


Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: David W. Schade, Department of Natural Resources
FROM: April Simpson, Office of the Lieutenant Governor 
465.4081
DATE: November 10, 2021
RE: Filed Permanent Regulations: Board of Agriculture and Conservation

Board of Agriculture and Conservation regulations re: agriculture revolving loan fund
(11 AAC 39.101; 11 AAC 39.900(c))

Attorney General File:	2020200691
Regulation Filed:	11/10/2021
Effective Date:	12/10/2021
Print:	240, January 2022

cc with enclosures: Joseph Felkl, Department of Law
Judy Herndon, LexisNexis
Mary Kay Ryckman, Department of Natural Resources

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF BOARD OF AGRICULTURE AND CONSERVATION

The attached 4 pages of regulations, dealing with Agriculture Revolving Loan Fund Modifications and Applications (11 AAC 39.071 - 39.900) are certified to be a correct copy of the regulation changes that the Board of Agriculture and Conservation adopted at its September 24, 2021 regular meeting, under the authority of AS 03.09.040 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Board of Agriculture and Conservation paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor.

Date:

October 28, 2021



David W. Schade, MPA Executive Director

April Simpson for

↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

November 10, 2021 at 9:07 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



for

Kevin Meyer, Lieutenant Governor

Effective:

December 10, 2021.

Register:

240, January 2022.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employees to perform the Administrative Procedures Act
filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



K-Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

11 AAC 39.101 is repealed and readopted to read:

11 AAC 39.101. Applications for loans. (a) Each applicant for a new loan must submit an application on a form approved by the board and include with the application

(1) a nonrefundable fee of \$50;

(2) federal and state income tax returns for the three years preceding the date of the application;

(3) financial statements, including assets and liabilities, that support the application;

(4) the amount of loan requested, a description detailing the proposed use of the proceeds of the loan, and the plan of repayment of the loan;

(5) a list of collateral intended to secure the loan, with the following for each listed:

(A) date of acquisition;

(B) cost;

(C) location;

(D) market value on the date of the application;

(E) amount of existing liens; and

(F) if a moving vehicle,

(i) the vehicle's make, model, and year; and

(ii) the vehicle's engine hours or odometer reading;

(6) an annual income and expense statement of the applicant for the year of the application;

- (7) a five-year agricultural plan including projected borrowing needs;
 - (8) a statement of the applicant whether the applicant is or was in the past the subject of a bankruptcy action and, if so, the date of the bankruptcy action; and
 - (9) a resume of agricultural experience, business history, and education of the applicant and relevant managerial personnel.
- (b) Each applicant for a modification of an existing loan must submit an application on a form approved by the board and include with the application
- (1) a nonrefundable fee of \$50;
 - (2) authorization for the division to receive credit reports; and
 - (3) proof of non-delinquency on any agricultural or other loan.
- (c) Upon request of the division or the board, an applicant for a new or modified loan must obtain and provide any additional information and records reasonably necessary to support or clarify the application or the financial background of the applicant or guarantor, including
- (1) tax returns;
 - (2) detailed financial and other statements;
 - (3) projected income and expense statements;
 - (4) property appraisals;
 - (5) title reports;
 - (6) surveys;
 - (7) marketing studies;
 - (8) financial statements prepared by a certified public accountant; and
 - (9) copies of orders and decisions in any bankruptcy actions.

(d) Unless an application requirement is waived under 11 AAC 39.032(d), a complete loan application will be presented to the board at a meeting under 11 AAC 39.031 if

(1) the application complies with AS 03.10 and this chapter; and

(2) except in the case of emergency, the application is received by the division at least 30 calendar days before the date of the meeting.

(e) A corporation applying for a loan shall submit a current certificate of good standing in the state and a corporate resolution authorizing the corporation to borrow from the fund. A partnership, joint venture, or other business entity applying for a loan must submit proof of the authority to borrow from the fund. (Eff. 12/1/84, Register 92; am 1/1/86, Register 96; am 10/27/2002, Register 164; am 12/10/2021, Register 240)

Authority: AS 03.09.040 AS 03.10.030 AS 03.10.050
AS 03.10.020

11 AAC 39.900 is amended by adding a new subsection to read:

(c) For a borrower in good financial standing that would qualify for an interest credit under 11 AAC 39.511, regardless of whether the board has approved an interest credit, the board will not approve a modification of a loan that includes

(1) an interest rate reduction;

(2) forgiveness of principal;

(3) a term extension; or

(4) a reduction in the value of the collateral securing the loan below the requisite loan-to-value ratio on the outstanding principal and interest. (Eff. 10/27/2002, Register 164; am

