

NOTICE OF PROPOSED CHANGES IN COAL MINING IN THE REGULATIONS OF THE
DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources (the Department) proposes to amend regulations in Title 11 of the Alaska Administrative Code which governs Alaska's Alaska Surface Coal Mining Program. These revisions will implement program amendments throughout chapter 90 from the federal Office of Surface Mining Reclamation and Enforcement (OSMRE) required to maintain the state's control over the coal program. Substantive amendments include changes to the information required from an applicant regarding ownership and control of a mining operation, and updates to the process for determining valid existing rights to coal resources on certain state and federal land (e.g., national forest and park lands).

Additionally, the Department will readopt all sections within 11 AAC 90.002 – 11 AAC 90.911 into the Alaska Administrative Code (AAC). As a result, regulations will no longer be adopted by reference in 11 AAC 90.001(a) as a separate document prepared and retained by the Department but instead will be printed in full in the AAC. Most sections are proposed for readoption without change, aside from possible technical amendments after the public comment period or resulting from Department of Law review:

This notice will include a copy of the regulations that will be readopted into code as well as copies of substantial amendments to ownership and control and valid existing rights regulations for review. Please see below for where to find copies of regulation codification and amendments and for how to comment.

Proposed substantive changes include the following:

- (1) 11 AAC 90.001 Adoption by reference;
- (2) 11 AAC 90.023 Identification of interests and compliance information;
- (3) 11 AAC 90.025 Authority to enter and ownership information;
- (4) 11 AAC 90.119 Transfer, sale, or assignment of permit rights;
- (5) 11 AAC 90.121 Areas where mining may be limited;
- (6) 11 AAC 90.123 Valid existing rights;
- (7) 11 AAC 90.125 Commissioner's findings;
- (8) 11 AAC 90.127 Areas unsuitable for mining;
- (9) 11 AAC 90.163 Exploration that substantially disturbs the natural land surface or occurs in an area designated unsuitable for surface coal mining;
- (10) 11 AAC 90.613 Cessation orders;
- (11) 11 AAC 90.617 Suspension or revocation of permits;
- (12) 11 AAC 90.625 Penalty assessment and computation;
- (13) 11 AAC 90.637 Amount of individual civil penalty;
- (14) 11 AAC 90.911 Definitions; and
- (15) Conforming changes to any Title 11 regulations to cite any new regulations as addressed in the items above.

And inserting new sections relating to the following subject areas:

- (1) Entry of information into the applicant violator system;

- (2) Permit eligibility determination;
- (3) Review of application information to determine eligibility;
- (4) Provisional permits;
- (5) Updating, correcting, or indicating no change on information previously submitted by an applicant;
- (6) Areas designated by acts of Congress;
- (7) Processing a request for valid existing rights;
- (8) Initial review of preliminary finding requirements for improvidently issued permits;
- (9) Notice and appeal requirements for the proposed suspension or rescission of an improvidently issued permit;
- (10) Suspension or rescission requirements for improvidently issued permits;
- (11) Ownership or control challenges;
- (12) Post-permit issuance information requirements for permittees;
- (13) Lands eligible for re-mining;
- (14) Criminal penalties;
- (15) Civil actions for relief; and
- (16) Contractor eligibility.

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 Angie Fraker at the Division of Mining, Land and Water, 550 W. 7th Avenue, Suite 1070, Anchorage, AK 99501-3579 or by e-mail to dmlwprogramsupport@alaska.gov or by fax to 907-269-8904. The comments must be received by the Department no later than **5:00 p.m. on March 11, 2022**. All comments received become public records that are subject to public inspection.

You may submit written questions relevant to the proposed action to the contact information provided above. Questions must be received at least 10 days before the end of the public comment period (**by March 1, 2022**). The Department will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System 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 Angie Fraker at angie.fraker@alaska.gov or 269-8513 no later than **March 11, 2022**, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System, at the following website: <https://dnr.alaska.gov/mlw/news/>, or by contacting Angie Fraker at the e-mail and phone number provided above.

After the public comment period ends, the Department will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory Authority: AS 27.21.030, AS 27.21.080, AS 27.21.090, AS 27.21.110, AS 27.21.140, AS 27.21.150, AS 27.21.180, AS 27.21.190, AS 27.21.200, AS 27.21.210, AS 27.21.240, AS 27.21.250, AS 27.21.260, AS 27.21.270, AS 27.21.960

Statutes Being Implemented, Interpreted, or Made Specific: AS 27.21.030, AS 27.21.080, AS 27.21.110, AS 27.21.180, AS 27.21.200, AS 27.21.210, AS 27.21.250, AS 27.21.260

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

2/4/2022

Date



for 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: Surface Coal Mining and Reclamation Act 30 U.S.C. 1201 et seq.; Regulations Adopted by Reference
3. Citation of regulation (may be grouped): 11 AAC 90.001- 11 AAC 90.911
4. Department of Law file number, if any: 2021200340

5. Reason for the proposed action:

- Compliance with federal law or action (identify): Surface Coal Mining and Reclamation Act 30 U.S.C 1201 et seq.
- Compliance with new or changed state statute
- Compliance with federal or state court decision (identify): _____
- Development of program standards
- Other (identify): _____

6. Appropriation/Allocation: DNR/Fire Suppression, Land & Water Resources/Mining Land and Water/ 3002

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

A private person: \$0.00

Another state agency: 0.00

A municipality: 0.00

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

	Initial Year FY <u>2022</u>	Subsequent Years
Operating Cost	<u>\$ 0.00</u>	<u>\$ 0.00</u>
Capital Cost	<u>\$ 0.00</u>	<u>\$ 0.00</u>
1002 Federal receipts	<u>\$ 0.00</u>	<u>\$ 0.00</u>
1003 General fund match	<u>\$ 0.00</u>	<u>\$ 0.00</u>
1004 General fund	<u>\$ 0.00</u>	<u>\$ 0.00</u>
1005 General fund/ program	<u>\$ 0.00</u>	<u>\$ 0.00</u>
Other (identify)	<u>\$ 0.00</u>	<u>\$ 0.00</u>

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

Name: Angie Fraker
Title: Natural Resource Specialist
Address: 550 W. 7th Avenue, Suite 1070, Anchorage, AK 99501-3579
Telephone: 907-269-8513
E-mail address: angie.fraker@alaska.gov

10. The origin of the proposed action:

Staff of state agency
 Federal government
 General public
 Petition for regulation change⁷
 Other (identify): _____

11. Date: 2/4/2022 Prepared by: Brandon McCutcheon
Name (printed): Brandon McCutcheon
Title (printed): Chief, Program Support Section
Telephone: 907-269-8511