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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Micaela Fowler
Department of Commerce, Community, and Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 465.4081 

DATE: November 22, 2017

RE: Filed Permanent Regulations: Department of Commerce, Community, and Economic Development

Department of Commerce, Community, and Economic Development regulations re: community assistance payment program (3 AAC 180)

Attorney General File:	JU2017200192
Regulation Filed:	11/22/2017
Effective Date:	12/22/2017
Print:	224, January 2018

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

The attached 17 pages of regulations, dealing with the community assistance payment program, 3 AAC 180.010 – 900, are adopted and certified to be a correct copy of the regulation changes that the Department of Commerce, Community, and Economic Development adopts under the authority of AS 44.33.020, AS 29.60.850 – 29.60.879 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Commerce, Community, and Economic Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

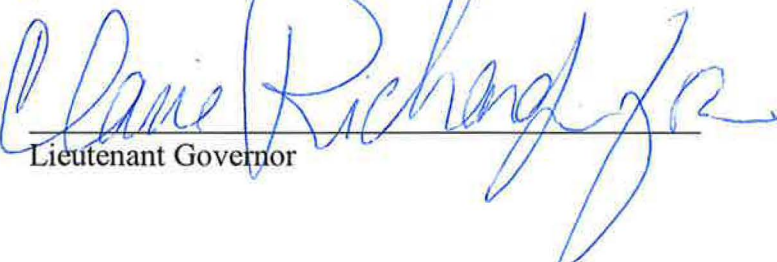
Date: November 17, 2017


Micaela Fowler, Special Assistant

 FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

1 November 22, 2017, at 10:09 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.


Lieutenant Governor

Effective: December 22, 2017

Register: 224, January 2018



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

OFFICE OF THE COMMISSIONER

P.O. Box 110800
Juneau, AK 99811-0800
Main: 907.465.2500
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In accordance with AS 44.17.010, the authority and responsibility for adopting regulations, outside of the Division of Corporations, Business and Professional Licensing (CBPL), but for the Department of Commerce, Community, and Economic Development (DCCED), under the Alaska Administrative Procedure Act, is hereby delegated to:


Micaela Fowler
Legislative Liaison
Office of the Commissioner
DCCED
P.O. Box 110800
Juneau, AK 99811-0800
907-465-2503
micaela.fowler@alaska.gov

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations of the Division of Corporations, Business and Professional Licensing, under the Alaska Administrative Procedure Act, is hereby delegated to:

Janey Hovenden
Director
CBPL
DCCED
P.O. Box 110806
Juneau, AK 99811-0806
907-465-2538
janey.hovenden@alaska.gov

This Delegation of Authority will remain in effect until modified or revoked by a subsequent delegation. This Delegation supersedes and revokes all delegations preceding it.

Dated the 6th day of November, 2017


Mike Navarre
Commissioner
Department of Commerce, Community,
and Economic Development

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, BYRON MALLOTT, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

Claire Richardson, Special Assistant

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on January 7th 2015.




.....

**BYRON MALLOTT
LIEUTENANT GOVERNOR**

Chapter 180. Community Assistance Program [REVENUE SHARING].

3 AAC 180.010 is repealed and readopted to read:

3 AAC 180.010. Application for community assistance payments. (a) To receive a community assistance payment under AS 29.60.850 - 29.60.879, a municipality, reserve, or community must certify and agree, on a form provided by the department,

(1) that the municipality, reserve, or community is in compliance with AS 29.60.850 - 29.60.879 and this chapter;

(2) to use a payment received under AS 29.60.855 and 29.60.860 only for a public purpose as required under AS 29.60.850(a);

(3) to make a service or facility provided with a payment received under AS 29.60.855 and 29.60.860 available to every person in the community regardless of race, religion, color, national origin, age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, parenthood, or political affiliation; and

(4) to maintain, as required under this paragraph, all accounting records, receipts, invoices, and other documents related to the receipt and expenditure of a payment under AS 29.60.855 and 29.60.860, including all documents that record the activities that occurred through the use of the payment; if the payment is for a community, the village council or incorporated nonprofit entity that agrees to receive the payment for the community must agree to maintain documents as required under this paragraph; the documents must be maintained

(A) for at least three years after the date when the department distributes a payment under AS 29.60.855 and 29.60.860 each year to the municipality or reserve or to

the village council or incorporated nonprofit entity for a community; and

(B) for longer than three years and until the matter is fully resolved, if the municipality or reserve, or the village council or incorporated nonprofit entity for a community, has an unresolved audit finding, questioned costs, litigation, or a grievance at the end of the three-year period.

(b) In addition to making the certification and agreement on the form provided under (a) of this section, a borough or unified municipality that will receive community assistance payments on behalf of communities in the borough or unified municipality must

(1) submit to the department a resolution adopted by the assembly that clearly identifies

(A) the communities that the borough or unified municipality has determined meet the eligibility criteria under AS 29.60.865, 29.60.879, and 3 AAC 180.110; and

(B) the village council or incorporated nonprofit entity located within each community listed under (A) of this paragraph that the borough or unified municipality has approved as the recipient of the community assistance payment; and

(2) certify that at least three of the services required under AS 29.60.865(c) are generally available to all residents of the community.