Register 240, January ²⁰²² 2021 NATURAL RESOURCES

12 / 10 / 2021, Register 240)

Authority: AS 03.09.040 AS 03.10.030 AS 03.10.050
AS 03.10.020

MEMORANDUM


State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: November 5, 2021

File No.: 2020200691

Tel. No.: 907-465-3600

From: Rebecca C. Polizzotto 
Chief Assistant Attorney General
and Regulations Attorney
Legislation, Regulations, and
Legislative Research Section

Re: Board of Agriculture and
Conservation regulations re:
agriculture revolving loan fund
(11 AAC 39.101; 11 AAC 39.900(c))

The Department of Law has reviewed the attached regulations of the Board of Agriculture and Conservation against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Board of Agriculture and Conservation after the close of the public comment period. The regulations update loan application requirements and prohibit certain loan modifications that would benefit borrowers in good financial standing that would qualify for an interest credit under 11 AAC 39.511.

The December 10, 2020 public notice and the October 28, 2021 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

RCP:scw

cc w/enc: Hon. Corri A. Feige, Commissioner
Department of Natural Resources

David W. Schade, Executive Director
Board of Agriculture and Conservation

Joan M. Wilson, Senior Assistant Attorney General
Commercial, Fair Business, and Child Support Section

Notice of Proposed Regulations Relating to the Agriculture Revolving Loan Fund

BRIEF DESCRIPTION: The Department of Natural Resources, proposes to make changes to the regulations regarding the Agriculture Revolving Loan Fund (11 AAC 39.071 – 39.900, Loan Modifications, Applications

The Department of Natural Resources proposes to amend regulations in Title 11 of the Alaska Administrative Code, regarding the Agriculture Revolving Loan Fund (11 AAC 39.071 – 39.900 Loan Modifications and Applications process:

1. This change will give the Board of Agriculture and Conservation the ability to reduce interest rates under certain specific circumstances;
2. Establish an application process for requesting a reduction in interest rates; and
3. Amend the application process for other loan requests.

You may comment on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to David W. Schade, Executive Director of the Board of Agriculture and Conservation c/o Division of Agriculture at 1801 South Margaret Dr. Suite 12, Palmer, Alaska 99645. Additionally, the department will accept comments by facsimile at 907-746-1568 and by electronic mail at dnr.agriculture@alaska.gov. Comments may also be submitted through the Alaska Online Notice System by accessing this notice on the system at <http://notice.alaska.gov/>, and using the comment link. **The comments must be received not later than 5:00 p.m. on Monday, January 11, 2021.** Comments received after this deadline will not be considered by the department.

You may submit written questions relevant to the proposed action to David W. Schade at Division of Agriculture, 1801 S. Margaret Dr, Suite 12, Palmer Alaska 99645, or by email at dnr.agriculture@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The department 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 Division of Agriculture's website at <http://dnr.alaska.gov/ag/>. The department, may, but is not required to, answer written questions received after the 10-day-cut-off date but before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jordan Rubio at 907-745-7200 or at 907-761-3870, no later than 10 days prior the end of public comment, to ensure a necessary accommodation can be provided.

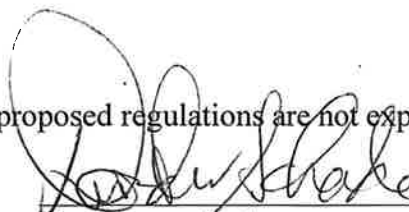
A copy of the proposed regulations are available on the Alaska Online Public Notice system or by contacting David W. Schade at 907-745-7200 or 907-761-3867 or go to <http://dnr.alaska.gov/ag/>. After the public comment ends, the department will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed in your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 03.09.040 AS 03.09.050 AS 03.10.020 AS 03.10.030

Statutes being Implemented, Interpreted, or Made Specific: AS 03.09.040 AS 03.09.050 AS
03.10.020 AS 03.10.030

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

Date 12-3-2020


David W. Schade

Director, Division of Agriculture, Department of Natural Resources

The Department of Natural Resources, Division of Agriculture keeps a list of individuals and organizations who are interested in the regulations implementing the Agriculture Revolving Loan Program. The Department automatically sends a Notice of Proposed Regulations to individuals and organizations who are interested in the regulations of the Department of Natural Resources, Division of Agriculture. If you would like your address added to or removed from such a list, send your request to the Department at the address above, giving your name, either your email address or mailing address (as you prefer for receiving notices), and the agricultural area in which you are interested.

