

HOUSE BILL NO. 220

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TALERICO

Introduced: 1/8/16
Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to fish; and establishing a fisheries enhancement permit."**

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

3 *** Section 1.** AS 16.05 is amended by adding a new section to read:

4 **Sec. 16.05.855. Fisheries enhancement permit.** (a) Subject to restrictions
5 imposed under this section, the department may issue a fisheries enhancement permit
6 to a qualified person that allows the person

7 (1) to remove fish from state water, collect gametes or fertilize and
8 incubate eggs taken from the fish, and place the incubated and fertilized eggs or
9 hatched fish in the same or other state water;

10 (2) to enhance habitat and augment nutrients in state water to aid the
11 survival of fish; and

12 (3) subject to AS 16.10.375 - 16.10.480, to use technologies and tools
13 to accomplish approved project activities.

14 (b) An applicant for a permit under this section shall apply on a form
15 prescribed by the department. The department shall make the application form

1 available on the department's Internet website and at the department's regional and
2 local offices. The department shall charge a fee for printing an application form
3 provided by the department's offices. An application for a permit must include

4 (1) the name of the applicant;

5 (2) a statement of the reasons for and feasibility of the proposed
6 project using historical and current data relating to habitat, the food web, and fish
7 populations in the project area;

8 (3) documentation of

9 (A) the conditions justifying the project;

10 (B) the applicant's collaboration, and plan for continued
11 collaboration, with a qualified person under (k)(2) of this section; and

12 (C) any communication, or plan for continued communication,
13 from the applicant with affected persons, relevant organizations with
14 applicable expertise, and stakeholders in the project area;

15 (4) the locations of the water from which the applicant will take fish
16 and the water in which the applicant will place fish eggs or fish;

17 (5) the species and number of fish to be taken and, if applicable, the
18 number to be taken for brood stock;

19 (6) a management plan that demonstrates the ability of the applicant to
20 carry out and sustain the proposed project, including the applicant's plan for fish
21 propagation or repopulation in permitted water;

22 (7) the applicant's goals, schedule, planned duration, performance
23 measures, scope of work, budget, means of collecting data, plan for genetics
24 management, and watershed habitat enhancement plan, if applicable, for the project;
25 and

26 (8) an application fee of \$100.

27 (c) The department may not issue a permit under this section unless the
28 commissioner determines that the project

29 (1) may restore or introduce a population of fish in a body of water in
30 which

31 (A) subsistence and escapement goals have not been met;

1 (B) there are no established escapement goals and local
2 stakeholders have identified a decline in the number of the species of fish; or

3 (C) the population of the species of fish is limited or the species
4 of fish is absent because of an identified factor including restricted
5 accessibility to the body of water for fish because of a natural or manmade
6 barrier;

7 (2) will result in public benefits; and

8 (3) will not introduce a nonindigenous fish or live fertilized eggs of
9 nonindigenous fish in violation of AS 16.35.210.

10 (d) In reviewing an application submitted under (b) of this section and
11 determining whether the department will issue a permit for a proposed project, the
12 commissioner shall consider

13 (1) the department's assessment of the proposed project;

14 (2) the capabilities of the applicant;

15 (3) the degree to which the applicant has reasonably communicated
16 with affected persons, including relevant organizations with applicable expertise, and
17 stakeholders in the project area;

18 (4) relevant and applicable comments relating to the proposed project
19 submitted under (h) of this section;

20 (5) the consistency of the proposed project with the constitutional and
21 statutory requirements and duties imposed on the department; and

22 (6) whether the proposed project will increase scientific knowledge
23 and understanding of natural resources affected by the project.

24 (e) A permittee or a person to whom a project is transferred under (f) of this
25 section shall

26 (1) collect and provide project data and reports reasonably requested
27 by the department;

28 (2) reasonably communicate with affected persons, including relevant
29 organizations with applicable expertise, and stakeholders in the project area.

30 (f) A permit issued under this section may be transferred to another qualified
31 person as defined in (k) of this section.

1 (g) Within 15 days after the department receives an application for a fisheries
2 enhancement permit, the commissioner shall notify an applicant that the application is
3 complete or incomplete. The commissioner may reject an application that is not
4 completed within 30 days after the commissioner notifies the applicant that the
5 application is incomplete. Within 60 days after the date the commissioner notifies an
6 applicant that an application is complete, the commissioner shall approve or reject the
7 application. If the commissioner fails to act within that period, the application is
8 approved and the department shall issue a permit.

9 (h) The department shall provide public notice of a permit application in
10 summary form within 15 days after the application is received by the department. A
11 person may submit comments to the department on a pending application within 30
12 days after the department provides public notice of the application. The department
13 shall also provide public notice of approval or rejection of an application within 30
14 days after the date of the project's approval or rejection. The department shall provide
15 public notice by electronic mail to a person who registers with the department and by
16 posting at the department's regional and local offices and on the department's Internet
17 website. The department shall charge a fee under AS 40.25.110 for a printed copy of a
18 public record related to a fisheries enhancement project.

19 (i) A permit issued under this section shall require that the permittee

20 (1) preserve natural fish feeding behavioral patterns to the extent
21 reasonably possible;

22 (2) may only use supplemental nutrients if the biological components
23 of the nutrients are from indigenous sources in the state;

24 (3) implement appropriate controls to avoid the introduction of
25 nonindigenous or invasive pathogens or the increase of indigenous pathogens beyond
26 levels acceptable to the department.

27 (j) Unless confidential by law, the department shall make information
28 provided under (e) of this section available on the department's Internet website for at
29 least six months after the information is provided to the department.

30 (k) In this section,

31 (1) "person" means an individual, corporation, business trust, estate,

1 trust, partnership, limited liability company, association, joint venture, or government;
2 governmental subdivision, agency, or instrumentality; public corporation; or another
3 legal or commercial entity;

4 (2) "qualified person" means a state resident under AS 43.23.095, a
5 corporation organized under laws of this state, or a corporation not organized under
6 the laws of this state that collaborates with a state resident or corporation organized
7 under the laws of this state;

8 (3) "reasonably communicate" means communicating significant
9 information by a mode of communication likely to provide notice to persons a
10 reasonable person would know are affected by a project or proposed project.

11 * **Sec. 2.** AS 16.05.871 is amended by adding a new subsection to read:

12 (e) In making a finding that the plans and specifications for a proposed
13 construction, work, or use sufficiently protect fish and game under (d) of this section,
14 the commissioner shall consider related fisheries enhancement projects under
15 AS 16.05.855.