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3 AAC 52.700(b) is amended to read:

(b) **Exemption** [A UTILITY'S EXEMPTION] from regulation under this section may be terminated [BY VOTE OF THE MEMBERS] as provided in **AS 42.05.712(h)** [AS 42.05.712] or by order of the commission for good cause.

3 AAC 52.700 is amended by adding a new subsection to read:

(c) A utility that is exempt under this section may apply for provisional certification by filing an application that complies with 3 AAC 52.722. (Eff. 6/19/2004, Register 170; am ___/___/____, Register _____)

Authority:	AS 42.05.141	<u>AS 42.05.241</u>	AS 42.05.711
	AS 42.05.151	<u>AS 42.05.691</u>	AS 42.05.712
		<u>AS 42.05.221</u>	

3 AAC 52.720(a) is amended to read:

3 AAC 52.720. Provisional certification: purpose and eligibility. (a) **A provisional certificate is granted to a class of utility that is currently providing or will provide water or wastewater utility service required for the public convenience and necessity but that might not meet standards of financial fitness the commission otherwise applies in granting a certificate under AS 42.05.241. Through the provisional certification program, the commission collects and publishes, but does not verify, information reported by provisionally certificated utilities and applicants.** A provisionally certificated utility is exempt from economic regulation within the meaning of 3 AAC 48.820 except **as** provided in AS 42.05.385 and 3 AAC 52.726. **The commission does not inspect a provisionally**

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certificated utility or certify its compliance with any health or safety requirements of state or federal law.

3 AAC 52.720(b) is amended to read:

(b) A water or wastewater utility is eligible for a provisional certificate of public convenience and necessity if the utility owns water treatment and distribution or wastewater treatment and collection facilities and is

(1) a community association, cooperative, political subdivision, or government that has fair and equitable customer representation; for purposes of this paragraph, a utility has fair and equitable customer representation if each individual who is a utility customer has the opportunity to

(A) vote at a local election for members of a board, council, assembly, or body that controls the utility; or

(B) attend meetings and vote directly on matters affecting local utilities;

[OR]

(2) any other form of business structure that has annual gross revenue less than \$50,000;

(3) any other form of business structure that has annual gross revenue greater than \$50,000 but less than \$150,000 if the utility petitions to be provisionally certificated, and the commission, after investigation and a hearing to solicit comments from consumers and other members of the public, grants the petition; the commission may, upon petition or its own motion, and after a hearing, require a utility provisionally certificated under this paragraph to return to economically regulated status; or

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(4) an exempt utility that voluntarily seeks provisional certification under 3

AAC 52.700(c). (Eff. 6/19/2004, Register 170; am ___/___/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.221 **AS 42.05.691**
AS 42.05.151 AS 42.05.241 AS 42.05.711

3 AAC 52.722(a)(5)(A) is amended to read:

(5) for entities qualified for provisional certification under 3 AAC 52.720(b)(2),
an affidavit stating

(A) **the utility's annual accounting period and** annual gross revenue for
the most recent fiscal year; or

(B) projected revenues for the first full fiscal year if the utility is a new
water or wastewater utility that has not begun providing service or that has not completed
a full fiscal year of service;

3 AAC 52.722(b) is amended to read:

(b) A previously certificated water or wastewater utility that is eligible for provisional
certification under **3 AAC 52.720** [THIS SECTION] and that does not have a proceeding
pending before the commission may return the utility's certificate parchment to the commission
and apply for provisional certification as provided in (a) of this section. The utility is not
required to re-submit previously filed information unless the information is not currently correct.

3 AAC 52.722(c) is amended to read:

(c) **If the** [THE] commission **finds that** [WILL DETERMINE IF] an application for

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provisional certification is **incomplete, the commission will, by letter, notify the applicant of the additional information needed to complete the application** [COMPLETE WITHIN 15 BUSINESS DAYS AFTER IT IS FILED WITH THE COMMISSION. AN INCOMPLETE APPLICATION WILL BE HANDLED AS PROVIDED IN 3 AAC 48.650]. A provisional certificate will be issued within 90 days after the receipt of a complete application **that the commission finds to be in the public interest.**

3 AAC 52.722(d) is amended to read:

(d) **An applicant** [APPLICANTS] for a provisional certificate of public convenience and necessity **is** [ARE] exempt from the public notice provisions of 3 AAC 48.645.

