

CS FOR HOUSE BILL NO. 342(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/19/96

Referred: Rules

Sponsor(s): REPRESENTATIVE ROKEBERG

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.** AS 46.03 is amended by adding new sections to read:

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

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

9 (b) The measurement of sediment to determine whether a permittee is in
10 compliance with permit limitations based on water quality shall be by the volumetric
11 Imhoff Cone method.

12 (c) Except when setting standards under AS 03.05.011(a) for shellfish growing
13 areas, as defined in the national shellfish sanitation program manual of operations
14 published by the Food and Drug Administration, and except as provided in
15 AS 46.03.087, the department may not adopt a water quality standard or other

1 regulation relating to water quality that is more restrictive than applicable federal water
2 quality criteria or regulations. Within 90 days after receiving a request to amend the
3 state's water quality standards to incorporate a change in, or elimination of, federal
4 water quality criteria, or by another date mutually agreed on by the applicant and the
5 department, the department shall either propose regulations that amend the state's
6 water quality standards to incorporate the change or elimination or follow the process
7 required under AS 46.03.087(b). If, following the process under AS 46.03.087(b), the
8 department is unable to make the written findings required under AS 46.03.087(b)(3),
9 the department shall propose regulations that amend the state's water quality standards
10 to incorporate the change or elimination of the federal water quality criteria or
11 regulations.

12 (d) In adopting and applying water quality standards, the department

13 (1) shall ensure that the standards are sufficient to protect human health
14 and maintain the state's aquatic productivity;

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

16 (3) shall use scientific justifications and water quality criteria that can
17 be reliably measured; and

18 (4) may not, when site-specific information is known or reasonably
19 available, require discharged water to be of a higher quality, in a more restrictive use
20 classification, or otherwise cleaner than the natural condition of the water into which
21 the discharge is made.

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

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

27 (2) water quality standard or discharge standard for which there is no
28 corresponding federal water quality criteria or discharge standard; or

29 (3) regulation that allows the use of a method that is not substantially
30 equivalent to methods approved by the United States Environmental Protection Agency
31 for the measurement of constituents to determine whether a permittee is in compliance

1 with permit limitations relating to water quality.

2 (b) In order to adopt a standard or regulation governed by (a) of this section,
3 the department shall

4 (1) make available to the public, at convenient locations, copies of the
5 proposed standard or regulation and the findings of the department that describe the
6 basis for adoption;

7 (2) consider in writing the economic feasibility of the proposed
8 standard or regulation; and

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

10 (A) hydrologic conditions or discharge characteristics in the
11 state or in an area of the state reasonably require the water quality standard,
12 discharge standard, or method of measurement to protect human health and
13 welfare or to maintain the state's aquatic productivity;

14 (B) the proposed standard, regulation, or method of
15 measurement is technologically feasible; and

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

19 * **Sec. 2. TRANSITIONAL REVIEW OF REGULATIONS.** (a) The Department of
20 Environmental Conservation shall, by August 1, 1997, review its water quality regulations that
21 are in effect on the effective date of this Act in order to determine if they comply with federal
22 requirements and are not more stringent than applicable federal regulations. If the review
23 indicates that there are state regulations that are more stringent than applicable federal
24 regulations, the department shall determine whether it could justify those regulations under the
25 requirements of AS 46.03.087(b)(3), enacted by sec. 1 of this Act. If the department
26 determines that it cannot meet the requirements of AS 46.03.087(b)(3), the department shall
27 propose the necessary revisions to the regulations.

28 (b) The Department of Environmental Conservation shall, by January 31, 1998, offer
29 in writing to orally brief the resources committees of the house and senate concerning the
30 department's review and proposed revisions required under (a) of this section.