

**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**

1 be reliably measured; and

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

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

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

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

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

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

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

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

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

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

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

16 (3) find in writing, as applicable, that

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

21 (B) hydrologic conditions or discharge characteristics are  
22 significantly different in the state or in an area of the state from those upon  
23 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.