

Question and Answer Regarding Proposed Water Regulations
Division of Mining, Land and Water
Department of Natural Resources
November 27, 2023

Question: Regarding proposed changes to 11 AAC 93.970(25) and the definition of "appropriators of record":

- Since the definition of "adjudication" (11 AAC 93.970(1)) incorporates the definition of "appropriators of record," the definition of "adjudication" is also being significantly changed. Is the intent of this rule change to remove consideration of applicants for water rights from all adjudications?
- If not all, in which adjudications would applicants for water rights not be considered, and what is the rationale for their exclusion?
- If consideration of applicants for water rights are removed from adjudications, how would this regulatory change comport with the statutory requirement in § 46.15.165 (Administrative Adjudications) to serve "each applicant, certificate holder, or permittee listed in the department's records within the adjudication area"?

Response: Although the change to the definition of "appropriators of record" in 11 AAC 93.970(25) would impact the definition of "adjudication" in 11 AAC 970(1) as it applies to "the settlement of conflicting claims among competing appropriators of record," the Department will continue to consider applicants for water rights where required to do so by specific water right adjudication statutes and regulations.