3 AAC 52.722(e) is amended to read:

(e) For good cause, the commission may revoke a provisional certificate, suspend the utility's operating authority, require additional information, or take other appropriate action to protect the public. If the commission issues an order under this section, the order will be stayed if the utility requests a hearing within 10 days after the date of the order. (Eff. 6/19/2004,

Register 170; am ___/___/_____, Register _____)

Authority:	AS 42.05.141	<u>AS 42.05.241</u>	<u>AS 42.05.271</u>
	AS 42.05.151	AS 42.05.254	<u>AS 42.05.691</u>
	AS 42.05.221		

3 AAC 52.724(a) is amended to read:

3 AAC 52.724. Continuing requirements. (a) A provisionally certificated utility shall

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file the following **information each year, no later than 180 days after the close of the utility's**

annual accounting period [ON OR BEFORE JANUARY 31 OF EACH YEAR]:

(1) a fee of \$100;

(2) an affidavit stating that the utility continues to meet the qualifications for provisional certification set out in 3 AAC 52.720;

(3) a statement of any changes to information submitted with the utility's application for provisional certification;

(4) **a statement of revenue and expense for the last fiscal year on a form prescribed by the commission; the utility must identify** [AN INFORMATIONAL FILING DETAILING THE RATES THE UTILITY WILL CHARGE FOR THE CLASSES OF SERVICE AVAILABLE AND THE DATE WHEN THOSE RATES WILL BE EFFECTIVE;

(5) THE UTILITY'S INCOME STATEMENT FOR THE LAST FISCAL YEAR, SHOWING REVENUE AND EXPENSE INCLUDING CAPITAL RECOVERY, AND IDENTIFYING] all sources of revenue including customer fees and operational subsidies from other sources; **to comply with this paragraph**

(A) the utility may file a combined water and wastewater statement using at least the following accounts, if applicable to that utility: income account 400 and associated subaccounts and expense accounts 401, 403, 408.1, 409.1, 421, and 427 as described in the Uniform System of Accounts for Class D water utilities prescribed under 3 AAC 48.277(a)(17); or

(B) the utility may file a separate water and wastewater statement using at least the following accounts, if applicable to that utility:

(i) for water, income account 400 and associated subaccounts

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and expense accounts 401, 403, 408.1, 409.1, 421, and 427 as described in the Uniform System of Accounts for Class D water utilities prescribed under 3 AAC 48.277(a)(17);

(ii) for wastewater, income account 400 and associated subaccounts and expense accounts 401, 402, 403, 408, 409, 421, and 427 as described in the Uniform System of Accounts for Class D sewer utilities prescribed under 3 AAC 48.277(a)(27);

(5) the following information from the utility's reporting period, on a form prescribed by the commission:

(A) the number of active connections by customer class and the monthly user fees associated with them;

(B) the total water production for the fiscal year;

(C) the yearly water consumption of each individually metered user.

3 AAC 52.724(b) is repealed:

(b) Repealed ____/____/____.

3 AAC 52.724(d) is repealed and readopted to read:

(d) If a provisionally certificated utility does not timely file the information required in this section, the commission may post notice of the violation on the commission's web site, or may, after notice to the utility, issue an order revoking the utility's provisional certificate. If the commission revokes a utility's provisional certificate under this section, the order will be stayed if the utility requests a hearing within 10 days after the date of the order. (Eff. 6/19/2004,

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Register 170; am ___/___/_____, Register _____)

Authority: AS 42.05.141 AS 42.05.241 AS 42.05.451

AS 42.05.151 AS 42.05.254 AS 42.05.691

AS 42.05.221

Editor's note: Copies of the Uniform System of Accounts for Class D water utilities and the Uniform System of Accounts for Class D sewer utilities can be viewed at the office of the Regulatory Commission of Alaska, 701 West 8th Ave., Suite 300, Anchorage, Alaska 99501, or on the commission's website at www.state.ak.us/rca/RUS/.