

Notes to reader:

1. Except as discussed in note 2, proposed new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line states that a new section, subsection, paragraph, subparagraph, or clause is being added, or that an existing section, subsection, etc. is being repealed and readopted (replaced), the new (or replaced) text is not bolded or underlined.
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is proposed to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”

PROPOSED REGULATIONS – March 6, 2020

11 AAC 51.045(d)(2) is amended to read:

11 AAC 51.045. Easements to and along navigable and public water

...

(d) Before the department grants a lease of the land estate or conveyance of land adjacent to or containing any inland water determined under 11 AAC 51.035 to be navigable water, the department

(1) will reserve along that water an access easement that

(A) is continuous, unless topography or land status prevents a continuous easement; and

(B) extends at least 50 feet upland from the ordinary high water mark;

(2) will retain **in state ownership** the bed of [THAT]water[IN STATE OWNERSHIP],

title to which passed to the state under the equal footing doctrine or 43 U.S.C. 1301-1315

(Submerged Lands Act of 1953) at the time the state achieved statehood, as described in AS

38.04.062(a);

(3) may convey the bed of any state-owned water not described in paragraph (2) of this subsection if;

(A) the conveyance is made subject to the public trust doctrine;

(B) the department makes a written determination that the conveyance of the bed of that water is in the best interest of the state under AS 38.05.035; and

(C) the land will revert to the state if the owner fails to comply with the public trust doctrine, unless the commissioner determines in writing that the public interest requires a waiver of the reversionary interest; such interest shall be included in any deed, but a failure to reserve the interest in the deed does not waive the state's interest; and

(4) may reserve an alternative upland access route, if the department finds that access along an easement reserved under (1) of this subsection might be difficult because of topography or obstructions.

(Eff. 5/3/2001, Register 158; am ____/____/____, Register ____)

Authority:

AS 38.04.005

AS 38.05.020

AS 38.05.127

AS 38.04.055

AS 38.05.035

AS 38.05.810

AS 38.04.900

AS 38.05.045

AS 38.05.825