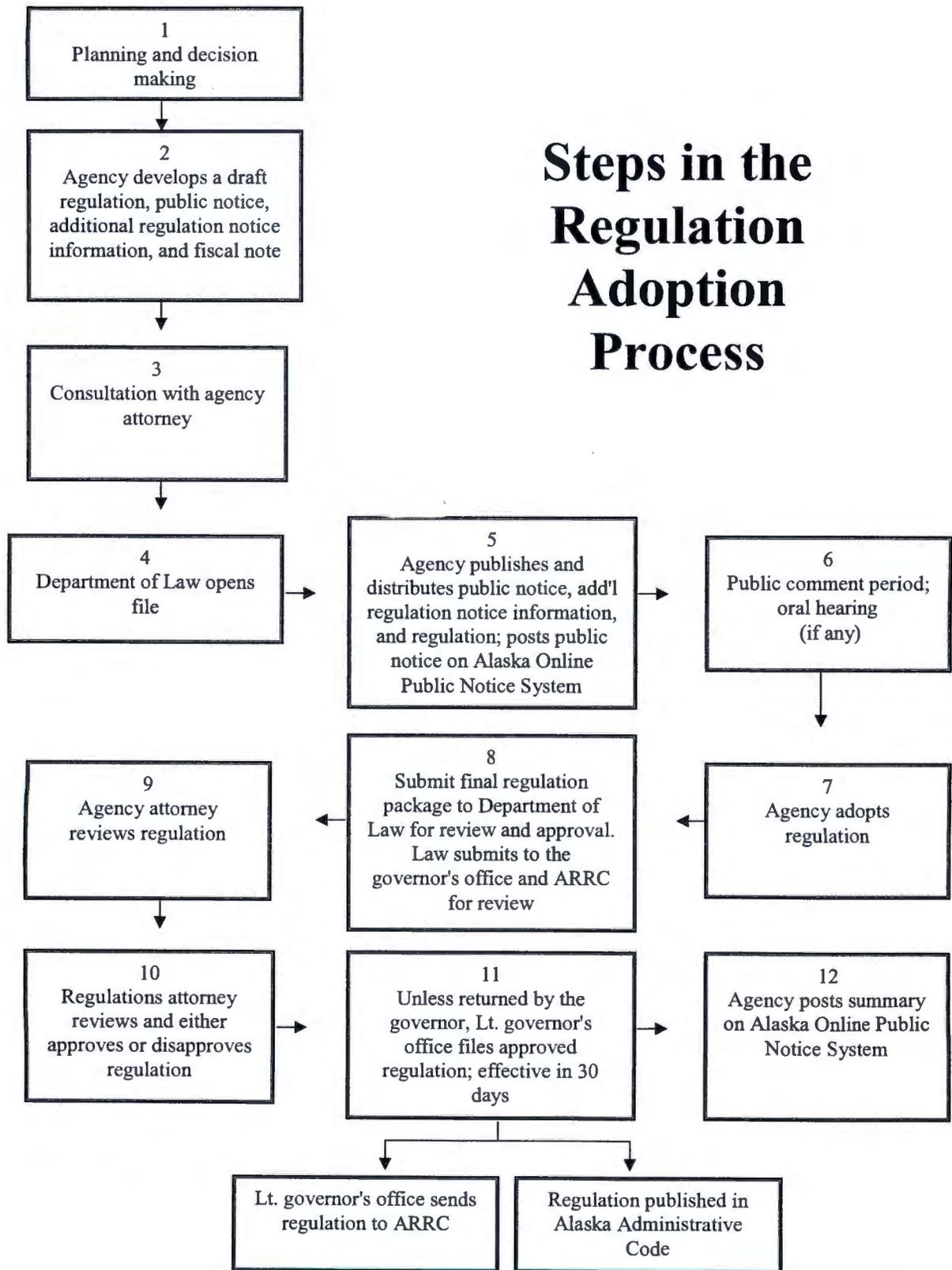


# Steps in the Regulation Adoption Process



recipients in the same manner in which the public notice was furnished to each of those persons (i.e., by e-mail or regular mail). See DISTRIBUTION OF ADDITIONAL REGULATION NOTICE INFORMATION in Chapter 4 for details regarding the distribution. Appendices E-1 and E-2 set out the additional regulation notice information form. Most agencies will use Appendix E-1; the exempt boards and commissions will use Appendix E-2. To avoid legal problems, the proposed form should be reviewed by the agency attorney before publication.

**Affidavit of notice.** Following publication and distribution of the public notice and distribution of the additional regulation notice information, the agency should prepare an affidavit of notice (Appendix H) for submission to the Department of Law with the final regulation package (see Step 8). Additionally, after publication of the notice in a newspaper or other publication, the agency will receive from each publisher the proof-of-publication affidavit (or "publisher's affidavit"). The agency must retain the *original* of the publisher's affidavit for submission to the Department of Law with the final regulation package.

**STEP 6: PUBLIC COMMENT AND ORAL HEARING.** The agency should retain all public comments received according to the agency's records retention schedule and must make those comments available for public and Department of Law review, if requested; this includes printing and retaining comments received by e-mail or by the Alaska Online Public Notice System.

If an oral hearing is held, the hearing should be recorded and witnesses should be asked to identify themselves and any organization they represent; a person is not, however, required to give their identity in order to testify. Ground rules for hearings may be established, including time limits on speaking and whether specific technical questions will be answered at the hearing or later by the agency in writing in a public format. Basic fairness should govern the hearing process, and effort should be made to gather information and expressions of public opinion. Contact the Department of Law if additional advice is needed regarding how to conduct a hearing.

Following an oral hearing, the agency must prepare an affidavit of oral hearing (Appendix I) for submission to the Department of Law with the final regulation package (see Step 8).

Under AS 24.20.105, the Legislative Affairs Agency reviews the proposed regulation (except for a regulation of the Board of Fisheries and Board of Game). This review may result in a confidential written notification or other communication from the Legislative Affairs Agency to the adopting agency. The notification or communication *would not be a public comment* (see Step 7). If a written notification or other communication is received, the adopting agency should immediately contact the agency attorney for the project and the regulations attorney in the Department of Law.

Additionally, before adoption of the regulation, the agency should consider the Legislative Affairs Agency's notification or communication (if any) and the Department of Law advice regarding it. When a board or commission considers a notification or other communication received from the Legislative Affairs Agency (and the Department of Law advice regarding the notification or communication), it should do so in executive session under the procedures in AS 44.62.310. However, under AS 24.20.105(h), the Legislative Affairs Agency's review process does not affect an agency's ability to complete its proposed action regarding the regulation, and any suggestions for changes to a proposed regulation made by that agency are not binding on an agency.