

HOUSE BILL NO. 85

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES SEATON, Gara, Gardner

Introduced: 1/18/11

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act requiring the Department of Environmental Conservation to collect and make**
2 **available to the public certain information relating to water pollution; prohibiting**
3 **certain mixing zones in freshwater spawning waters; and requiring a public comment**
4 **period for certain sewage system or treatment works modifications."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** AS 46.03 is amended by adding a new section to read:

7 **Sec. 46.03.026. Information to be collected and made available by the**
8 **department.** (a) The department shall require an annual report from a person for
9 whom the department grants a permit or other authorization for a mixing zone under
10 AS 46.03.100 - 46.03.120.

11 (b) The report required under (a) of this section must be in a form prescribed
12 by the department and contain

13 (1) the amount, nature, and description of the pollutant, contaminant,
14 or waste, except that quantification of information about water temperature, acidity, or

1 alkalinity or dissolved oxygen levels in water is not required;

2 (2) the location, type, and duration of the permitted activity; and

3 (3) other information the department may require.

4 (c) The department shall annually compile information collected under this
5 section and make the information reported under (b) of this section available to the
6 public on the department's Internet website.

7 (d) The report required by (a) of this section is not required when the
8 department grants a permit or other authorization for a mixing zone under
9 AS 46.03.100 - 46.03.120 that relates only to

10 (1) streambed disturbance;

11 (2) water turbidity; or

12 (3) a private sewage system.

13 (e) In this section, "mixing zone" has the meaning given in AS 46.03.065.

14 * **Sec. 2.** AS 46.03 is amended by adding a new section to read:

15 **Sec. 46.03.065. Prohibition of mixing zones in spawning waters.** (a) Except
16 as provided in (b) and (c) of this section, the department may not authorize a mixing
17 zone for lakes, streams, rivers, or other flowing fresh water in an area where

18 (1) anadromous fish spawn; or

19 (2) resident fish redds are located for

20 (A) Arctic char;

21 (B) Arctic grayling;

22 (C) brook trout;

23 (D) burbot;

24 (E) cutthroat trout;

25 (F) Dolly Varden;

26 (G) lake trout;

27 (H) landlocked coho, king, and sockeye salmon;

28 (I) northern pike;

29 (J) rainbow trout;

30 (K) sheefish; or

31 (L) whitefish.

1 (b) The prohibition in (a) of this section does not apply to the renewal of a
2 mixing zone authorization of a public or private domestic wastewater facility or
3 system during the useful life of the wastewater facility or system for an area where
4 spawning was not ongoing at the time of the initial authorization and the mixing zone
5 became a spawning area after the date of the initial authorization.

6 (c) The prohibition in (a) of this section does not apply to a turbidity mixing
7 zone for a suction dredge placer mine or a mechanical placer mine that the department
8 finds, with the concurrence of the division of the Department of Fish and Game that
9 has responsibility for fish habitat, will not adversely affect the present or future
10 spawning, incubation, or rearing of fish included under (a) of this section.

11 (d) In this section,

12 (1) "area" means the physical location where spawning occurs;

13 (2) "lakes, streams, rivers, or other flowing fresh water" includes lakes,
14 streams, rivers, or other flowing fresh water that have been altered by remediation or
15 construction activities; the term does not include an artificially constructed facility for
16 water, wastewater, holding, or channeling, unless the artificial facility is constructed
17 for the purpose of facilitating fish spawning;

18 (3) "mixing zone" means an area in a water body surrounding or
19 downstream of a discharge where the effluent plume is diluted by the receiving water,
20 within which water quality standards specified by the department under AS 46.03.050
21 - 46.03.120 may be exceeded;

22 (4) "useful life" means the anticipated time in which a facility or
23 system can continue to be operated without replacement or major renovation.

24 * **Sec. 3.** AS 46.03.120 is amended by adding a new subsection to read:

25 (d) Notwithstanding (c) of this section, if a permittee or plan holder seeks to
26 modify a permit or other authorization for a commercially operated sewage system or
27 treatment works that will result in an increase in discharge volume of more than 50
28 percent from the volume originally authorized under AS 46.03.100, the department
29 shall publish notice of the application or draft permit modification for comment in at
30 least two publications of a newspaper of general circulation within the general area in
31 which the modified disposal of waste material is proposed to be made. The notice shall

1 also be posted on the Alaska Online Public Notice System maintained under
2 AS 44.62.175 and on the department's Internet website, and may also be published in
3 other appropriate information media. The notice must include a statement that a person
4 who wants to present views to the department with regard to the application or draft
5 permit modification may do so in writing to the department within 30 days after the
6 first publication of the notice. The written response entitles the writer to a copy of the
7 application or draft permit modification.

8 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **APPLICABILITY.** (a) The report required under AS 46.03.026, added by sec. 1 of
11 this Act, is required only of a person applying for the Department of Environmental
12 Conservation's authorization of a mixing zone or a renewal or modification of a permit or
13 other authorization for a mixing zone under AS 46.03.100 - 46.03.120 on or after the effective
14 date of this Act.

15 (b) The prohibition in AS 46.03.065, added by sec. 2 of this Act, does not apply to
16 departmental authorization for an existing mixing zone for a public or private wastewater
17 facility or system that, during the useful life of the wastewater facility or system,

18 (1) has a mixing zone that is in an area where spawning was not ongoing on
19 the date of the initial operation of the facility or system and that became a spawning area after
20 the date of the initial operation of the facility or system; and

21 (2) was not authorized or permitted on the effective date of this Act and, as
22 certified in writing by the department, was not the subject of departmental action under
23 AS 46.03.100 before the effective date of this Act.

24 (c) The prohibition in AS 46.03.065, added by sec. 2 of this Act, does not apply to
25 departmental renewal or modification of a permit or other authorization for a mixing zone for
26 an area wherein spawning was ongoing at the date of the initial authorization if that
27 authorization occurred five years or more before the effective date of this Act.

28 (d) In this section, "useful life" means the anticipated time in which a facility or
29 system can continue to be operated without replacement or major renovation.