

NOTICE OF PROPOSED CHANGES ON RESERVATIONS OF WATER
IN THE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES

BRIEF DESCRIPTION

The Department of Natural Resources proposes to change regulations in 11 AAC 93 of the Alaska Administrative Code relating to reservations of water to issue certificates of reservation to state and federal resources agencies. Revisions will provide an efficient, consistent, and cost-effective water reservation process to encourage development of state water for its highest and best use consistent with the public interest.

Summary of proposed changes: The Department of Natural Resources proposes to adopt regulation changes in 11 AAC 93 of the Alaska Administrative Code, dealing with reservations of water, including the following:

- (1) 11 AAC 93.142 (Content of application) is proposed to be changed as follows:

Information provided in applications will be required to be more robust in order to support the public interest determination and to make it clear what trade-off is being considered for each reservation of water. Specifically, the department will require the applicant to provide the reason the proposed reservation is needed; provide five years of data to quantify the reservation; information to support the specific improvement to fish habitat; the estimated number and species of fish affected; the area and quality of fish habitat improved; and information on property ownership upstream and downstream of the proposed reservation. Finally, this regulation makes clear the prescribed application fee is required upon application.

- (2) 11 AAC 93.146 (Issuance of a certificate of reservation of water) is proposed to be changed as follows:

State of Alaska and federal resource management agencies will be the holders of certificates of reservations of water that the agencies apply for, if granted. The Department of Natural Resources will hold certificates of reservations for all other applicants. This change is proposed as it is the fundamental mission of state and federal resource management agencies to work in the best interests of the public. For instance, a reservation of water application for fish habitat from a private party or interest group would require concurrence from the Alaska Department of Fish and Game (ADF&G) and DNR would hold the certificate. Federal resource agencies will be issued certificates of reservation for applications originating from a federal resource agency. Finally, this proposed regulation requires the applicant to install measuring devices and monitor and report information at intervals approved by the Commissioner of DNR. This change ensures DNR has pertinent data to determine if there is adequate water resources to meet the reservation.

- (3) 11 AAC 93.147 (Review of reservation of water) is proposed to be changed as

follows:

In 11 AAC 93.147(c), the applicant will now be required to bear the costs of conducting additional research, data collection, and analysis for their respective certificated reservations of water. Many existing applications for reservations of water are outdated and rely on old data. The department would not be required to pay for additional data collection for outdated applications or in cases where significant changes to flow have occurred. The department would work with ADF&G to evaluate whether a review of a reservation should include the collection of new data.

Written comments: 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 the online public comment portal at: https://dnr.alaska.gov/mlw/comment/submit/?topic=water_inflow or by electronic mail at dnr.water.regulation@alaska.gov. Comments may also be mailed to Brandon McCutcheon at 550 West Seventh Avenue, Suite 1070, Anchorage, Alaska 99501. Additionally, the Department of Natural Resources will accept comments by facsimile at 907-269-8904.

Written comment deadline: The written comments must be received not later than 5:00 PM on June 30, 2026.

Questions: You may submit written questions relevant to the proposed action Brandon McCutcheon via email at dnr.water.regulation@alaska.gov or by mail at 550 West Seventh Avenue, Suite 1070, Anchorage, Alaska 99501. The questions must be received at least 10 days before the end of the public comment period, by 5:00 PM on June 20, 2026, at the latest. The Department of Natural Resources will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and agency website.

Public nature of comments and questions: Public comments and questions, once submitted, are public records and subject to disclosure under the Alaska Public Records Act. See AS 40.25.100 - 40.25.295. Do NOT include in your comments or questions any information that you do not want made public.

Accommodations: If you are a person with a disability who needs a reasonable accommodation in order to participate in this process, please contact Brandon McCutcheon via email at dnr.water.regulation@alaska.gov or by phone at 907-269-8511 not later than 5:00 PM on June 20, 2026, to ensure that any necessary accommodations can be provided.

Obtaining copies of proposed regulations: A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Brandon McCutcheon at the contact information above.

Final version of regulations: After the public comment period ends, the Department of Natural Resources 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 46.15.020(b)(1)

Statutes being implemented, interpreted, or made specific: AS 46.15.145

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

How to receive further notices: The Division of Mining, Land and Water keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the division's notices of proposed regulation changes. To be added to or removed from the list, send a request to Brandon McCutcheon at the contact information provided above, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Individuals can also sign up to receive automated notifications of all State of Alaska notices, including public notice for regulation changes, by subscribing to the Alaska Online Public Notices System: <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>.

Date: May 29, 2026

Christy Colles

Christy Colles, Director
Department of Natural Resources
Division of Mining, Land and Water

ADDITIONAL REGULATION NOTICE INFORMATION

(AS 44.62.190(d))

1. Adopting agency: Department of Natural Resources
2. General subject of regulation: Reservations of Water
3. Citation of regulation (may be grouped): 11 AAC 93.142, .146, and .147
4. Department of Law file number, if any: _____

5. Reason for the proposed action: (insert description and check all boxes that apply)

- 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): Revisions to improve efficiency, consistency, and cost-effectiveness

6. Appropriation/Allocation: Department of Natural Resources / Agency Unallocated

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

A private person: _____

Another state agency: _____

A municipality: _____

A school district: _____

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

	Initial Year	Subsequent
	FY <u>2026</u>	Years
Operating Cost	<u>\$ 0</u>	<u>\$ 0</u>
Capital Cost	<u>\$ 0</u>	<u>\$ 0</u>
1002 Federal receipts	<u>\$ 0</u>	<u>\$ 0</u>
1003 General fund match	<u>\$ 0</u>	<u>\$ 0</u>
1004 General fund	<u>\$ 0</u>	<u>\$ 0</u>
1005 General fund/ program	<u>\$ 0</u>	<u>\$ 0</u>
Other (identify)	<u>\$ 0</u>	<u>\$ 0</u>

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

Name: Jonathan Tucker
Title: Natural Resource Specialist 3
Address: 550 West 7th Avenue, Suite 1070, Anchorage, AK 99501
Telephone: 907-269-2033
E-mail address: jonathan.tucker@alaska.gov

10. The origin of the proposed action:

Staff of state agency
 Federal government
 General public
 Petition for regulation change
 Other (identify): _____

11. Date: May 29, 2026 Prepared by: Brandon McCutcheon

[signature]

Name (printed): Brandon McCutcheon
Title (printed): Natural Resource Mangager III
Telephone: 907-269-8511