

# MEMORANDUM

State of Alaska  
Department of Law

**To:** Regulations Contacts  
All Departments

**Date:** November 1, 2017

**Tel. No.:** (907) 465-3600

**File No.:**

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**Subject:** New procedure upon adoption of  
regulations

## **NEW PROCEDURE UPON ADOPTION OF REGULATIONS**

This memorandum explains a new step that agencies and boards and commissions that adopt regulations under the Alaska Administrative Procedure Act (APA) (AS 44.62) must follow upon adoption of regulations. However, the Regulatory Commission of Alaska, the Alaska Oil and Gas Conservation Commission, the Board of Fisheries, and the Board of Game *do not need to make any changes to their current process even though these entities adopt regulations under the APA*. Further, the new step explained in this memorandum does not apply to entities that adopt regulations under statutory procedures outside the APA, including the Alaska Industrial Development and Export Authority, the Alaska Housing Finance Corporation, the Alaska Permanent Fund Corporation, and the Alaska Gasline Development Corporation (however, other applicable non-APA statutes continue to apply to these non-APA entities; further if a non-APA entity adopts some regulations, such as procurement regulations, under the APA process, the entity must comply with the procedure explained in this memorandum for those APA regulations).

### **A. New procedure explained**

**1. What is the new step when regulations are adopted?** Alaska law (AS 44.62.040 and 44.62.320) requires that the state agency furnish adopted regulations to the Office of the Governor and the Administrative Regulations Review Committee before the regulations are submitted to the Office of the Lieutenant Governor for filing. The Department of Law has been doing this step for agencies, but to better use our resources, we will no longer do this. Therefore, agencies (except for the Regulatory Commission of Alaska, the Alaska Oil and Gas Conservation Commission, the Board of Fisheries, and the Board of Game) will need to start sending by electronic mail, a copy of

*adopted* regulations to the regulations specialists at the Office of the Governor and the Office of the Lieutenant Governor, and to the Administrative Regulation Review Committee.

**2. What does the agency do?** Furnish a copy of *adopted regulations* to the regulations specialists at the Office of the Governor and the Office of the Lieutenant Governor, and to the members of the Administrative Regulation Review Committee. AS 44.62.040 and 44.62.320.

**3. Where does the agency send the adopted regulations?** The preferred option is to use [gov-arrc@list.state.ak.us](mailto:gov-arrc@list.state.ak.us): the electronic mail address set up and maintained by the Office of the Lieutenant Governor. Less preferred is to email the adopted regulations directly to the regulations specialists at the Office of the Governor and the Office of the Lieutenant Governor, *and* to all members of the Administrative Regulation Review Committee.<sup>1</sup> Least desirable is to mail a copy of the adopted regulations to the regulations specialists at the Office of the Governor and the Office of the Lieutenant Governor, and to the members of the Administrative Regulation Review Committee: this should be necessary only in the rare event that a set of regulations is too large to transmit easily through e-mail.

**4. When does the agency do this?** As soon as possible after the regulations are adopted and *before* the adopted regulations are sent to the Department of Law for final review.<sup>2</sup>

**5. Suggestions to comply**

*First*, each agency's regulation contact and regulation specialist should consider subscribing to the list set up as "gov-arrc" by the Office of the Lieutenant Governor <http://list.state.ak.us/mailman/listinfo/gov-arrc>.

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<sup>1</sup> As of November 1, 2017, the legislature has not appointed any members to the committee; the director of the legal services division of the legislative affairs agency will accept service by e-mail of adopted regulations to comply with AS 44.62.320. But an agency can avoid this additional step if the agency uses the electronic mail address set up and maintained by the Office of the Lieutenant Governor: the most preferred option.

<sup>2</sup> Timely submission of adopted regulations is important since AS 44.62.320(d) authorizes the chair of the Administrative Regulation Review Committee 10 days to submit through legislative memorandum or letter comments on the regulations to the Governor.

You do *not need* to subscribe to use the e-mail address, but subscribing will allow you to see what has been sent on this e-mail address. ( If you wish to be able to post, before you will be able to post messages to the "gov-arrc" mailing list you will need to call the Lieutenant Governor's Alaska Administrative Code contact (465-3520, ask for Scott Meriwether or for April Simpson if Mr. Meriwether is out of the office and request posting access to the mailing list. Again, only regulations contacts or regulations specialists should subscribe to the list.) A person that only occasionally works on a regulations project does not need to request permission to post; but the agency regulations contact or a regulations specialist who works frequently to develop regulations may wish to request permission to post on the "gov-arrc" list.

*Second*, when regulations are adopted, scan the adoption order or certification of adoption order and the adopted regulations into a ".pdf" format. We *strongly* recommend including a copy of the Notice of Proposed Regulations in the ".pdf" document to give the reader an understanding of the adopted regulations. Name the .pdf using [1] the file number assigned by the Department of Law; [2] the agency name (acronyms are OK); and [3] a *short* description (again, acronyms are OK): for example, "JU2017200123 DEC SPAR." We suggest a short explanation in the body of the email explaining the subject of the regulations (attached as Exhibit 4F).

*Third*, e-mail the adopted regulations as an attachment using the e-mail address set up by the Office of the Lieutenant Governor: [gov-arrc@list.state.ak.us](mailto:gov-arrc@list.state.ak.us)<sup>3</sup> (this is the preferred method). If you have subscribed to the "gov.arrc" list to receive messages you should receive a copy of your message through the mailing list. If you do not subscribe to the list you can verify that your message was successfully sent by checking the mailing list archives at: <http://list.state.ak.us/pipermail/gov-arrc/>.

The least preferred option is to mail the adopted regulations to the regulation specialists at the Office of the Governor and the Office of the Lieutenant Governor, *and* to all members of the Administrative Regulation Review Committee (this option should be used only in the rare case that a regulations package is too large to send easily by electronic mail).

*Last*, verify to the Department of Law that the adopted regulations were furnished to the Office of the Governor and the Administrative Regulation Review Committee by

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<sup>3</sup> If members are appointed to the committee, the "gov-arrc" e-mail list will be updated. Alternately, the agency can directly e-mail the adopted regulations to each individual legislator appointed to the Administrative Regulation Review Committee.

using Appendix Q (Request for Final Review) and inserting the date where indicated in the sentence: "On **insert date** the adopted regulations, along with a copy of the adoption order or certification of adoption order, were electronically furnished to the regulations specialists at the Office of the Governor, the Office of the Lieutenant Governor, and to the Administrative Regulation Review Committee."

## **B. New forms**

We have attached a sample e-mail that can be used to e-mail a copy of the adopted regulations. The Drafting Manual for Administrative Regulations will be formally updated in 2018. In the meantime, we have prepared new versions of the following appendices that reflect the new procedure upon adoption of regulations. These appendices should be used for regulations adopted on or after November 1, 2017 and are posted on the Department of Law's [Internet home page](#). No changes have been made to appendices other than those listed below.

Appendix A: Agency Checklist - "Regular" Regulations

Appendix B: Agency Checklist - Emergency Regulations

Appendix Q: Agency Request for Final Review

Appendix Y: Agency Attorney Final Review Checklist/ "Regular"  
Regulations

Appendix Z: Agency Attorney Review Checklist/Emergency Regulations

Thank you for understanding our need to revise our procedures. Please contact the Legislation and Regulations section in the Department of Law if you have questions.

SRP: hjh

cc w/ enc: (via email)

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