(c) In addition to making the certification and agreement on the form provided under (a) of this section and receiving any identification required under (b) of this section, a reserve or village council must submit to the department a waiver of sovereign immunity in accordance with AS 29.60.865(a) and 3 AAC 180.130.

(d) The department will not issue a community assistance payment to an entity until the department has received the entity's statement of expenditures of the prior year's community assistance payment, the community assistance program budget form for the current year's application, and all documents required under this section and 3 AAC 180.020.

(e) To administer more efficiently the community assistance payment program under AS 29.60.850 - 29.60.879 and this chapter, and to reduce the costs associated with its administration, the department will use electronic mail and electronic filing to the maximum degree possible. An applicant may submit the form and documents required under this section to the department by means of electronic mail received not later than 4:30 p.m. on June 1 or regular mail postmarked not later than June 1, for community assistance payments to be distributed the following state fiscal year. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; em am 3/10/2011 - 7/7/2011, Register 198; am 12 / 22 / 2017, Register 224)

Authority: AS 29.60.850 AS 29.60.860 AS 44.33.020
AS 29.60.855 AS 29.60.865

Editor's note: For an application submitted by electronic mail, the department's electronic mail address is caa@alaska.gov.

3 AAC 180.020 is repealed and readopted to read:

3 AAC 180.020. Reports to the department by municipalities. In addition to meeting the requirements of 3 AAC 180.110 that apply to a municipality, and before the department makes a community assistance payment to a municipality, the municipality must submit

(1) maps and descriptions of all annexed or detached territory as required under AS 29.20.640(a)(1);

(2) if the municipality is a borough, unified municipality, or first class city, a copy of the annual audit reviewed by a certified public accountant licensed under AS 08.04, as required under AS 29.20.640(a)(2);

(3) if the municipality is a second class city and is required under state or federal law to submit an audit, a copy of that audit reviewed by a certified public accountant licensed under AS 08.04, as required under AS 29.20.640(a)(2); otherwise, a second class city must submit a statement of annual income and expenditures approved by the governing body, as required under AS 29.20.640(a)(2);

(4) tax assessment and tax levy figures for the most recently completed annual budget cycle as required under AS 29.20.640(a)(3);

(5) a copy of the current annual budget of the municipality as required under AS 29.20.640(a)(4);

(6) as required under AS 29.20.640(a)(5), a summary of the optional property tax exemptions authorized together with the estimate of the revenues lost to the municipality by operation of each of the exemptions; and

(7) a copy of the taxpayer notices required under AS 29.45.020 and 29.45.660.

(Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

Authority: AS 29.20.640

AS 29.45.660

AS 29.60.865

AS 29.45.020

AS 29.60.850

AS 44.33.020

3 AAC 180.030(a) is amended to read:

(a) For purposes of community assistance [REVENUE SHARING] per capita payments to municipalities, reserves, and communities under AS 29.60.860, the director shall annually determine the permanent resident population of the previous calendar year for each municipality, reserve, and community in the state. No later than January 15 of each calendar year, the director shall mail to each municipality, reserve, and community the determination of the municipality's previous calendar year population.

3 AAC 180.030(b) is amended to read:

(b) The determination under (a) of this section must be based upon the following census or estimate that indicates the most recent population of the municipality, reserve, or community:

- (1) a census of the United States Bureau of the Census;
- (2) a head count census conducted in accordance with 3 AAC 180.040(c) by the municipality or reserve, or by the village council or incorporated nonprofit entity for a community [IN ACCORDANCE WITH 3 AAC 180.040(c)];
- (3) a housing unit method population estimate conducted in accordance with 3 AAC 180.040(d) by the municipality or reserve, or by the village council or incorporated nonprofit entity for a community [IN ACCORDANCE WITH 3 AAC 180.040(d)];
- (4) an estimate by the Department of Labor and Workforce Development.

Authority: AS 29.60.860 AS 44.33.020

3 AAC 180.040 is amended to read:

3 AAC 180.040. Request for adjustment of population determination. (a) A municipality or reserve, or the village council or incorporated nonprofit entity for a community, may request an adjustment of the [ITS] population determination under 3 AAC 180.030 for the municipality, reserve, or community by submitting a written request to the director, postmarked no later than April 1 of the calendar year. If a municipality or reserve, or the village council or incorporated nonprofit entity for a community, requests an adjustment under this section, the municipality, reserve, village council, or incorporated nonprofit entity shall substantiate the requested adjustment with

(1) a head count census conducted by the municipality, reserve, village council, or incorporated nonprofit entity in accordance with (c) of this section; or

(2) a housing unit method population estimate conducted by the municipality, reserve, village council, or incorporated nonprofit entity in accordance with (d) of this section.

(b) If a [MUNICIPALITY'S] request under (a) of this section is postmarked after April 1 of the calendar year, [IT WILL BE DENIED BY] the director **shall deny the request** as being untimely filed. An appeal to the commissioner regarding that denial, submitted in accordance with 3 AAC 180.050, will be accepted if the applicant shows good cause for missing the postmark deadline.

