

Alaska Water Use Act Related Definitions

Definitions: Alaska Water Use Act Statutes AS 46.15.260 & Regulations 11 AAC 93.970

Sec. 46.15.260. Statutory Definitions. In this chapter, unless the context otherwise requires,

- (1) "appropriate" means to divert, impound, or withdraw a quantity of water from a source of water, for a beneficial use or to reserve water under [AS 46.15.145](#);
- (2) "appropriation" means the diversion, impounding, or withdrawal of a quantity of water from a source of water for a beneficial use or the reservation of water under [AS 46.15.145](#);
- (3) "beneficial use" means a use of water for the benefit of the appropriator, other persons or the public, that is reasonable and consistent with the public interest, including, but not limited to, domestic, agricultural, irrigation, industrial, manufacturing, fish and shellfish processing, navigation and transportation, mining, power, public, sanitary, fish and wildlife, recreational uses, and maintenance of water quality;
- (4) "commissioner" means the commissioner of natural resources;
- (5) "director" means the director of the division of lands, Department of Natural Resources;
- (6) "mineral and medicinal water" means
 - (A) water of a hot spring or spring with curative properties which has been reserved by the federal government under Public Land Order No. 399; and
 - (B) geothermal fluid, as defined in [AS 41.06.060](#);
- (7) "person" includes an individual, partnership, association, public or private corporation, state agency, political subdivision of the state, and the United States;
- (8) "source of water" means a substantial quantity of water capable of being put to beneficial use;
- (9) "water" means all water of the state, surface and subsurface, occurring in a natural state, except mineral and medicinal water.

11 AAC 93.970. Regulation Definitions: Unless the context indicates otherwise, in this chapter (1) "adjudication" means the administrative determination of the validity and amount of a water right and includes the settlement of conflicting claims among competing appropriators of record;

(2) "certificate of appropriation" means an instrument granting the owner the right to appropriate water, subject to the terms and conditions contained in it;

(3) deleted 11/7/90;

(4) "commissioner" means the commissioner of the Department of Natural Resources or his or her delegate;

(5) deleted 11/7/90;

(6) deleted 11/7/90;

(7) "declaration of appropriation" or "grandfather right" means a formal claim to a water right acquired under law or custom before July 1, 1966, in existence on that date, and filed with the department within the designated filing period;

(8) "department" means the Department of Natural Resources;

(9) "division" means the division of land and water management within the Department of Natural Resources;

(10) "ground water" is any water, except capillary moisture, beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water within the boundaries of the state, whatever may be the geologic formation or structure in which the water stands, flows, percolates, or otherwise moves;

(11) "permit to appropriate water" means an instrument granting the holder the right, limited to a definite period of time and subject to the terms and conditions contained in it, to construct works necessary to the appropriation of water and to establish a beneficial use;

(12) "priority" as between lawful appropriators means that first in time is first in right;

(13) "public interest" means public interest as determined by the criteria set out in [AS 46.15.080](#);

(14) repealed 8/20/2004;

(15) deleted 11/7/90;

(16) deleted 11/7/90;

(17) "well" means an artificial opening or artificially altered natural opening by which ground water is sought or through which ground water flows under natural pressure or is artificially withdrawn, but does not include a hole or shaft drilled or dug for the purpose of exploration or production of oil, gas, or valuable minerals unless the hole or shaft is actually used for the production of water;

(18) "certificate of reservation" means an instrument granting a reservation of water subject to the terms and conditions contained in it;

(19) "instream flow" means the amount of water flowing past a given point during one second;

(20) "reservation of water" means to appropriate water for maintaining a specified instream flow or level of water at a specified point on a stream or water body or in a specified part of a stream or water body for specified periods of time and for one or more permissible purposes;

21) "methodology" means the scientific or technical procedures used to quantify water;

