

Nancy Dahlstrom  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

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

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

**DATE:** April 3, 2026

**RE:** Filed Permanent Regulations: Department of Environmental Conservation  
Department of Environmental Conservation regulations re: Performance-based  
approach to calculating copper criteria (18 AAC 70, 18 AAC 235)

---

Attorney General File:	2024200476
Regulation Filed:	4/3/2026
Effective Date:	5/3/2026
Print:	258, July 2026

cc with enclosures: Beth Parsons, Paralegal  
Department of Law

Lisa Gorman, Alaska Legal Analyst  
LexisNexis



THE STATE  
of ALASKA  
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

P.O. Box 110300  
Juneau, Alaska 99811  
Main: 907.465.3600  
Fax: 907.465.2520

April 3, 2026

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

Re: *18 AAC 70, 18 AAC 235: DEC - Performance-based approach to  
calculating copper criteria*  
Our file: 2024200476

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 update water quality standards to include an alternative site-specific, performance-based approach to calculate copper effluent limits.

The public notice and the 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.

We have made some technical corrections to conform the regulations and adopted-by-reference material in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations and adopted-by-reference material.

Sincerely,

STEPHEN J. COX  
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: 2026.04.03  
13:59:48 -08'00'

RCP/SCW/bhp

CC w/enclosure: Jessalynn Rintala, Regulations Contact  
Department of Environmental Conservation

Cameron Q. Jimmo, 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 regulations, dealing with water quality standards, 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, AS 46.03.050, AS 46.03.070, and AS 46.03.080 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.

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: 4/1/2026

Signed by:  
**Randy Bates**  
7C478B7A00004C0...  
\_\_\_\_\_  
Randy Bates, Commissioner

*April Simpson for*  
↓

FILING CERTIFICATION

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

April 3, 2026, at 2:30 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

*April Simpson*  
for Lieutenant Governor *Nancy Dahlstrom*

Effective: May 3, 2026

Register: 258, July 2026

**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, appearing to read "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM  
LIEUTENANT GOVERNOR**

The introductory language of 18 AAC 70.020(b) is amended to read:

(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 April 1, 2026 [DECEMBER 12, 2008] and adopted by reference, in combination with the classes and subclasses of water use set out in (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:

...

18 AAC 70.020(b) Note 5 is amended to read:

5. Wherever cited 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 April 1, 2026 [OCTOBER 5, 2022,] and adopted by reference in this subsection.

(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; am 5 / 3 / 2026, Register 258)

<b>Authority:</b>	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 70.235 is repealed and readopted to read:

**18 AAC 70.235. Site-specific criteria.** (a) The department may 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 as set out under (b) of this section; or

(2) in regulation as set out under (c) of this section.

(b) Upon application, the department may set site-specific criteria in a permit using a performance based approach adopted by the department under this chapter.

(c) Upon application, or on its own initiative, the department may 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 (b) or (c) of this section for the "growth 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 an 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; am 12/28/2006, Register 180; am 5 / 3 / 2026, Register 258)

<b>Authority:</b>	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