(c) For the purposes of (a)(1) of this section, a head count census must be conducted in a manner satisfactory to the division. The division shall validate the census in accordance with the standard census definitions and procedures specified by the division. The municipality, reserve,

village council, or incorporated nonprofit entity shall bear the expense of the census. The governing body of the municipality or reserve, or the governing body of a village council or incorporated nonprofit entity for a community, must

(1) pass a resolution adopting the results of the census; and

(2) [THE MUNICIPALITY MUST] provide a copy of the resolution with the census results to the division.

(d) For the purposes of (a)(2) of this section, a housing unit population estimate must be conducted in a manner satisfactory to the division. The division shall validate the estimate in accordance with standard census definitions and procedures specified by the division. The municipality, reserve, village council, or incorporated nonprofit entity shall bear the expense of the estimate. The governing body of the municipality or reserve, or the governing body of a village council or incorporated nonprofit entity for a community, must

(1) pass a resolution adopting the results of the estimate; and

(2) [THE MUNICIPALITY MUST] provide a copy of the resolution with the estimate results to the division.

(e) A municipality, reserve, village council, or incorporated nonprofit entity shall, upon request of the director, furnish available information and provide assistance requested by the director necessary to make a determination to grant or deny a [MUNICIPALITY'S] request for adjustment under (a) of this section. The director may prescribe forms containing procedures for reporting the information.

(f) The director shall, in writing, grant or deny a request for adjustment within 10 days after receipt of the request. The director's response shall include the reason for granting or

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denying the request for adjustment, and a determination of the [MUNICIPALITY'S] population determination based upon the director's decision to grant or deny the request. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; em am 3/10/2011 - 7/7/2011, Register 198; am 12/22/2017, Register 224)

Authority: AS 29.60.860 AS 44.33.020

3 AAC 180.050 is amended to read:

3 AAC 180.050. Appeal of population determination to the commissioner. (a) A municipality, reserve, village council, or incorporated nonprofit entity may appeal to the commissioner a decision of the director made under 3 AAC 180.040. The appeal must be in writing and must be postmarked within 10 days after the municipality, reserve, village council, or incorporated nonprofit entity received the written decision of the director. The appeal must include relevant evidence in support of the [MUNICIPALITY'S] claim.

(b) No later than 10 days after receipt of the appeal, the commissioner will render a decision on the appeal. Immediately following the commissioner's decision, written notification, containing a statement of the decision and the reasons for it, will be sent to the municipality, reserve, village council, or incorporated nonprofit entity.

(c) The commissioner's decision of an appeal is final.

(d) After deciding all appeals made under this section, the commissioner will certify a final [MUNICIPAL] population report on or before June 1 of that calendar year. (Eff. 5/15/2008, Register 186; em am 3/10/2011 - 7/7/2011, Register 198; am 12/22/2017, Register 224)

Authority: AS 29.60.860 AS 44.33.020

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3 AAC 180.060 is repealed:

3 AAC 180.060. Standards for payment to communities located in the unorganized borough. Repealed. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; repealed 12 / 22 / 2017, Register 224)

3 AAC 180.065 is repealed:

3 AAC 180.065. Standards for payment to reserves. Repealed. (Eff. 10/8/2008, Register 188; repealed 12 / 22 / 2017, Register 224)

3 AAC 180.070 is repealed:

3 AAC 180.070. Standards for payment on behalf of communities located within boroughs and unified municipalities. Repealed. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; repealed 12 / 22 / 2017, Register 224)

3 AAC 180.080 is amended to read:

3 AAC 180.080. Determination of most qualified entity. If [THE DIVISION DETERMINES THAT] there is more than one qualified entity within a community in the unorganized borough that will agree to receive and spend the community assistance [REVENUE SHARING] payment under AS 29.60.865, the department [DIRECTOR] shall determine which entity is to receive the payment. In making this determination, the department [DIRECTOR] shall consider factors relevant to achieving the public purpose of the payment, including

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(1) the administrative capability of each village council or incorporated nonprofit entity, including past performance on any previous grant awards, bulk fuel loans under AS 42.45.250 - 42.45.299, or any other financial aid provided by the state or federal government;

(2) for each incorporated nonprofit entity, whether the entity has articles of incorporation and a certificate of incorporation in good standing under AS 10.20;

(3) the ability of each village council or incorporated nonprofit entity to manage its debt and other finances, including whether amounts due to the United States Internal Revenue Service are timely paid;

(4) the degree to which each village council or incorporated nonprofit entity is representative of the community; and

(5) the purpose for which each village council or incorporated nonprofit entity [COMMUNITY] intends to spend the community assistance payment [REVENUE SHARING MONEY]. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

Authority: AS 29.60.865 AS 44.33.020

3 AAC 180.090 is amended to read:

3 AAC 180.090. Incorporation or dissolution of a municipality. (a) A municipality that incorporates on or before June 30 of a state fiscal year is eligible to receive a community assistance [REVENUE SHARING] payment under AS 29.60.855 and 29.60.860 the following state fiscal year.

