

11 AAC 93.142(b) is amended to read:

(b) Each application must

(1) identify the purposes of the proposed reservation;

(2) identify the name of the stream or water body in which water is proposed to be reserved, and locate the proposed reservation on the most detailed United States Geological Survey map for the area, identified by section, township, range, meridian, and river mile index if available, showing either the point on a water body at which, or two points on a stream between which, the proposed reservation is being requested;

(3) **state the reason the proposed reservation is needed** [EXPLAIN WHAT NEED EXISTS FOR THE PROPOSED RESERVATION, INCLUDING REASONS WHY THE RESERVATION IS BEING REQUESTED];

(4) **include a minimum of five years of monthly data to quantify the proposed reservation** [SPECIFY THE TIME PERIOD REQUIRED TO FULLY QUANTIFY THE PROPOSED RESERVATION, WHICH MAY BE NO LONGER THAN THREE YEARS AFTER THE DATE THE APPLICATION IS ACCEPTED BY THE DEPARTMENT FOR FILING];

(5) specify the times of the year and purposes for which the reservation is proposed;

(6) identify and explain the methodology to be used to quantify the proposed reservation, including

(A) existing data to be used, if available;

(B) the method of any new data collection;

(C) the type of new data to be collected; and

(D) a description of how the data will be analyzed;

(7) state the estimated quantity of water, stage, or elevation proposed to be reserved, measured in cubic feet per second for an instream flow rate or measured in cubic feet, acre feet, or an elevation relative to a permanent bench mark for a surface elevation, with documentation and calculations justifying the request;

(8) identify **applicable** physical, biological, water chemistry, and socio-economic data substantiating the need for and the quantity of water requested for the proposed reservation;

(9) **for reservations of water intended to protect fish habitat, migration, and propagation,**

(A) identify the population and species of fish using the proposed reservation of water reach for spawning, rearing, or migration;

(B) estimate the population of fish from the proposed reservation of water reach(es) that supplies sport, commercial, and subsistence use;

(C) estimate how differing water levels or flows in the proposed reservation of water reach would affect the amount or quantity of habitat available for rearing, spawning, or migration; and

(D) include downstream and upstream land use and property ownership data at the proposed reach that may be affected by the proposed reservation of water;

(10) be accompanied by the application fee prescribed by 11 AAC 05.260.

(Eff. 9/11/83, Register 87; am 1/1/86, Register 96; am 11/7/90, Register 116; am 7/1/2018, Register 227; am ___ / ___ / _____, Register _____)

Authority: AS 46.15.020 AS 46.15.080 AS 46.15.145
AS 46.15.040

11 AAC 93.146(b) is amended to read:

(b) [THE CERTIFICATE OF RESERVATION WILL BE ISSUED TO THE APPLICANT.] The applicant is responsible for compliance with the conditions of the certificate of reservation. **The commissioner will issue a certificate of reservation to the applicant if the applicant is a state or federal resource management agency. If the applicant is not a state or federal resource management agency, the commissioner will issue the certificate to the department.**

11 AAC 93.146(d) is amended to read:

(d) The certificate of reservation will state any additional terms or conditions the commissioner considers necessary to protect the prior valid rights of other appropriators and the public interest, **including**[. THE CONDITIONS WILL, IN THE COMMISSIONER’S DISCRETION, INCLUDE THE FOLLOWING]:

(1) measuring devices of a type and at a location approved by the commissioner must be installed and maintained **by the applicant** to monitor and report on the reserved instream flow or level of water **at intervals approved by the commissioner**; and

(Eff. 9/11/83, Register 87; am 11/7/90, Register 116; am ____/____/_____, Register _____)

Authority: AS 46.15.010 AS 46.15.080 AS 46.15.145
AS 46.15.020 AS 46.15.120

11 AAC 93.147(c) is amended to read:

(c) The commissioner **may** [WILL, IN HIS OR HER DISCRETION,] require that additional research, data collection, and analysis be conducted or different methods used for reviewing the reservation of water. Costs of conducting additional research, data collection, and

analysis, and of using a different methodology will be borne by the protestant if a protest regarding the reservation has been filed with the department. In other cases, **the commissioner may apportion the costs among the department, the applicant, or the certificate holder, as the commissioner determines to be equitable** [THESE COSTS WILL BE BORNE BY THE STATE. IF THE CERTIFICATE HOLDER DESIRES EXPEDITED REVIEW, THE COMMISSIONER WILL, IN HIS OR HER DISCRETION, REQUIRE THE CERTIFICATE HOLDER TO BEAR THE COSTS].

(Eff. 9/11/83, Register 87; am 11/7/90, Register 116; am 2/15/2006, Register 177; am 7/1/2018, Register 227; am ____/____/_____, Register _____)

Authority: AS 46.15.020 AS 46.15.140 AS 46.15.145