- (22) "water body" means surface water in a depression of land, including intragravel water or sloughs, that is supplied from drainage, upwellings, springs, or groundwater;
- (23) "stream" means any body of flowing water, including a river, creek, or tributary;
- (24) "afy" means acre-feet per year;
- (25) "appropriators of record" means applicants for, and permittees and certificate holders of, water rights;
- (26) "appurtenant" means that a permit or certificate to appropriate is legally attached to the land or place where the water is beneficially used, unless the water right is severed under [AS 46.15.160](#);
- (27) "aquifer" means any geologic formation that will yield water to a well in sufficient quantity for beneficial use;
- (28) "aquifer system" means a heterogeneous body of interlayered permeable and poorly permeable material that functions regionally as a water-yielding hydraulic unit and comprises two or more permeable beds (aquifers) separated at least locally by aquatards (confining units) that impede ground water movement but do not greatly affect the regional hydraulic continuity of the system;
- (29) "cfs" means cubic feet per second;
- (30) "drainage basin" means a natural, distinct, and independent hydrologic area; surface or subsurface or both; confined or unconfined;
- (31) "gpd" means gallons of water per day;
- (32) "gpm" means gallons of water per minute;
- (33) "non-consumptive water use" means the instream use of water, or the diversion of water where the quantity of water diverted is not diminished except by evaporation or transpiration and the water is returned to its original source at the original point of diversion immediately after its use;
- (34) "reasonably acquire" means that a permittee or certificate holder can acquire adequate water to fulfill the purposes of the appropriation from the source of water for which the water right is permitted or certificated, even though changes in the condition of water occurrence have taken place as a result of the withdrawal of water by later appropriators;
- (35) "seawater" means water, taken from the sea or ocean, with a salinity of 35 parts per thousand or greater;
- (36) "statement of beneficial use" means a notarized statement of the actual quantity of water being used from a permitted source of water for a specific purpose;
- (37) "water source" means a water body, lake, stream, aquifer, or ice;

(38) "unduly affected" means that a prior appropriator loses the ability to reasonably acquire an adequate quantity of water to fulfill the purposes of the appropriation from the water source from which the water right is permitted or certificated, except that a prior appropriator has not been unduly affected if water can reasonably be obtained by installing more efficient diversion works for the withdrawal of water or by performing effective routine repair and maintenance of diversion works or water well equipment in order to allow for the full development of the water resource.

-----Dam Safety-----

Sec. 46.17.900. Dam Safety Statutory Definitions. In this chapter, unless the context requires otherwise,

(1) "alteration" means only an alteration that might directly affect the safety of the dam or reservoir, as determined by the department;

(2) "appurtenant works" includes structures including spillways, either in a dam or separate from it; a reservoir and its rim; low level outlet works; and water conduits including tunnels, pipelines, or penstocks, whether running through the dam or through its abutments;

(3) "dam" includes an artificial barrier, and its appurtenant works, which may impound or divert water and which

(A) has or will have an impounding capacity at maximum water storage elevation of 50 acre-feet and is at least 10 feet in height measured from the lowest point at either the upstream or downstream toe of the dam to the crest of the dam;

(B) is at least 20 feet in height measured from the lowest point at either the upstream or downstream toe of the dam to the crest of the dam; or

(C) poses a threat to lives and property as determined by the department after an inspection;

(4) "department" means the Department of Natural Resources;

(5) "enlargement" means an alteration of an existing dam or reservoir that raises or is capable of raising the water storage elevation, or that increases the quantity of water impounded by the dam or reservoir;

(6) "owner" means a person who owns, controls, operates, maintains, manages, or proposes to construct a dam or reservoir, and includes

(A) a public utility; and

(B) the appointed or authorized agents, employees, lessees, receivers, or trustees of an owner;

(7) "person" has the meaning given in [AS 01.10.060](#), and includes the state and political subdivisions of the state, including the Alaska Railroad Corporation and the University of Alaska;

(8) "repair" means only a repair that might directly affect the safety of the dam or reservoir, as determined by the department;

(9) "reservoir" means a basin, appurtenant to a dam, that is capable of impounding water.

11 AAC 93.201. Dam Safety Regulatory Definitions Unless the context requires otherwise, in [AS 46.17](#) and [11 AAC 93.151](#) - [11 AAC 93.201](#), (1) "alteration" has the meaning given in [AS 46.17.900](#);

(2) "appurtenant works" has the meaning given in [AS 46.17.900](#);

(3) "Class I dam" means a dam assigned a Class I (high) hazard potential classification under [11 AAC 93.157](#);

(4) "Class II dam" means a dam assigned a Class II (significant) hazard potential classification under [11 AAC 93.157](#);

(5) "dam" has the meaning given in [AS 46.17.900](#);

(6) "department" means the Department of Natural Resources;

(7) "enlargement" has the meaning given in [AS 46.17.900](#);

(8) "modification" means an enlargement or alteration;

(9) "owner" has the meaning given in [AS 46.17.900](#);

(10) "record drawings" means plan, profile, and cross-section drawings that show the final configuration of a dam as constructed, including

(A) lines, grades, elevations, and size;

(B) types of material used for construction;

(C) reservoir area; and

(D) details of all appurtenant works, including spillways, outlet pipes, monitoring devices, and other equipment;

(11) "repair" has the meaning given in [AS 46.17.900](#); "repair" does not include routine maintenance; (12) "routine maintenance" means any work performed on a dam that

(A) is generally of a housekeeping nature; and

(B) does not affect or have the potential to affect the safety of the dam;

(13) "sealed" means prepared by an engineer or a person under that engineer's direct supervision, and bearing the signature and seal of that engineer as required by [AS 08.48.221](#) and [12 AAC 36.185](#).