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(b) A qualified entity under AS 29.60.865(a) located within a city in the unorganized borough may receive a community assistance [REVENUE SHARING] payment under AS 29.60.855 and 29.60.860 if

(1) the city has not qualified for a community assistance [REVENUE SHARING] payment under AS 29.60.855 and 29.60.860 for two consecutive state fiscal years; and

(2) a petition has been submitted under AS 29.06.460 to the Local Boundary Commission to initiate dissolution of the city.

(c) Payment may not be made under (b) of this section for more than two state fiscal years. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

Authority: AS 29.60.855 AS 29.60.860 AS 44.33.020

3 AAC 180.100 is amended to read:

3 AAC 180.100. Waiver for good cause. The department [COMMISSIONER] may waive a deadline in this chapter if the department [COMMISSIONER] determines there was good cause for missing the deadline and that a waiver will not unreasonably disrupt the process of administering the program under this chapter. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

Authority: AS 29.60.855 AS 29.60.860 AS 44.33.020

3 AAC 180.110 is repealed and readopted to read:

3 AAC 180.110. Determination of social unit. (a) A community under AS 29.60.879 is a social unit if

(1) the persons residing in that area are a discrete and identifiable unit based on evidence of

- (A) school enrollment;
- (B) sources of employment;
- (C) voter registration;
- (D) permanency of dwelling units; or
- (E) presence of a commercial establishment; and

(2) the geographic area in which the persons reside is proportionate in size to that number of persons; in determining whether this standard has been met, the department may consider the physical topography of the area, the use of the land, land ownership patterns, and other factors that could affect population density; an area with a population density of at least 14 persons per square mile is considered to have met this standard.

(b) Individuals residing in one or more of the following places are not a social unit under AS 29.60.879:

- (1) a place where public access or the right to reside at the location is restricted;
- (2) a place that is contiguous to a city and is dependent upon the city to the extent that it exists only because the city exists;
- (3) a place provided by an employer that is populated primarily by persons who are required to reside there as a condition of their employment. (Eff. 5/15/2008, Register 186; am

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10/8/2008, Register 188; am 12/22/2017, Register 224)

Authority: AS 29.60.865 AS 29.60.879 AS 44.33.020

3 AAC 180.120 is amended to read:

3 AAC 180.120. Preliminary and final payments. (a) Upon a finding by the department [DIRECTOR] that it is in the state's best interest, the department [DIVISION] may make preliminary community assistance [REVENUE SHARING] payments to eligible municipalities, communities [LOCATED IN THE UNORGANIZED BOROUGH], and reserves. The amount of the preliminary payment equals [SHALL EQUAL] the sum of the basic payment calculated under AS 29.60.855 [AND ONE-HALF OF THE ESTIMATED PER CAPITA PAYMENT CALCULATED UNDER AS 29.60.860].

(b) Immediately after identifying and verifying all information necessary to calculate final community assistance [REVENUE SHARING] payments, the department will [DIVISION SHALL] calculate and distribute final payments to all eligible municipalities, communities, and reserves. The amount of the final payment for each eligible municipality, community, and reserve equals [SHALL EQUAL] the difference between the amount of the total payments calculated under AS 29.60.855 and 29.60.860 and the amount distributed under (a) of this section. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

Authority: AS 29.60.855 AS 29.60.860 AS 44.33.020

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3 AAC 180.130 is amended to read:

3 AAC 180.130. Waiver of sovereign immunity. The department will not make a community assistance [REVENUE SHARING] payment under AS 29.60.855 and 29.60.860 to a village council or reserve unless the department receives, on a form approved by the Department of Law, a waiver of sovereign immunity from suit adopted by the governing body for claims related to the payment. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

Authority: AS 29.60.855 AS 29.60.865 AS 44.33.020
AS 29.60.860

3 AAC 180.140(a) is amended to read:

3 AAC 180.140. Overpayment, [AND] adjustment, and assignment. (a) If the amount that an entity receives under this chapter exceeds the amount that the entity [APPLICANT] is entitled to receive under AS 29.60.855 and 29.60.860 [DURING AN ALLOCATION YEAR], the department will either request the entity to return the excess to the state or will reduce the entity's payment for the next distribution [ALLOCATION YEAR] by the difference between the amount received and the amount that the entity was entitled to receive.

3 AAC 180.140(b) is amended to read:

(b) If the department [COMMISSIONER] determines that it is in the best interests of the state and the entity involved, the department [COMMISSIONER] may extend the adjustment period over three [ALLOCATION] years.

