MEMORANDUM

State of Alaska
Department of Law

To: All Readers of the Drafting Manual for Administrative Regulations

Date: August 2013

File No.: 

Tel. No.: 465-3600

From: Deborah E. Behr
Chief Assistant Attorney General and Regulations Attorney
Legislation and Regulations Section

Re: Highlights of Significant Changes in the Drafting Manual for Administrative Regulations (August 2013)

Attached is a copy of the 2013 Drafting Manual for Administrative Regulations (20th edition) (2013 manual). Please note that the style of the 2013 manual follows that of the 19th edition with some revisions to provide more information, to reflect court decisions, and to address changes in technical drafting requirements.

The most significant changes contained in the 2013 manual are the following:

1. Alternative means of receiving public comments through the Alaska Online Public Notice System (Effective September 1, 2013) -- New developments with the Alaska Online Public Notice System provide an alternative means for receiving public comments by the Internet. Effective September 1, 2013, the Alaska Online Public Notice System will provide an optional means for a state agency to select for the public to submit comments on regulations through that system. The system will automatically provide those comments to the state agency. Using the Alaska Online Public Notice System to receive comments does not relieve the state agency of complying with any statutory requirements, including publishing of the notice in a newspaper of general circulation. The same requirements apply for retention of comments and consideration of comments received through the Alaska Online Public Notice System.

2. Brief description for notices of certain regulations projects -- Chapter 42, SLA 2012 (SCS CSHB 216(STA)) took effect July 1, 2012, and adds an additional step for preparation of regulation notices.

A major goal of the statute is to facilitate the use of "plain English" when agencies give notice of proposed changes to regulations. See AS 44.62.200(d). The statute requires a state agency to add, to its notices by mail and electronic notices, a brief description of the regulation changes in clear, easily readable language that a person without a legal
background is able to understand. For example, the brief description should avoid legal
citations, abbreviations, and specialized terminology.

For brief descriptions of regulatory changes, all state agencies subject to the
Administrative Procedure Act must comply, except for the Regulatory Commission of
Alaska, the Board of Fisheries, and the Board of Game.

The 2013 manual updates the forms for notices of "regular" regulation projects
(Appendix D-1 and Appendix D-2) and for notices of "emergency" regulations to be
made permanent (Appendix T-1 and Appendix T-2).

3. Development of certain regulation projects -- Chapter 42, SLA 2012 (SCS
CSHB 216(STA)) also adds an additional step for regulation development.

The statute requires a state agency to notify the legislature if a pending bill directs, or
will result in, a regulation change. See AS 24.08.035(f). The state agency must include
in the fiscal note for the bill a specific time by which the state agency will adopt the
regulations (the statute does not affect a fiscal note, if any, prepared for regulations). The
legislative history indicates that the goal of the provision is to keep regulation
development on track and to hold state agencies accountable if they are unable to meet
deadlines.

Generally, state boards or commissions are exempt from the requirement to place a
deadline for regulation changes on a legislative fiscal note. However, the Alaska
Housing Finance Corporation, the Alaska Industrial Development and Export Authority,
the Alaska Energy Authority, the Alaska Public Offices Commission, and the Alaska Oil
and Gas Commission must comply with the requirement.

4. Distribution of notices and repeal of "sunset" of Education Committees of Alaska State
Legislature (Legislative Resolve 44 (2012)) -- Certain notices and copies of regulations
are required to be submitted to the legislature's Education Committees, as standing
committees with jurisdiction over the subject of the proposed regulation. For example,
presently the Department of Education and Early Development is required to submit most
of its regulations to the chairs of the Education Committees in the House and Senate.

The Education Committees were scheduled to "sunset" and transfer their functions to the
Health, Education, and Social Services Committees effective on the first day of the First
Regular Session of the Twenty-Eighth Alaska State Legislature in January 2013. In 2012,
the legislature passed Legislative Resolve 44, which repealed the sunset and made
permanent the standing Education Committees.
Copies of regulations and notices of regulations should continue to be transmitted to the respective Education Committees. See Appendix DD.

5. **Updated additional regulations notice information form** -- The additional regulations notice information form in Appendix E has been updated to match more closely the legislative fiscal note form for new legislation. Please use the updated form in Appendix E to prepare additional information required on regulation projects.

6. **Updated fiscal note form** -- The fiscal note form in Appendix F has been updated to match more closely to the legislative fiscal note form for new legislation. Please use the updated form in Appendix F to prepare fiscal notes required on regulation projects.

7. **Spacing between sentences in text of regulation** -- The 2013 manual expressly addresses the requirement that one space follow the period at the end of a sentence before the next sentence begins. Previously, the typing standard was two spaces following the period at the end of a sentence before the next sentence began.

8. **New court decisions** -- The 2013 manual has been revised to reflect new court decisions on regulations. The new court decisions are reflected in Chapters 16 and 17.

You may wish to replace your electronic versions of regulation forms with the Department of Law's electronic forms found in the online publication of the 2013 manual, which will soon be accessible through the Department of Law website at www.alaska.gov/doclibrary/drafting_manual.html. For assistance, you may contact Linda Miller, Legislation and Regulations Section, Department of Law.

Please note that for ease of use, the footnote "signals" and footnote explanatory material that appear in the appendix forms in the printed 2013 manual and in the electronic version of the 2013 manual on our website have been omitted from the manual's appendix forms that can be accessed from individual electronic links on the website. You will need to refer to the printed manual or to the complete electronic version to see that explanatory material.

We hope that you will find the 2013 edition of the manual helpful, and we welcome your comments to improve the manual.