

HOUSE BILL NO. 46

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

BY REPRESENTATIVES SEATON, Gara

Introduced: 1/20/09

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

23 (d) Notwithstanding (c) of this section, if a permittee or plan holder seeks to
24 modify a permit or other authorization for a sewage system or treatment works that
25 will result in an increase in discharge volume of more than 50 percent from the
26 volume originally authorized under AS 46.03.100, the department shall publish notice
27 of the application or draft permit modification for comment in at least two publications
28 of a newspaper of general circulation within the general area in which the modified
29 disposal of waste material is proposed to be made. The notice shall also be posted on
30 the Alaska Online Public Notice System maintained under AS 44.62.175 and on the
31 department's Internet website, and may also be published in other appropriate

1 information media. The notice must include a statement that a person who wants to
2 present views to the department with regard to the application or draft permit
3 modification may do so in writing to the department within 30 days after the first
4 publication of the notice. The written response entitles the writer to a copy of the
5 application or draft permit modification.

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

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

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

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

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