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3 AAC 180.140 is amended by adding a new subsection to read:

(d) If a loss of services essential to the public health and safety is imminent, an entity receiving community assistance payments may assign any portion of the current year program payment directly to a third party approved by the commissioner. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12 22 /2017, Register 224)

Authority: AS 29.60.855 AS 29.60.860 AS 44.33.020

3 AAC 180.900 is amended to read:

3 AAC 180.900. Definitions. In this chapter, unless the context requires otherwise,

(1) ["ALLOCATION YEAR" MEANS THE STATE FISCAL YEAR FOR WHICH AN APPROPRIATION IS MADE BY THE LEGISLATURE FOR DISTRIBUTION OF COMMUNITY REVENUE SHARING PAYMENTS AND IMMEDIATELY FOLLOWS THE COMPUTATION YEAR;

(2)] "commissioner" means the commissioner of commerce, community, and economic development;

(2) [(3)] "community" has the meaning given [MEANS AN ENTITY DEFINED] in AS 29.60.879 [AS 29.60.879(1)];

(3) [(4)] "COMPUTATION YEAR" MEANS THE STATE FISCAL YEAR IN WHICH THE DIVISION CALCULATES COMMUNITY REVENUE SHARING PAYMENTS FOR DISTRIBUTION IN THE ALLOCATION YEAR;

(5)] "department" means the Department of Commerce, Community, and Economic Development;

(4) [(6)] "director" means the director of the **departmental** division **responsible for** [OF] community and regional affairs;

(5) [(7)] "division" means the **departmental** division [WITHIN THE DEPARTMENT] responsible for community and regional affairs;

(6) "entity" means a municipality, reserve, community, village council, or incorporated nonprofit entity;

(7) [(8)] "governing body" means

(A) the assembly or council for a municipality [DEFINED UNDER AS 29.71.800(13)];

(B) the council for a reserve defined in **AS 29.60.879** [AS 29.60.879(2)];

(C) the council for a Native village council; or

(D) the board of directors for an incorporated nonprofit entity;

(8) [(9)] "municipality" **has the meaning given** [MEANS AN ENTITY DEFINED] in **AS 29.71.800** [AS 29.71.800(13)];

(9) [(10)] "permanent resident" means a person whose primary place of residence is within the corporate limits of a municipality or community;

(10) [(11)] "primary place of residence" means the place where a **person** [PERSONS] sleeps on a weekly basis; if a person has more than one residence, "primary place of residence" means the place where the person sleeps more often during the calendar year;

(11) [(12)] "public purpose" means a purpose the objective of which is to promote the public health, safety, and general welfare of the residents of a municipality, community, or reserve in the state;

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(12) [(13)] "village council" means

(A) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(B) a traditional village council recognized by the United States as eligible for federal aid to Indians; or

(C) a council recognized by the commissioner under 3 AAC 190.110 - 3 AAC 190.150. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am

12/22/2017, Register 224)

Authority:	<u>AS 29.60.850</u>	<u>AS 29.60.860</u>	AS 44.33.020
	<u>AS 29.60.855</u>	<u>AS 29.60.865</u>	AS 29.60.879

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: November 22, 2017

File No.: JU2017200192

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Department of Commerce,
Community, and Economic
Development regulations re:
community assistance payment
program (3 AAC 180)

We have reviewed the attached regulations from the Department of Commerce, Community, and Economic Development against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated November 21, 2017 from the Regulations Attorney. Reflecting amendments under ch. 44, SLA 2016 to AS 29.60.850 - 29.60.879, to replace community revenue sharing with the community assistance program, the regulations update procedures and requirements for payments under the program to municipalities, reserves, and communities.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2017200192

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The June 26, 2017 public notice, the August 11, 2017 supplemental public notice, and the November 17, 2017 adoption order all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

SCW

cc w/enc: (via email)

Hon. Mike Navarre, Commissioner
Department of Commerce, Community, and Economic Development

Micaela Fowler, Regulations Contact
Department of Commerce, Community, and Economic Development

Katherine Eldemar, Director
Division of Community and Regional Affairs
Department of Commerce, Community, and Economic Development

Melissa V. Taylor
Division of Community and Regional Affairs
Department of Commerce, Community, and Economic Development

Iura S. Leahu
Division of Community and Regional Affairs
Department of Commerce, Community, and Economic Development

Thomas A. Dosik, Assistant Attorney General
Labor and State Affairs Section

Mary Lynn Macsalka, Assistant Attorney General
Labor and State Affairs Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: November 21, 2017

FILE NO.: JU2017200192

TELEPHONE NO.: (907) 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Department of Commerce,
Community, and Economic
Development regulations re:
community assistance payment
program (3 AAC 180)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General and
Assistant Regulations Attorney
Legislation/Regulations Section

**NOTICE OF PROPOSED CHANGES TO THE COMMUNITY ASSISTANCE
PROGRAM IN THE REGULATIONS OF THE DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT**

The Department of Commerce, Community, and Economic Development proposes to adopt regulation changes in 3 AAC 180.010 - 3 AAC 180.900 of the Alaska Administrative Code dealing with the community assistance payment program, including the following:

