

NOTICE OF PROPOSED
CHANGES IN THE REGULATIONS OF THE
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The Department of Environmental Conservation (DEC) proposes to adopt regulation changes in Title 18 of the Alaska Administrative Code, dealing with Chapter 70, Water Quality Standards, including the following:

DEC is proposing to repeal and adopt revisions that would: 1) expand the prohibition on mixing zones to include lakes; 2) create exemptions to the prohibition on mixing zones in fish spawning habitat; 3) reorganize the mixing zone regulations to improve clarity and reduce redundancy; 4) simplify some technical provisions including ones dealing with risk assessment, flow calculations, and mixing zone models; and 5) update a reference to federal technology-based effluent limitations. The proposal includes a new definition for shellfish and provides for consideration of measures that would mitigate the potential adverse effects of mixing zones on aquatic resources.

In 2004, the Department of Environmental Conservation (DEC) proposed changes to the mixing zone regulations and received numerous comments regarding the proposal. DEC consulted with the other state resource agencies to jointly consider the comments. As a result, the State has drafted a new proposal and is opening a new public comment period. While some changes in the new proposal are based on previous comments, the comments received in 2004 will not be revisited as part of this new proposal. Please do not rely on comments submitted on the 2004 proposal, as this new proposal is substantially different. Please comment if your interests would be affected by the proposed 2005 regulations.

These mixing zone regulations have been revised to better reflect the State's existing statutory protections for all state waters important to the growth and propagation of fish and other aquatic life (AS 46.03), and the special protections afforded to lakes, streams and rivers that are important to spawning, rearing, or migration of anadromous fish (AS 16.20 and AS 41.14). The regulated community and the public have a right to regulations that are clearly written and consistent with legislative policy. DEC has proposed changes to the mixing zone regulations with these principles in mind.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments addressed to Nancy Sonafrank, Alaska Department of Environmental Conservation, 610 University Drive, Fairbanks, Alaska 99709 or by e-mail addressed to Nancy_Sonafrank@dec.state.ak.us. The comments must be received no later than 5:00 p.m. on December 19, 2005.

Oral or written comments may also be submitted at a hearing to be held on December 5, 2005 from 5:30 p.m. to 7:00 p.m. at:

Legislative Information Office
716 W. 4th Ave, Suite 200
Anchorage, Alaska.

Those in outlying areas who wish to provide testimony may do so telephonically by calling 1-800-395-5073. Please call-in by 5:30 p.m. to register your intent to testify at the hearing. The hearing might be extended to accommodate those present before 6:30 p.m. who did not have an opportunity to comment.

DEC will hold three workshops to discuss these changes at the following Legislative Information Offices:

Juneau, November 30 from 4-6 p.m. - Terry Miller Building, Suite 111.
Fairbanks, December 1 from 4-6 p.m. - 119 Cushman St., Suite 101
Anchorage, December 5 from 4-5:30 p.m. - 716 W. 4th Ave, Suite 200.

Those in other areas who wish to participate may do so telephonically by calling 1-800-395-5073 on December 5, 2005 only. Please call-in by 4:00 p.m. to register your intent to participate at the workshop.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Brenda Duty at (907) 451-2141 no later than November 21, 2005 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Nancy Sonafrank at 610 University Drive, Fairbanks, Alaska 99709 or (907) 451-2726 or go to DEC's Notices of Proposed Regulations section on the state's Online Public Notice Website at <http://notes.state.ak.us/pn/pubnotic.nsf>. Background information and fact sheets explaining the proposed regulation can be found at <http://www.dec.state.ak.us/water/wqsar/trireview/mixingzones.htm>.

After the public comment period ends on December 19, 2005, the Department of Environmental Conservation will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are public records and subject to public inspection.

Statutory Authority: AS 46.03.010; AS 46.03.020; AS 46.03.050; AS 46.03.070; AS 46.03.080; AS 46.03.710.

Statutes Being Implemented, Interpreted, or Made Specific: AS 46.03.070; AS 46.03.080; AS 46.03.100; AS 46.03.110; AS 46.03.710; AS 46.03.720.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.



DATE: October 17, 2005

Kurt Fredriksson, Commissioner

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Dept. of Environmental Conservation
2. General subject of regulation: Water Quality Standards, mixing zone regulations
3. Citation of regulation (may be grouped): 18 AAC 70
4. Reason for the proposed action: Development of program standards
5. RDU/component affected: Division of Water/Water Quality

6. Cost of implementation to the state agency and available funding (in thousands of dollars):
There will be no implementation costs
7. The name of the contact person for the regulations:

Name Nancy Sonafrank
Title Environmental Program Specialist
Address 610 University Ave.
Fairbanks, AK 99709
Telephone (907) 451-2726
E-mail address Nancy_Sonafrank@dec.state.ak.us

8. The origin of the proposed action: staff of state agency

9. Date: 10/13/2005

Prepared by:

Nancy B. Sonafrank
[signature]

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