ADDITIONAL REGULATION NOTICE INFORMATION (AS 44.62.190(d))

- 1. Adopting Agency:** Department of Natural Resources
- 2. General subject of regulation:** Interest Rate Reduction / Applications for Agriculture Revolving Loan Fund
- 3. Citation of regulation:** 11 AAC 39
- 4. Department of Law file number:**
- 5. Reason for proposed action:** To allow the Board of Agriculture and Conservation the ability to make adjustments to loan rates due to unique circumstances.
- 6. Appropriation/Allocation:** Agriculture
- 7. Estimated annual cost to comply with the proposed action to:**
A private person: \$0 to \$200
Another state agency: None known.
A municipality: None known.
- 8. Cost of implementation to the state agency and available funding (in thousands of dollars):**
No costs of implementation to the state agency are expected.
- 9. The name of the contact person for the regulation:**
David W. Schade, Executive Director of BAC / Director
Department of Natural Resources, Division of Agriculture
1801 S. Margaret Dr, Suite 12, Palmer Alaska 99645

Telephone: (907) 745-7200; (907) 761-3867
E-mail: david.w.schade@alaska.gov

10. The origin of the proposed action: Staff of State Agency

11. Date: 12-3-2020

Prepared by:
David W. Schade
Director, Division of Agriculture
Department of Natural Resources

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, David W. Schade, Executive Director of the Board of Agriculture and Conservation being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to Agriculture Revolving Loan Fund Loan Modifications, Applications (11 AAC 39.071 - 39.900) were:

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1).

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date:

May 10, 2021

David W. Schade

David W. Schade, MPA Executive Director

Subscribed and sworn to before me at

Anchorage, Alaska

on

May 10, 2021

(date)

[Signature]

Notary Public in and for the State of Alaska

[NOTARY SEAL]



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, David W. Schade, Executive Director of the Board of Agriculture and Conservation, being duly sworn, state the following:

The Board of Agriculture and Conservation did not receive any factual or other substantive information that was submitted in writing or orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Board of Agriculture, Agriculture Revolving Loan Fund regulations on Loan Modifications and Applications (11 AAC 39.071 - 39.900).

Date:

May 10, 2021



David W. Schade, MPA Executive Director

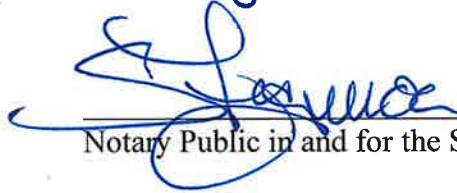
Subscribed and sworn to before me at

May 10, 2021

(date)

Anchorage, Alaska

on



Notary Public in and for the State of Alaska

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 268977

Ad #: 0001456911 Cost: \$498.00

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Leilisi Misa
being first duly sworn on oath
deposes and says that she is
a representative of the
Anchorage Daily News, a
daily newspaper. That said
newspaper has been approved
by the Third Judicial Court,
Anchorage, Alaska, and it now
and has been published in the
English language continually as a
daily newspaper in Anchorage,
Alaska, and it is now and during
all said time was printed in an
office maintained at the aforesaid
place of publication of said
newspaper. That the annexed is
a copy of an advertisement as it
was published in regular issues
(and not in supplemental form)
of said newspaper on

December 10, 2020

and that such newspaper was
regularly distributed to its
subscribers during all of said
period. That the full amount of
the fee charged for the foregoing
publication is not in excess of
the rate charged private individuals.

Signed



Subscribed and sworn to before

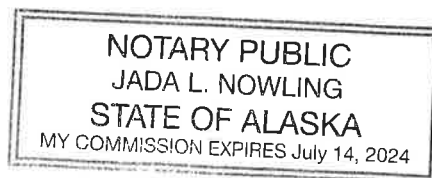
me this 29 day of April

20

21

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

7/14/2024



AFFIDAVIT OF BOARD OF AGRICULTURE AND CONSERVATION ACTION

I, David W. Schade, Executive Director for the Board of Agriculture and Conservation, being duly sworn, state the following:

The attached motion dealing with Agriculture Revolving Loan Fund, Loan Modifications and Applications (11 AAC 39.071 - 39.900) was passed by the Board of Agriculture and Conservation during its regular September 24, 2021 meeting.

Date:

October 28, 2021

David W. Schade

David W. Schade, MPA Executive Director

Subscribed and sworn to before me at

Anchorage, AK

on

October 28, 2021

(date)



Ashley Spielman

Notary Public in and for the State of Alaska

Board of Agriculture and Conservation
September 24, 2021 Excerpt from Approved Minutes

Board member Stu Davies moved, and member Matt Hale seconded the following motion:

I move to adopt the Rekey of the Regulations as shown on Pages 13-16 of the board packet.

The motion carried with a vote of 6 yes, 0 no and 0 abstentions.