- (1) 3 AAC 180.010 – 900 are proposed to be amended to implement Senate Bill 210 wording changes concerning the former community revenue sharing payment program under AS 29.60.850 – 29.60.879; the amendment substitutes “assistance” for “revenue sharing” throughout the entire chapter.
- (2) 3 AAC 180.010 is proposed to be repealed and reenacted to clarify the application requirements for receiving community assistance payments by municipalities, reserves, and communities; to repeal the requirements dealing with municipal elections, meeting of governing bodies and codification of local codes by municipalities; to add recordkeeping requirements for receipts and expenditures of community assistance payments; and to allow the use of electronic mail for submission of applications and administration of the program.
- (3) 3 AAC 180.020 is proposed to be repealed and reenacted to list all the requirements concerning annual reports that must be filed by municipalities with the department in order to receive a payment.
- (4) 3 AAC 180.030 is proposed to be repealed and reenacted to streamline the population determination process by the department, which will continue to use the most recent population estimates released by the Department of Labor and Workforce Development. The proposed changes eliminate the following: the process to follow in determining population estimates by the department; the head count census and housing unit methods used by entities when there is conflict between or among the population results; and appeal to the commissioner when population numbers are in conflict.
- (5) 3 AAC 180.040 is proposed to be repealed in order to remove the requirement of requesting for adjustment of population determination at the request of a municipality.
- (6) 3 AAC 180.050 is proposed to be repealed to remove appeal of population determination to the commissioner by municipalities.
- (7) 3 AAC 180.060 is proposed to be repealed to remove the following: requirement to hold at least one public meeting regarding use of community assistance payment. The requirement to dedicate the payment for a public purpose and provide a service or facility available to every person in the community are proposed to be added to the proposed 3 AAC 180.010.

- (8) 3 AAC 180.065 is proposed to be repealed to remove the following: the requirement to submit to the department an annual audit. Audit requirements are covered in proposed 3 AAC 180.010 and 3 AAC 180.020.
- (9) 3 AAC 180.070 is proposed to be repealed. The requirements for payments on behalf of communities located within boroughs or unified municipalities have been moved to proposed 3 AAC 180.010.
- (10) 3 AAC 180.080 is proposed to be amended to substitute “department” for “commissioner;” to fix a clerical error by replacing “nonprofit entity” for “community” and to add past performance on “bulk fuel loans under AS 42.45.250 – 42.45.299, or any other financial aid provided by the state or federal government to the factors the department will consider when determining the most qualified entity to receive a community assistance payment.
- (11) 3 AAC 180.090 is amended to substitute “assistance” for “revenue sharing.”
- (12) 3 AAC 180.100 is amended to substitute “department” for “commissioner.”
- (13) 3 AAC 180.110 is proposed to be repealed and reenacted in order to clarify which communities are considered a social unit and which are not.
- (14) 3 AAC 180.120 is amended to substitute “department” for “director” and “assistance” for “revenue sharing.”
- (15) 3 AAC 180.130 is amended to substitute “assistance” for “revenue sharing.”
- (16) 3 AAC 180.140 is proposed to be amended to add the word “assignment” to the section heading, to substitute “applicant” for “entity” and “department” for “commissioner,” and to add a new subsection dealing with assignment of community assistance payments to a third party when the loss of services essential to the public health and safety of municipality, reserve or community is imminent.
- (17) 3 AAC 180.900 is proposed to be amended to remove the definitions of “allocation year,” “computation year,” “director,” and “division,” and to add and define “entity.”

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 Iura S Leahu, Department of Commerce, Community, and Economic Development, Attn: CAP Regulations Review, P.O. 110809, Juneau, AK, 99801-0809. Additionally, the Department of Commerce, Community, and Economic Development will accept comments by facsimile at 907-465-4761 and by electronic mail at iura.leahu@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 p.m. on July 31, 2017.

These regulation changes were previously noticed via the Alaska Online Public Notice System on June 14, 2017. If you submitted comments in response to the June 14, 2017, notice, the department will consider those comments and you do not need to resubmit your comments if you have no changes or additions to your comments.

You may submit written questions relevant to the proposed action to Iura S Leahu by email at iura.leahu@alaska.gov or at the Department of Commerce, Community, and Economic Development, DCRA, Attn: CAP Regulations Review, P.O. Box 110809, Juneau, AK 99801-0809. The questions must be received at least 10 days before the end of the public comment period. The department will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the website of the Division of Community and Regional Affairs at <https://www.commerce.alaska.gov/web/dcra/>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Iura S Leahu at email iura.leahu@alaska.gov or at 907-465-4814 not later than July 25, 2017, at 4:30p.m. to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>, on the website of the Division of Community and Regional Affairs at <https://www.commerce.alaska.gov/web/dcra/> and by contacting Iura S Leahu at email iura.leahu@alaska.gov and phone number 907-465-4814.

After the public comment period ends, the Department of Commerce, Community, and Economic Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 08.04; AS 10.20; AS 29.20.640; AS 29.45.020; AS 29.45.660; AS 29.60.850; AS 29.60.855; AS 29.60.860; AS 29.60.865; AS 29.60.879; AS 29.71.800; AS 44.33.020.

Statutes being implemented, interpreted, or made specific: AS 29.60.850 – 29.60.879.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: June 23, 2017



Katherine Eldemar, Director
Division of Community and Regional Affairs
Department of Commerce, Community, and
Economic Development

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES TO COMMUNITY ASSISTANCE
PAYMENT PROGRAM IN THE REGULATIONS OF THE DEPARTMENT OF
COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

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This is a **SUPPLEMENTAL NOTICE** adding to the **NOTICE OF PROPOSED CHANGES** issued on June 14, 2017, and June 26, 2017 concerning these proposed regulation revisions. This **SUPPLEMENTAL NOTICE** is being issued because the department has decided to extend the written comment period on those proposed revisions. If you previously submitted written comments under the June 14, 2017, or June 26, 2017, **NOTICE OF PROPOSED CHANGES**, you need not resubmit those comments under this notice as those comments are part of the record and will be considered by the department.

