Chapter 42, SLA 2012 (SCS CSHB 216(STA)) has just been enacted into law and adds additional steps for regulation development. The law takes effect July 1, 2012. The session law is attached for your reference.

**Overview**

The statute addresses two goals of the legislature. The first (contained in sec. 1) requires a state agency to notify the legislature if a pending bill directs, or will result in, a regulation change. 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 their deadlines.

The statute's second goal is to facilitate the use of "plain English" when agencies give notice of proposed changes to regulations. The bill requires a state agency to add, to its 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.

**Certain State Agencies Exempt**

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 still must comply with the requirement.
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.

Applicability

For deadlines for regulations, this requirement applies to bills that are filed on or after July 1, 2012.

For brief descriptions of regulations, this requirement applies to notices for proposed regular regulations changes issued on or after July 1, 2012. To avoid additional costs to state government, the brief description is not required to appear in notices published in a newspaper.

How Does This Work?

For agencies required to propose deadlines for regulations in a legislative fiscal note, the office of management and budget will be working with the legislative finance division to change the fiscal note form, so that an agency can easily add this information.

For by-mail brief descriptions of regulations, or brief descriptions that are posted online, a short paragraph should be added in the notice following the heading "NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF ________________." See the attached form. In the e-mail version of the notice, the brief description should appear in the body of the e-mail.

Legal Advice

Contact the Legislation and Regulations Section in the Department of Law for legal advice on how to comply with requirements of ch. 42, SLA 2012.
AN ACT

Relating to fiscal notes for bills directing or resulting in the adoption, amendment, or repeal of regulations, and to the notice required for the proposed adoption, amendment, or repeal of a regulation; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT Follows ON PAGE 1
AN ACT

Relating to fiscal notes for bills directing or resulting in the adoption, amendment, or repeal of regulations, and to the notice required for the proposed adoption, amendment, or repeal of a regulation; and providing for an effective date.

*Section 1.* AS 24.08.035 is amended by adding new subsections to read:

(f) In addition to the other requirements of this section, if a bill directs an agency in the executive branch of state government to adopt, amend, or repeal a regulation or will result in an agency's adopting, amending, or repealing a regulation, the department affected shall include in the fiscal note for the bill a specific time by which the agency shall adopt, amend, or repeal the regulation. If the agency is not able to meet the deadline set in the fiscal note, the agency shall

(1) set a new deadline; and

(2) report to the Administrative Regulation Review Committee the new deadline and the reasons for being unable to meet the deadline set in the fiscal note.
(g) In (f) of this section, "agency" includes 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 Conservation Commission, but does not include other boards or commissions.

* Sec. 2. AS 44.62.200 is amended by adding a new subsection to read:

(d) When a state agency, other than the Regulatory Commission of Alaska, the Board of Fisheries, or the Board of Game, posts, furnishes, or otherwise provides a notice of the proposed adoption, amendment, or repeal of a regulation under AS 44.62.190, a brief description of the changes made by the proposed adoption, amendment, or repeal must accompany the notice. However, if, under AS 44.62.190(a), the notice is published in a newspaper or trade or industry publication or is broadcast, this subsection does not require that the brief description otherwise required by this subsection accompany the publication or the broadcast. To the extent practicable, the brief description shall be written in clear, easily readable language that a person without a legal background is able to understand. Notwithstanding AS 44.62.300, an action may not be brought for failure of the brief description to comply with the requirements of this subsection relating to the description of the changes or its clarity and readability.

* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) AS 24.08.035(f) and (g), enacted by sec. 1 of this Act, apply to bills that are filed on or after the effective date of this Act.

(b) AS 44.62.200(d), enacted by sec. 2 of this Act, applies to the proposed adoption, amendment, or repeal of a regulation on or after the effective date of this Act.

* Sec. 4. This Act takes effect July 1, 2012.
NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF [name of agency]

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<td>BRIEF DESCRIPTION</td>
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The ___ [name of agency]___ proposes to adopt regulation changes in Title ____ of the Alaska Administrative Code, dealing with ______________________________________________, including the following:

(1) ________________ is proposed to be changed as follows:

[Here give informative summary of proposed amendment or new material. Describe the change from existing regulations.]

