

NOTICE OF PROPOSED CHANGES REGARDING WATER MANAGEMENT  
IN THE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources (DNR) proposes to revise regulations in Title 11 of the Alaska Administrative Code, relating to the closure of water right applications, the contents of instream flow reservation applications, the issuance of certificates for instream flow reservations, the review of instream flow reservations, procedures for temporary water use, public notices and hearings on critical water management areas, and definitions. Proposed revisions include the following:

- (1) 11 AAC 93.115 (Closure of an application for a water right) is revised to remove the appeal process from the timeline for closure of an application.
- (2) 11 AAC 93.142 (Content of application) is revised to clarify the contents of applications for water reservation.
- (3) 11 AAC 93.146 (Issuance of a certificate of water reservation) is revised clarify the issuance of certificates to individuals versus agencies, the priority of issuance, and standing for applicants and certificate holders.
- (4) 11 AAC 93.147 (Review of reservation of water) is revised to clarify procedures for reviews.
- (5) 11 AAC 93.210 (Temporary water use) is revised to clarify the issuance of authorizations for temporary water uses.
- (6) 11 AAC 93.220 (Procedure for temporary water use) is revised regarding the content of applications.
- (7) 11 AAC 93.510 (Public notice and hearing) revisions remove the requirement for newspaper publication and certified mailing of public notices regarding critical water management areas. Notices are proposed to be provided via the Alaska Online Public Notice System, and by mail, e-mail, or other means to affected parties. Revisions also remove the requirement for a hearing and replace it with Commissioner discretion to hold a public meeting and to extend the public comment period.
- (8) 11 AAC 93.970 (Definitions) the terms ‘division’ and ‘appropriators of record’ are added to the list of definitions.

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 to Brandon

McCutcheon at the Division of Mining, Land and Water, 550 W. 7th Avenue, Suite 1070, Anchorage, AK 99501-3579. Additionally, the division will accept comments by e-mail to [dnr.water.regulation@alaska.gov](mailto:dnr.water.regulation@alaska.gov), or by fax at 907-269-8904. The comments must be received not later than **5:00 p.m. on February 26, 2021**. All comments received become public records that are subject to public inspection.

You may submit written questions relevant to the proposed action by email at [dnr.water.regulation@alaska.gov](mailto:dnr.water.regulation@alaska.gov) or by mail to Brandon McCutcheon at the Division of Mining, Land and Water, 550 W. 7<sup>th</sup> Ave., Ste. 1070, Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period (**by 5:00 p.m. on February 16, 2021**). DNR will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the agency website at <https://dnr.alaska.gov/mlw/news/>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Brandon McCutcheon by email at [dnr.water.regulation@alaska.gov](mailto:dnr.water.regulation@alaska.gov) or by phone at 269-8511 not later than **February 16, 2021**, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System, by contacting Brandon McCutcheon by e-mail at [dnr.water.regulation@alaska.gov](mailto:dnr.water.regulation@alaska.gov), by phone at 269-8511, or on the agency website at [http: https://dnr.alaska.gov/mlw/news/](http://https://dnr.alaska.gov/mlw/news/).

After the public comment period ends, DNR will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

**Statutory Authority:** AS 46.15.010; AS 46.15.020; AS 46.15.040; AS 46.15.050; AS 46.15.080; AS 46.15.120; AS 46.15.133; AS 46.15.140; AS 46.15.145; AS 46.15.155.

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 46.15.010; AS 46.15.020; AS 46.15.040; AS 46.15.050; AS 46.15.080; AS 46.15.120; AS 46.15.133; AS 46.15.140; AS 46.15.145; AS 46.15.155.

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

Date: 1/15/2021

[Signature on File]  
Martin Parsons  
Director, Division of Mining, Land and Water  
Department of Natural Resources

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Natural Resources
2. General subject of regulation: Water
3. Citation of regulation (may be grouped): 11 AAC 93.115, 11 AAC 93.142, 11 AAC 93.146, 11 AAC 93.147, 11 AAC 93.210, 11 AAC 93.220, 11 AAC 93.510, 11 AAC 93.530, 11 AAC 93.970.
4. Department of Law file number: 2020200431

5. Reason for the proposed action:

- Compliance with federal law or action (identify):
- Compliance with new or changed state statute
- Compliance with federal or state court decision (identify):
- Development of program standards
- Other (identify): Existing regulations outdated and other changes needed.

6. Appropriation/Allocation: None

7. Estimated annual cost to comply with the proposed action to:

**A private person:** \$0.00 No change in cost for a private person is proposed by these regulations.

**Another state agency:** \$0.00 No change in cost for another state agency is proposed by these regulations.

**A municipality:** \$0.00 No change in cost for a municipality is proposed by these regulations.

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year	Subsequent
	FY 2021	Years
Operating Cost	\$0.0	\$0.0
Capital Cost	\$0.0	\$0.0
1002 Federal receipts	\$0.0	\$0.0
1003 General fund match	\$0.0	\$0.0
1004 General fund	\$0.0	\$0.0

1005 General fund/ program	\$0.0	\$0.0
Other (identify)	\$0.0	\$0.0

9. The name of the contact person for the regulation:

Name: Brandon McCutcheon  
 Title: Chief, Program Support Section, Division of Mining, Land and Water, DNR  
 Address: 550 W. 7<sup>th</sup> Ave. Ste. 1070, Anchorage, AK 99501-3579  
 Telephone: 907-269-8511  
 E-mail address: [brandon.mccutcheon@alaska.gov](mailto:brandon.mccutcheon@alaska.gov)

10. The origin of the proposed action:

Staff of state agency  
 Federal government  
 General public  
 Petition for regulation change<sup>7</sup>  
 Other (identify): \_\_\_\_\_

11. Date: 1/13/2021

Prepared by: [Signature on File]

Brandon McCutcheon  
 Chief, Program Support Section  
 Division of Mining, Land and Water  
 Department of Natural Resources