental Conservation

FROM: April Simpson, Alaska Administrative Code Coordinator *AS*
Office of the Lieutenant Governor

DATE: July 14, 2025

RE: Filed Permanent Regulations: Department of Environmental Conservation

Department of Environmental Conservation regulations re: Credits for Intake Pollutant Discharge (18 AAC 83)

Attorney General File:	2024200118
Regulation Filed:	7/14/2025
Effective Date:	8/13/2025
Print:	255, October 2025

cc with enclosures: Beth Parsons, Paralegal 2
Department of Law

Bob Dame, Alaska Legal Analyst
LexisNexis



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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July 10, 2025

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

Re: *18 AAC 83: DEC - Credits for Intake Pollutant Discharge*
Our file: 2024200118

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 amendments to Title 18, Chapter 83 of the Alaska Administrative Code that allow the Department of Environmental Conservation to consider and grant "net credits" for pollutants in a discharger's intake water if applicable effluent limitations and standards are met or the discharger demonstrates the control system it will use would meet the effluent limitations and standards in the absence of pollutants in the intake waters.

The January 29, 2025 public notice, the March 12, 2025 supplemental notice, and the July 9, 2025 adoption order all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: Rebecca C. Polizzotto
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2025.07.10
15:21:31 -08'00'

RCP/AHR

CC w/enclosure: Jessalyn Rintala, Environmental Program Specialist
Department of Environmental Conservation

Cameron Q. Jimmo, Assistant Attorney General
Department of Law

Amy R. Robinson, Assistant Attorney General
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached four pages of regulations, dealing with the allowance of net credits under the Alaska Pollutant Discharge Elimination System program, 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 44.46.020; AS 46.03.010; AS 46.03.020; AS 46.03.050; AS 46.03.100; AS 46.03.110 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.

Although no public comments were received, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken. The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action as required by AS 46.03.024.

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: 7/9/2025

Signed by:

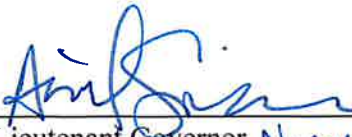
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Randy Bates, Commissioner

April Simpson for
✓

FILING CERTIFICATION

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

July 14, 2025, at 8:55 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: August 13, 2025.

Register: 255, October 2025.

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 83.010(g) is amended to read:

(g) The following provisions of Subchapter N (40 C.F.R. Part 400 - 40 C.F.R. Part 471; Effluent Standards) are adopted by reference:

(1) 40 C.F.R. Part 401 (General Provisions), as revised as of July 1, 2024 [JULY 1, 2006];

(2) 40 C.F.R. 403.1 - 40 C.F.R. 403.18 (General Pretreatment Regulations for Existing and New Sources of Pollution) and Appendices D, E, and G, as revised as of July 1, 2024 [JULY 1, 2007];

(3) 40 C.F.R. Part 405 - 40 C.F.R. Part 471, containing industry sector effluent limitations and guidelines, as revised as of July 1, 2024 [JULY 1, 2006].

(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 8 / 13 / 2025, Register 255)

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

18 AAC 83.545 is repealed and readopted to read:

18 AAC 83.545. Credits for pollutants in intake water. (a) Except as provided in (d) - (h) of this section, upon request of a discharger, the department may adjust technology-based effluent limitations and standards or water quality-based effluent limitations and standards to reflect net credits for pollutants in the discharger's intake water if

(1) the applicable effluent limitations and standards contained in 40 C.F.R. Part 401 - 40 C.F.R. Part 471, adopted by reference in 18 AAC 83.010, specifically provide that those limitations and standards must be applied on a net basis; or

(2) the discharger demonstrates that the control system it uses or proposes to use to meet applicable technology-based limitations and standards or water quality-based effluent limitations and standards would, if properly installed and operated, meet the limitations and standards in the absence of pollutants in the intake waters.

(b) If under (a)(2) of this section the department finds that an intake pollutant in the discharge does not cause, have the reasonable potential to cause, or contribute to an exceedance of an applicable water quality standard, the department may include a technology-based or water quality-based effluent limitation for the identified intake pollutant in the discharger's permit that specifies how compliance with the limits will be assessed.

(c) When the department evaluates a control system under (a)(2) of this section, the department may derive an effluent limitation reflecting the flow-weighted amount of each source of the pollutant if

(1) intake pollutants are discharged from multiple sources that originate from the receiving water body and from other water bodies; and

(2) the department determines that compliance can be established through adequate monitoring requirements that are included in the permit.

(d) The department will not grant net credits for generic pollutants such as biological oxygen demand or total suspended solids under this section unless the discharger demonstrates that the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or unless the department places appropriate additional limits on process water pollutants either at the outfall or elsewhere.

(e) The department will grant net credits only to the extent necessary to meet the applicable limitation and standard, up to a maximum value equal to the influent value. The

department may require additional monitoring to determine eligibility for credits and compliance with permit limits.

(f) The department will not grant net credits unless the discharger demonstrates that the discharge does not contribute to an increase in the concentration or mass of the identified pollutant for which a net credit is applied to the facility effluent.

(g) The department will grant net credits only if the discharger demonstrates that the intake pollutant is from the same body of water into which the discharge is made. The department may waive this requirement if it finds that environmental degradation will not result from a waiver. The department will consider an intake pollutant is from the "same body of water" into which the discharge is made if the department determines that

(1) the intake pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the discharger and the discharger demonstrates that:

(A) the concentration of the pollutant in the receiving water, excluding any amount of the pollutant in the discharge, is similar to that in the intake water;

(B) there is a direct hydrological connection between the intake and discharge points; and

(C) water quality characteristics, including temperature, pH, and hardness, are similar in the intake and receiving waters;

(2) site-specific factors relevant to the transport and fate of the pollutant indicate that the intake pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the discharger; or

(3) the intake pollutant originated from groundwater and would have reached the

vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the discharger; for purposes of this paragraph, a pollutant is not from the "same body of water" if the groundwater contains the pollutant partially or entirely due to human activity, including industrial, commercial, or municipal operations, disposal actions, or treatment processes.

(h) This section does not apply to the discharge of raw water clarifier sludge generated from the treatment of intake water.

(i) In this section, "intake pollutant" means a pollutant that is present in waters of the state at the time it is withdrawn from state waters by the discharger or other facility supplying the discharger with intake water. (Eff. 7/29/2006, Register 179; am 8 / 13 / 2025, Register 255)

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