(2) ________________, which ________________, is proposed to be repealed. The intended effect of this repeal is to ____________________________________________.

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 ___ [name of agency or agency representative] at ___ [mailing address]. [Additionally, the ___ [name of agency]___ will accept comments by facsimile at _______ and by electronic mail at ___________________________]. The comments must be received no later than _____.m. on [month and day] ____, 20____.

[Oral or written comments also may be submitted at a hearing to be held on ___ [month and day] ____. 20____, in Room ______. [physical address, including city] ____. The hearing will be held from _____m. to _____m., and might be extended to accommodate those present before _____m. who did not have an opportunity to comment.]'

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact ___ [name of agency representative]___ at ___ [phone number]___ no later than ___ [date]___ to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact ___ [name of agency or agency representative]___ at ___ [mailing address or phone number]___ , or go to www.___________________________.

After the public comment period ends, the ___ [name of agency]___ 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.
NOTICE OF PROPOSED REGS/NON-NEWSPAPER NOTICE

**Statutory Authority:**  AS ________; AS ________; AS ________
**Statutes Being Implemented, Interpreted, or Made Specific:**  AS ________;  AS _____;
AS ________

**Fiscal Information:**  [The proposed regulation changes are not expected to require an increased appropriation.]
[It is estimated that the proposed regulation changes will require increased appropriations as follows:  FY ___, ________;  FY ___, _________; FY ___, ________; FY ___, ________].

DATE:  ____________________________  [official's signature]

[official's name and title, typed]  

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1. Please include a brief description of the project in plain English. This does not apply to Regulatory Commission of Alaska, the Board of Fisheries, or the Board of Game. For a notice sent by e-mail, please place the brief description in the body of the message, not in an attachment.

2. If your agency wishes to allow the written comments also to be submitted by e-mail or fax, provide the appropriate contact information here, in addition to the required mailing address for written comments.

3. It is recommended that your agency specify a deadline time, as well as a deadline date, for written comments. This is especially important if your agency is allowing comments to be submitted by e-mail or fax.

4. Use these bracketed sentences only if your agency has decided to hold an oral public hearing.

5. If your agency wishes also to allow contact by e-mail or fax for this purpose, provide the appropriate contact information here, in addition to the standard telephone number.

6. This date should be before the written comment deadline and any oral public hearing. In choosing a date, your agency should leave sufficient time to review the request, make any required accommodation, and allow the requestor to give comments before the public comment period ends.

7. If your agency wishes also to allow contact by e-mail or fax for this purpose, provide the appropriate contact information here, in addition to the standard mailing address or telephone number.

8. If your agency will have the proposed regulations available on its website, use the wording in this block in addition to the standard mail or phone contact information.

9. It is recommended that in the notice your agency alert the public that written comments received by your agency are public records and are subject to public inspection. The following sentence could be included at the end of this paragraph:  "Written comments received are public records and are subject to public inspection."

10. Do NOT cite a provision of AS 44.62 (the Administrative Procedure Act). Cite each statute that gives your agency authority to adopt the proposed regulations. Note: This is a separate requirement of the APA. DO NOT combine it with the statutes being implemented, interpreted, or made specific.

11. Cite the statutes that your agency is implementing, interpreting, or making specific through the proposed regulations. Note: This is a separate requirement of the APA. DO NOT combine it with the "statutory authority" provisions.
Use the appropriate bracketed sentence.

The public notice need not be signed by the agency person with regulation-adoption authority, so long as it is signed by an officer or employee of your agency who has some responsibility for regulations adoption in your agency.

To encourage readers to request placement on your agency's "interested persons" list, consider adding a paragraph like the following after the date and signature lines of the notice:

"The [name of agency or division] keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the [agency's/division's] Notices of Proposed Regulation Changes. To be added to or removed from the list, send a request to the [agency/division] at [insert appropriate contact address], giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices."