

**SENATE CS FOR CS FOR HOUSE BILL NO. 342(RES) am S**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Amended: 5/7/96

Offered: 5/4/96

Sponsor(s): REPRESENTATIVES ROKEBERG, Kelly, Ogan, James

**A BILL****FOR AN ACT ENTITLED****1 "An Act relating to water quality."****2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3     **\* Section 1.** FINDINGS AND INTENT. The legislature confirms that it is the policy of  
4 the state to implement water quality laws based on scientific and technical evidence. The  
5 legislature specifically requests that state agencies possessing the necessary expertise to  
6 implement AS 46.03.085 - 46.03.087, enacted by sec. 2 of this Act, coordinate their efforts  
7 to enable cost efficiencies in adopting regulations that encourage the economic development  
8 of the state's natural resources consistent with the public interest.

9     **\* Sec. 2.** AS 46.03 is amended by adding new sections to read:

10                   Sec. 46.03.085. WATER QUALITY STANDARDS; MEASUREMENTS. (a)

11                   In adopting and applying water quality standards, the department

12                   (1) shall ensure that the standards are sufficient to protect human health  
13                   and propagation of fish and wildlife;

14                   (2) shall consider the natural condition of bodies of water;

15                   (3) shall use scientific justification and water quality criteria that can

be reliably measured; and

(4) may not require discharged water to be of a higher quality than the natural condition of the receiving water.

(b) Except when setting standards under AS 03.05.011(a) for shellfish growing areas, as defined in the national shellfish sanitation program manual of operations published by the Food and Drug Administration, and except as provided in AS 46.03.087, the department may not adopt a water quality standard or other regulation related to water quality that is more restrictive than applicable federal water quality criteria or regulations. Within 90 days after receiving a request to amend the state's water quality standards to incorporate a reduction in, or elimination of, federal water quality criteria, or by another date mutually agreed on by the applicant and the department, the department shall either propose regulations that amend the state's water quality standards to incorporate the reduction or elimination or follow the process required under AS 46.03.087(b). If, following the process under AS 46.03.087(b), the department is unable to make the written findings required under AS 46.03.087(b)(3), the department shall propose regulations that amend the state's water quality standards to incorporate the reduction in or elimination of the federal water quality criteria or regulations.

(c) Except as otherwise provided in AS 46.03.087, the measurement of constituents other than sediment to determine whether a permittee is in compliance with permit limitations based on water quality shall be by methods approved in writing by the United States Environmental Protection Agency or by substantially equivalent methods approved by the department.

(d) The measurement of sediment to determine whether a permittee is in compliance with permit limitations based on water quality shall be by the volumetric Imhoff cone method for settleable solids. However, this subsection may not be construed to limit the department's authority to adopt water quality criteria for total suspended solids to meet United States Environmental Protection Agency requirements.

Sec. 46.03.087. SPECIAL PROCEDURES FOR CERTAIN WATER QUALITY REGULATIONS. (a) The department may, after following the procedures in this section, adopt a

(1) water quality standard or discharge standard that is more restrictive than applicable federal water quality criteria or discharge standards;

(2) water quality standard or discharge standard that is less restrictive or for which there is no corresponding federal water quality criteria or discharge standard; or

(3) regulation that allows the use of a method that is not substantially equivalent to methods approved by the United States Environmental Protection Agency for the measurement of constituents to determine whether a permittee is in compliance with permit limitations related to water quality.

(b) Before adopting a standard or regulation governed by (a) of this section, the department shall

(1) make available to the public, at convenient locations, copies of the proposal and the findings of the department that describe the basis for the proposal;

(2) consider the economic and technological feasibility of the proposal and prepare written findings; and

(3) find in writing, as applicable, that

(A) hydrologic conditions or discharge characteristics in the state or in an area of the state reasonably require the water quality standard, discharge standard, or method of measurement to protect human health and welfare or propagation of fish and wildlife; and

(B) hydrologic conditions or discharge characteristics are significantly different in the state or in an area of the state from those upon which the corresponding federal criteria or regulations are based.

**24** \* **Sec. 3. TRANSITIONAL REVIEW OF REGULATIONS.** (a) The Department of  
**25** Environmental Conservation shall, during the triennial review process of regulations that is  
**26** required under 33 U.S.C. 1313(c) (Clean Water Act), review its water quality regulations that  
**27** are in effect on the effective date of this Act in order to determine if they comply with federal  
**28** requirements and are not more stringent than applicable federal regulations. If the review  
**29** indicates that there are state regulations that are more stringent than applicable federal  
**30** regulations, the department shall determine whether it could justify those regulations under the  
**31** requirements of AS 46.03.087(b)(3), enacted by sec. 2 of this Act. If the department

1 determines that it cannot meet the requirements of AS 46.03.087(b)(3), the department shall  
2 adopt the necessary revisions to the regulations.

3 (b) The Department of Environmental Conservation shall, by January 31, 1998, and  
4 annually thereafter until all of the state water quality regulations in effect on the effective date  
5 of this Act are reviewed, offer in writing to orally brief the resources committees of the house  
6 and senate concerning the department's review and revisions required under (a) of this section.