

THE PROTECT WILD FISH FROM POLLUTION INITIATIVE  
FOR AN ACT ENTITLED

“An Act to Provide for Cleaner Waters in Alaska by Prohibiting Pollution Mixing Zones in Wild Salmon and Other Fisheries Spawning Waters”

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Section 1. Purpose. The purpose of this Act is protect the statewide interest in water quality, provide for cleaner waters in Alaska, and further conserve and protect the wild salmon and other fisheries in such waters by prohibiting “mixing zones” in which pollutants, effluents, and other discharges may be allowed into lakes, streams, rivers, or other flowing fresh water used for spawning by wild salmon or other resident fish.

Section 2. AS 46.03 is amended by adding a new section to read:

“Section 43.06.065. Prohibition of Mixing Zones in Spawning Waters. (a) Except as provided in (b), (c), and (d) of this section, the department may not authorize a mixing zone in lakes, streams, rivers, or other flowing fresh water in an area of:

- (1) anadromous fish spawning; or
- (2) resident fish spawning redds for
  - (A) Arctic char (Dolly varden);
  - (B) Arctic grayling;
  - (C) brook trout;
  - (D) burbot;
  - (E) cutthroat trout;
  - (F) lake trout;
  - (G) landlocked coho, king, and sockeye salmon;
  - (H) northern pike;
  - (I) rainbow trout;
  - (J) sheefish; or
  - (K) whitefish.

(b) The prohibition in (a) of this section does not apply to a mixing zone for turbidity for a suction dredge placer mine or a mechanical placer mine if –

- (1) the mixing zone is authorized by the Department of Environmental Conservation;
- (2) the mixing zone does not extend more than 500 feet downstream of the point of discharge;
- (3) the mixing zone is separated from the closest mixing zone in the same waterbody by at least 500 feet; and
- (4) when required by law, the Department of Environmental Conservation with the concurrence of the Department of Natural Resources, or, in an area designated under AS 16.20,

with the concurrence of the Department of Fish and Game,

(A) restricts the discharge to periods when spawning is not occurring; and

(B) finds that the mixing zone will not adversely affect the present and future capability of the area for spawning, incubation, or rearing of fish included in (a).

(c) The prohibition in (a) of this section does not apply to a mixing zone for operators of shore-based facilities engaged in the processing of fresh, frozen, canned, smoked, salted or pickled seafood, the processing of unwashed mince, or the processing of meal and other secondary by-products that discharge to fresh water.

(d) The prohibition in (a) of this section does not apply to a mixing zone for operators of publicly owned treatment works and other treatment works, which have a design flow or actual discharge of less than 1.0 million gallons per day, providing secondary treatment of domestic sewage and discharging to fresh water.

(c) In this section,

(1) “anadromous fish” has the meaning given that term in the definitions section of the Catalog of Waters Important for Spawning, Rearing, or Migration of Anadromous Fishes, adopted by reference in 11 AAC 195.010;

(2) “area” means the physical location where spawning occurs;

(3) “domestic sewage” means waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works;

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

(5) “mixing zone” means an area in a waterbody surrounding or downstream of a discharge where the effluent plume is diluted by the receiving water, within which the specified water quality criteria may be exceeded; and

(6) “spawning” means the process of producing, emitting, or depositing eggs, sperm, seed, germ, larvae, young, or juveniles, especially in large numbers, by aquatic life, and includes rearing and migration.

Section 3. Savings Clause. It is the intention of the people of Alaska that each of the provisions of this Act or any portion thereof shall be independent of each of the others, so that the invalidity of any provision or portion thereof shall not affect the validity of the remaining provisions or portions thereof, and that all valid provisions and portions thereof shall be effective irrespective of the invalidity of any other provision or portion thereof. Upon enactment, the state shall take all actions necessary to ensure the maximum enforceability of this act.