

MEMORANDUM

State of Alaska
Department of Law

TO: Hon. Kurt Fredriksson
Commissioner
Department of Environmental Conservation

DATE: July 25, 2006

FILE NO.: 993-05-0043

TELEPHONE NO.: 465-3600

FROM: Steven C. Weaver 
Assistant Attorney General
Legislation/Regulations Section--Juneau

SUBJECT: Regulations re: water quality
standards for residues (18 AAC
70.020(b)(8), (20))

Under AS 44.62.060, we have reviewed the attached regulations changes by the Department of Environmental Conservation, and approve the changes for filing by the lieutenant governor. I have reviewed this project under a specific delegation dated July 25, 2006 from the Regulations Attorney. A duplicate original of this memorandum is being furnished to the lieutenant governor, along with the eight pages of regulations and the related documents.

You might wish to contact the lieutenant governor's office to confirm the filing date and effective date of the attached regulation changes.

The November 3, 2005 public notice and the June 30, 2006 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

In accordance with AS 44.62.125(b)(6), some corrections have been made in the regulations, as shown on the attached copy.

SCW

cc w/enc: Gary Mendivil, Regulations Contact
Department of Environmental Conservation

Lynn Tomich Kent, Director
Division of Water
Department of Environmental Conservation

Nancy B. Sonafrank
Division of Water
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is

18 AAC 70.020(b)(8) and (20) are amended to read:

~~18 AAC 70.020. Protected water use classes and subclasses, water quality criteria, water quality standards table.~~

(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 May 15, 2003 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:

Publisher: Existing lead-in language of 18 AAC 70.020(b) remains unchanged.

Designated

Water Quality Standards for ~~Fresh Water and Marine~~ Uses

POLLUTANT & WATER USE	CRITERIA →
<p>(8) RESIDUES, FOR FRESH <i>Bold</i> WATER USES: <i>Bold</i> Floating solids, <i>Bold</i> debris, sludge, deposits, foam, scum, <i>Bold</i> or other residues (criteria are not <i>Poolah</i> applicable to groundwater) (See note 13)</p>	<p style="text-align: center;"><i>Center</i></p> <p><i>Comma should not be bold or underline</i> <i>m</i></p>
<p>(A) Water Supply (i) drinking, culinary, and food processing</p>	<p>May not, alone or in combination with other substances, <u>be</u> <u>present in concentrations or amounts that: form</u> <i>#</i> <u>objectionable deposits; constitute a nuisance; produce</u> <u>objectionable odor or taste; or result in undesirable or</u> <u>nuisance species.</u> [OR WASTES, MAKE THE WATER UNFIT OR UNSAFE FOR THE USE; CAUSE A FILM, SHEEN, OR DISCOLORATION ON THE SURFACE OF THE WATER OR ADJOINING SHORELINES; CAUSE LEACHING OF TOXIC OR DELETERIOUS SUBSTANCES; OR CAUSE A SLUDGE, SOLID, OR EMULSION TO BE DEPOSITED BENEATH OR UPON THE SURFACE OF THE WATER, WITHIN THE WATER COLUMN, ON THE BOTTOM, OR UPON ADJOINING SHORELINES.]</p>

<p>(A) Water Supply</p> <p>(ii) agriculture, including irrigation and stock watering</p>	<p>Same as (8)(A)(i). [MAY NOT BE PRESENT IN QUANTITIES TO CAUSE SOIL PLUGGING OR REDUCED CROP YIELD, OR TO MAKE THE WATER UNFIT OR UNSAFE FOR THE USE.]</p>
<p>(A) Water Supply</p> <p>(iii) aquaculture [^] #</p>	<p>Same as (8)(A)(i). [MAY NOT, ALONE OR IN COMBINATION WITH OTHER SUBSTANCES OR WASTES, MAKE THE WATER UNFIT OR UNSAFE FOR THE USE.]</p>
<p>(A) Water Supply</p> <p>(iv) industrial [^] #</p>	<p>Same as (8)(A)(i) [(8)(A)(iii)].</p>
<p>(B) Water Recreation</p> <p>(i) contact recreation</p>	<p>Same as (8)(A)(i).</p>

<p>(B) [#]Water Recreation [#](ii) secondary recreation</p>	<p>Same as (8)(A)(i).</p>
<p>(C) [#]Growth and Propagation of [#]Fish, Shellfish, Other Aquatic Life, and Wildlife</p>	<p>May not, <u>alone</u> or in combination with other substances, <u>be</u> <u>present in concentrations or amounts that form</u> [#]<u>objectionable deposits or result in undesirable or</u> ²<u>nuisance species.</u> [OR WASTES, MAKE THE WATER UNFIT OR UNSAFE FOR THE USE; CAUSE A FILM, SHEEN, OR DISCOLORATION ON THE SURFACE OF THE WATER OR ADJOINING SHORELINES; CAUSE LEACHING OF TOXIC OR DELETERIOUS SUBSTANCES; OR CAUSE A SLUDGE, SOLID, OR EMULSION TO BE DEPOSITED BENEATH OR UPON THE SURFACE OF THE WATER, WITHIN THE WATER COLUMN, ON THE BOTTOM, OR UPON ADJOINING SHORELINES.]</p>
<p>18 AAC 70.020(b)(20) is amended to (20) RESIDUES, FOR MARINE WATER USES: ^{Bold} Floating solids, debris, sludge, ^{Bold} deposits, foam, scum, or other ^{Bold} residues (See note 13)</p>	<p>read:</p>

