

Proposed Amendments to 18 AAC 70.010(d) Pertaining to Natural Conditions

Fact Sheet

Water Quality Standards at 18 AAC 70 define the different uses of water that will be protected and measures necessary to maintain the chemical, physical, and biological integrity of Alaska's waters. States adopt water quality standards to protect public health or welfare and enhance the quality of water.

Background: In 2006, the text of 18 AAC 70.235(b) was replaced with a new subsection at 18 AAC 70.010(d) to create distinction between permit effluent limits based on natural conditions from waterbody site-specific criteria developed under 18 AAC 70.235¹. An unintended consequence of the 2006 WQS revision is that 18 AAC 70.010(d) is no longer qualified by 18 AAC 70.235(c), which allowed the department to set site-specific criteria in groundwater "in its discretion" and upon "application or its own initiative." Without former 18 AAC 70.235(c), 18 AAC 70.010(d) can now be interpreted to require the department to establish site-specific criteria for a permit whenever the natural condition of groundwater exceeds applicable water quality criteria.

Amendment: The proposed amendment clarifies that permit effluent limits based on natural conditions can be determined in one of two ways: by using the "Guidance for the Implementation of National Condition-Based Water Quality Standards" or the natural conditions-based monitoring and corrective action requirements set out at 18 AAC 60. The department has historically used the statistical methods under 18 AAC 60 to create permit limits for wastewater discharges to groundwater, and the amendments expressly recognize the interplay between 18 AAC 60 and 18 AAC 70. This amendment does not alter the Department's requirements under 18 AAC 70.235 when developing waterbody site-specific criteria.

This amendment aligns current policies with regulation and clarifies its authority. Note that this rule will only apply to groundwater discharge permits and are not subject to federal Clean Water Act jurisdiction, including those regulations related to EPA review and approval at 40 C.F.R 131.21.

Next Steps: DEC will be accepting public comments on the proposed rulemaking between June 10, 2024 and July 12, 2024. The proposed rulemaking language and responses to questions

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DEC Proposed Rulemaking
<https://dec.alaska.gov/water/water-quality/standards/recent-activities/>

¹ Waterbody site-specific criteria developed under 18 AAC 70.235 are subject to U.S. Environmental Protection Agency approval under 40 C.F.R 131.21.

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about the proposed rulemaking will be available on the State of Alaska Online Public Notice webpage as well as <https://dec.alaska.gov/water/water-quality/standards/recent-activities/>.