You may comment on the proposed regulation changes, including the potential cost to private persons of complying with the proposed changes, by submitting written comments to Iura S. Leahu at Department of Commerce, Community, and Economic Development, DCRA, Attn: CAP Regulations Review, P.O. Box 110809, Juneau, AK 99801-0809. Additionally, the Department of Commerce, Community, and Economic Development will accept comments and questions by facsimile at 907-465-4814 and by electronic mail at iura.leahu@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. **The comments must be received not later than 4:30 pm August 25, 2017.**

You may submit written questions relevant to the proposed action by email to iura.leahu@alaska.gov or at the Department of Commerce, Community, and Economic Development, DCRA, Attn: CAP Regulations Review, P.O. Box 110809, Juneau, AK 99801-0809. **The questions must be received at least 10 days before the end of this extended public comment period.** The department will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the website of the Division of Community and Regional Affairs at <https://www.commerce.alaska.gov/web.dera/>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Iura S. Leahu at iura.leahu@alaska.gov or at 907-465-4814 not later than August 18, 2017, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System, on the website of the Division of Community and Regional Affairs at <https://www.commerce.alaska.gov/web.dera/> and by contacting Iura S. Leahu at email iura.leahu@alaska.gov or at 907-465-4814.

After the public comment period ends, the Department of Commerce, Community, and Economic Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 08.04; AS 10.20; AS 29.20.640; AS 29.45.020; AS 29.45.660; AS 29.60.850; AS 29.60.855; AS 29.60.860; AS 29.60.865; AS 29.60.879; AS 29.71.800; AS 44.33.020.

Statutes being implemented, interpreted, or made specific: AS 29.60.850 - 29.60.879.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: August 10, 2017

Melissa Taylor, Deputy Director
Division of Community and
Regional Affairs, Department of
Commerce, Community, and Economic
Development

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Commerce, Community, and Economic Development
2. General subject of regulation: Community Assistance Program f/k/a Community Revenue Share Program
3. Citation of regulation (may be grouped): 3 AAC 180.010 - 3 AAC 180.900
4. Department of Law file number, if any: JU2017200192

5. Reason for the proposed action:

() Compliance with federal law or action (identify): _____
(X) Compliance with new or changed state statute
() Compliance with federal or state court decision (identify): _____
(X) Development of program standards
() Other (identify): _____

6. Appropriation/Allocation: none

7. Estimated annual cost to comply with the proposed action to:

A private person: none
Another state agency: none
A municipality: none

8. Cost of implementation to the state agency and available funding (in thousands of dollars): The cost associated with the administration of the community assistance payment program will continue to be paid from the Division of Community and Regional Affairs (DCRA), which is housed in the Department of Commerce, Community, and Economic Development (DCCED), as it has been under the community revenue sharing program and the cost to DCRA of implementation of changes made to the current regulations will not increase.

	Initial Year FY _____	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>

1004 General fund	\$ 0	\$ 0
1005 General fund/program	\$ 0	\$ 0
Other (identify)	\$ 0	\$ 0

9. The name of the contact person for the regulation:

Name: Iura S Leahu

Title: Local Government Specialist III

Address: Department of Commerce, Community, and Economic Development, DCRA,

Attn: CAP Regulations Review, P.O. Box 110809, Juneau, AK 99801-0809

Telephone: 907-465-4814

E-mail address: iura.leahu@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency

☐ Federal government

☐ General public

☐ Petition for regulation change

☐ Other:

11. Date: 06/23/17

Prepared by: 

[Signature]

Name: Katherine Eldemar, Director

Title: Director, Division of Community and Regional
Affairs, DCCED

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

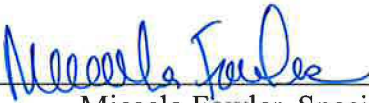
I, Micaela Fowler, Special Assistant to the Commissioner of the Department of Commerce, Community, and Economic Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 180.010 – .900, regulations regarding the community assistance payment program has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Community and Regional Affairs Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

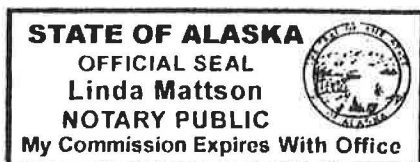
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.


Date: October 4, 2017



Micaela Fowler, Special Assistant

Subscribed and sworn to before me at Juneau, Alaska, on October 4, 2017.





Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Micaela Fowler, Special Assistant to the Commissioner of the Department of Commerce, Community, and Economic Development, being duly sworn, state the following:

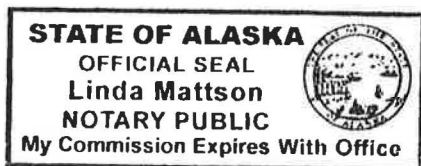
In compliance with AS 44.62.215, the Department of Commerce, Community, and Economic Development has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Commerce, Community, and Economic Development regulation on the community assistance payment program.