<p>(A) Water Supply</p> <p>(i) aquaculture [^] _#</p>	<p>May not, alone or in combination with other substances [^] <u>be present in concentrations or amounts that form</u> _# <u>objectionable deposits; constitute a nuisance; produce</u> <u>objectionable odor or taste; or result in undesirable or</u> <u>nuisance species.</u> [OR WASTES, MAKE THE WATER UNFIT OR UNSAFE FOR THE USE. MAY NOT CAUSE DETRIMENTAL EFFECTS ON ESTABLISHED WATER SUPPLY TREATMENT LEVELS.]</p>
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<p>(A) Water Supply</p> <p>(ii) seafood processing</p>	<p><u>Same as (20)(A)(i).</u> [MAY NOT, ALONE OR IN COMBINATION WITH OTHER SUBSTANCES OR WASTES, MAKE THE WATER UNFIT OR UNSAFE FOR THE USE; CAUSE A FILM, SHEEN, OR DISCOLORATION ON THE SURFACE OF THE WATER OR ADJOINING SHORELINES; CAUSE LEACHING OF TOXIC OR DELETERIOUS SUBSTANCES; OR CAUSE A SLUDGE, SOLID, OR EMULSION TO BE DEPOSITED BENEATH OR UPON THE SURFACE OF THE WATER, WITHIN THE WATER COLUMN, ON THE BOTTOM, OR UPON ADJOINING SHORELINES.]</p>
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<p>(A) Water Supply (iii) industrial</p>	<p>Same as (20)(A)(i). [MAY NOT, ALONE OR IN COMBINATION WITH OTHER SUBSTANCES OR WASTES, MAKE THE WATER UNFIT OR UNSAFE FOR THE USE.]</p>
<p>(B) Water Recreation (i) contact recreation</p>	<p>Same as (20)(A)(i) [(20)(A)(ii)].</p>
<p>(B) Water Recreation (ii) secondary recreation</p>	<p>Same as (20)(A)(i) [(20)(A)(ii)].</p>
<p>(C) Growth and Propagation of Fish, Shellfish, Other Aquatic Life, and Wildlife</p>	<p>May not, alone or in combination with other substances be <u>present in concentrations or amounts that form objectionable deposits or result in undesirable or nuisance species.</u> [OR WASTES, MAKE THE WATER UNFIT OR UNSAFE FOR THE USE, OR CAUSE ACUTE OR CHRONIC PROBLEM LEVELS AS DETERMINED BY BIOASSAY OR OTHER APPROPRIATE METHODS. MAY NOT, ALONE OR IN COMBINATION WITH OTHER SUBSTANCES, CAUSE A FILM, SHEEN, OR DISCOLORATION ON THE SURFACE OF THE WATER OR ADJOINING SHORELINES; CAUSE LEACHING OF TOXIC OR DELETERIOUS SUBSTANCES; OR CAUSE A SLUDGE, SOLID, OR EMULSION TO BE DEPOSITED BENEATH OR UPON THE SURFACE OF THE</p>

	WATER, WITHIN THE WATER COLUMN, ON THE BOTTOM, OR UPON ADJOINING SHORELINES.]
(D) Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life	<u>Same as (20)(A)(i).</u> [MAY NOT MAKE THE WATER UNFIT OR UNSAFE FOR THE USE; CAUSE A FILM, SHEEN, OR DISCOLORATION ON THE SURFACE OF THE WATER OR ADJOINING SHORELINES; CAUSE LEACHING OF TOXIC OR DELETERIOUS SUBSTANCES; OR CAUSE A SLUDGE, SOLID, OR EMULSION TO BE DEPOSITED BENEATH OR UPON THE SURFACE OF THE WATER, WITHIN THE WATER COLUMN, ON THE BOTTOM, OR UPON ADJOINING SHORELINES.]

13 AAC 70.020 (b) is amended by adding a new note to read:

~~Notes:~~

Tab twice

→ 13. In deciding what constitutes a nuisance or an objectionable deposit, odor or taste, or an undesirable or nuisance species, the department will consider the extent to which the presence of residue

Tab once more | (A) results in complaints from existing users;

indent once

Tab once more | (B) is consistent with the intended use of the area as designated in a land use or other resource management plan adopted by a federal, state or local government; or

indent once

Tab once more | (C) otherwise impairs or could reasonably be expected to impair existing or designated uses of the water body.

Backface and underlining not necessary

(Eff. 11/1/97, Register 143; am 4/29/99, Register 150; am 5/27/99, Register 150; am 6/22/2003,

am 6/13/2006, Register 178;

Register 166; am __/__/__, Register __)

Authority: AS 46.03.020