Date: October 4, 2017

Micaela Fowler

Micaela Fowler, Special Assistant

Subscribed and sworn to before me at Juneau, Alaska on October 4, 2017.



Linda Mattson

Notary Public in and for the State of Alaska

270228
0001408962
\$819.23

AFF

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin
being first duly sworn on oath depose
says that he/she is a representative of
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska.
It is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy
of an advertisement as it was published
in regular issues (and not in supplement
form) of said newspaper on

August 11, 2017

and that such newspaper was regularly
distributed to its subscribers during all
said period. That the full amount of the
charge for the foregoing publication is
in excess of the rate charged private
individuals.

Signed

Joleesa Stepetin

Subscribed and sworn to before me
this 14th day of August, 2017

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

2/23/2019

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES TO COMMUNITY ASSISTANCE PAYMENT PROGRAM IN THE
REGULATIONS OF THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

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Published: August 3, 9, 11, 2017

ANNEX BUILDING	A4021	588.20
SIOKAPESI TALIAI	A4062	415.20
JENNIFER MEBBIUS	A4082	757.00
MARK KON	A4020	1009.20
SHARLENE TOWNSEND		
DANIEL MCCLURE JR	1030	
DANIEL WILLEY	2020	
DAN OZENNA	2042	
ALEX MANGROBANG	3088	
STEPHANIE ADAMS	3089	
Amount Due		374.00
		600.00
		990.80
		738.00
		1103.60

Tudor Self Storage/Best Storage on Tudor
3521 E. Tudor Rd, Anchorage
A public auction of contents being stored for or by the following
persons will be held on Saturday, August 12th, 2017 at 1 pm, to satisfy
lien for storage fees.

BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

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Recreation**

**Airplanes
7025**

1964 Piper Super Cub, PA18. 160 horse. 4,555 total time. Most AK mods. Bore prop. 31 in bush wheels. Plane restored 2011. \$100k
2000 Edo floats: \$8K. Located in Washington 206-953-7084

Beautiful Super Cub For Sale By Owner 1960 Piper PA 18-150 Super Cub, 2390TT 128SMOH, Garmin GNC 255, GMA 340, GTX 327; Cub Crafters instrument panel, headliner and vortex gen., fresh annual, clean, kept in private hangar, all logs, lives in sunny South Texas, marsletta@aol.com 956-592-5711 \$124,390 marsletta@aol.com, 956-592-5711

For Sale: PA-11, non-electric, 135hrs, ext. allons w/Hendrix tips, stalls at 20mph. 1320 floats w/dual rudders, 2K Landis skis, 25x11x4 tires cub gear. 36g tank, 832lbs empty. Jim 696-2163, \$65K.

The New York Times Crossword

ACROSS

- 1 With 43- and 76-Across, camping aid
6 1950s prez
9 Place to play the slots
15 Veranda
16 They're "Red" in Boston and "White" in Chicago
17 Third-party account
18 "S.N.L." alum Cheri
19 Homie
20 Heroin or Vicodin
21 One function of 1-/43-/76-Across
23 Double curves,

- 34 "___ before beauty"
37 Insect in a colony
39 Maple syrup source
40 "Purple ___" (Prince hit)
41 Medicare drug benefit
43 See 1-Across
45 Band that made Justin Timberlake famous
46 Cole ___ (side dish)
47 "___-la-la"
48 Sign of a sellout
50 Sault ___ Marie, Mich.
51 Otherwise

- 62 Fad
65 One function of 1-/43-/76-Across
67 "I'd be delighted"
69 12 months, in Tijuana
70 Pong game maker
71 Chef Lagasse
72 ___ de Janeiro
73 Arrested
74 Came clean, with "up"
75 Concorde, for short
76 See 1-Across

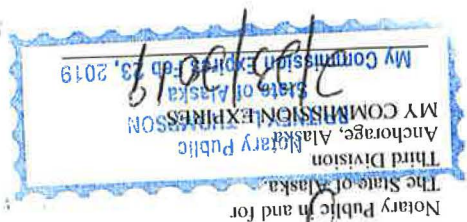
DOWN

1 "Mr." on the
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AFFIDAVIT OF PUBLICATION

270228
#1406887
\$766.94



Anthony Thompson

20 17

me this 26 day of September
Subscribed and sworn to before

Signed *Justa Stepet*

the rate charged private individuals.
publication is not in excess of
the fee charged for the foregoing
period. That the full amount of
subscribers during all of said
regularly distributed to its
and that such newspaper was

June 26, 2017

of said newspaper on
(and not in supplemental form)
was published in regular issues
a copy of an advertisement as it
newspaper. That the annexed is
place of publication of said
office maintained at the aforesaid
all said time was printed in an
Alaska, and it is now and during
daily newspaper in Anchorage,
English language continually as a
and has been published in the
Anchorage, Alaska, and it now
by the Third Judicial Court,
newspaper has been approved
daily newspaper. That said
Alaska Dispatch News, a
a representative of the
deposes and says that she is
being first duly sworn on oath
Joleesa Stepetin

STATE OF ALASKA
THIRD JUDICIAL DISTRICT