

Byron Mallott
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Jolene Julian
Department of Transportation and Public Facilities

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: April 28, 2017

RE: Filed Permanent Regulations: Department of Transportation and Public Facilities

Department of Transportation and Public Facilities regulations establishing fees for
after-hours services at rural airports (17 AAC 45.035)

Attorney General File:	JU2017200089
Regulation Filed:	4/28/2017
Effective Date:	5/28/2017
Print:	222, July 2017

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

ORDER ADOPTING CHANGES TO REGULATIONS
OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

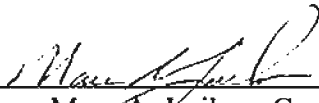
The attached two pages of regulations, dealing with 17 AAC 45.035 After Hours Requests for Airport Services, are adopted and certified to be a correct copy of the regulation changes that the Alaska Department of Transportation and Public Facilities adopts under the authority of AS 02.10.010; AS 02.15.020; AS 02.15.060; AS 02.15.090; AS 02.15.160; AS 02.15.200; AS 44.42.020 and AS 44.42.030, 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.

Although only one public comment was received, the Alaska Department of Transportation and Public Facilities 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.

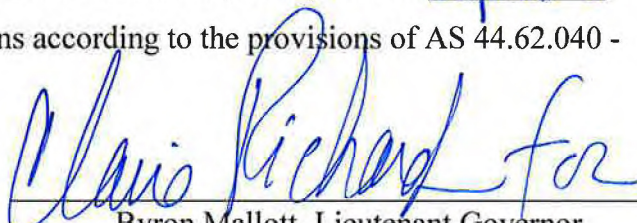
Date: April 12, 2017



Marc A. Luiken, Commissioner

Claire Richardson for FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on April 28, 2017, at 3:46 pm., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: May 28, 2017

Register: 222, July 2017

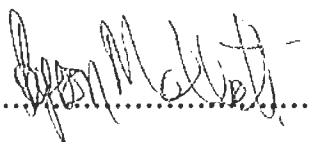
FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**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**

17 AAC 45 is amended to add a new section to read:

17 AAC 45.035. After hours requests for airport services.

The department will grant

(a) To request that the department provide services at an airport outside of that airport's normal operating hours, an air carrier must submit the request to the airport manager or designee, in writing on a form supplied by the department, at least 24 hours before the requested service.

lowercase A request will only be granted if personnel and resources are available. The department may grant a request made with less than 24 hours' notice; however, late notice may hinder the department's ability to provide service.

For a

(b) Runway inspections requested in accordance with subsection (a) will include an updated condition report and bill the inspection will be billed at \$1,000. If the operation exceeds four hours, an additional charge of \$250 per hour will be charged for any additional hours.

(c) Snow and ice removal requested in accordance with of this section subsection (a) will be billed at an hourly rate of \$1,000.

(d) If an air carrier amends a landing permit to delay the air carrier's which delays its operation 15 minutes or more past the airport's normal operating hours, a charge of \$250 per hour will be billed to the air carrier.

A (e) Requests for service in accordance with of this section subsection (a) due to an extra section or non-scheduled flight that will require Aircraft Rescue and Fire Fighting outside of an airport's normal operating hours will be billed at \$1,000. If the operation exceeds four hours, an additional charge of \$250 per hour will be charged for any additional hours.

(f) If two or more air carriers request services under this section that overlap for some period of time at the same airport, the department will make reasonable efforts to offer cost sharing.

Register 222, July, 20 17 TRANSP. AND PUBLIC FACILITIES

(g) The following aircraft 7(1) are exempt from the charges in (b) - (e) of this section: aircraft operating outside of an airport's normal operating hours that do not require services from the department; 7(2) aircraft owned or operated by the state or the United States government; 7(3) aircraft on emergency medical transportation flights.

(Eff. 5/28/2017 Register 228)

Authority:
((bold))

AS 02.15.020

AS 02.15.060

AS 44.42.020

AS 44.42.030

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: April 28, 2017

File No.: JU2017200089

Tel. No.: 465-3600

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

Re: Department of Transportation and
Public Facilities regulations
establishing fees for after-hours
services at rural airports (17 AAC
45.035)

We have reviewed the attached regulations from the Department of Transportation and Public Facilities against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated April 28, 2017 from the Regulations Attorney. The regulations establish fees for after-hours services at rural airports.

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.

The February 19, 2017 public notice and the April 12, 2017 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2017200089

April 28, 2017
Page 2

We have made some technical corrections to the regulations, in accordance with AS 44.62.125 and as shown on the attached copy.

SCW

cc w/enc: (via email)

Hon. Marc Luiken, Commissioner
Department of Transportation and Public Facilities

Jolene Julian, Regulations Contact
Department of Transportation and Public Facilities

John R. Binder III, Deputy Commissioner
Alaska International Airport System
Department of Transportation and Public Facilities

Richard Sewell
Division of Statewide Aviation
Department of Transportation and Public Facilities

Lindsey S. Holmes, Assistant Attorney General
Transportation Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: April 28, 2017

FILE NO.: JU2017200089

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 Transportation and
Public Facilities regulations
establishing fees for after-hours
services at rural airports (17 AAC
45.035)

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—Juneau

NOTICE OF PROPOSED CHANGES ON AFTER HOURS REQUESTS FOR AIRPORT SERVICES
IN THE REGULATIONS OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC
FACILITIES

BRIEF DESCRIPTION

The Alaska Department of Transportation and Public Facilities proposes to adopt regulations to implement After Hours Requests for Airport Services.

The Alaska Department of Transportation and Public Facilities proposes to adopt regulation changes in Title 17 of the Alaska Administrative Code, dealing with Chapter 45 Rural Airports, related to After Hours Requests for Airport Services, including the following: a new section, 17 AAC 45.035, will be added implementing fees and process at rural airports for After Hours Requests for Airport Services.

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 Rich Sewell, Aviation Policy Planner, Alaska Department of Transportation and Public Facilities, P.O. Box 196900, Anchorage Alaska 99519-6900. Additionally, the Alaska Department of Transportation and Public Facilities will accept comments by facsimile at 907-269-0489 and by electronic mail at StatewideAviation@alaska.gov. The comments must be received no later than 5:00 p.m. ADT on April 4, 2017.

Oral or written comments also may be submitted at hearings to be held on March 6, 2017 in the Central Region Main Conference Room, Alaska Dept. of Transportation and Public Facilities, 4111 Aviation Avenue, Anchorage AK, and to be held on March 7, 2015, in the Northern Region Main Conference Room, Alaska Dept. of Transportation and Public Facilities, 2301 Peger Road, Fairbanks AK, and to be held on March 10, 2017, in the first floor conference room, Alaska Dept. of Transportation and Public Facilities at 3 Mile Road in Juneau, AK. The hearings will be held from 3:00 p.m. to 5:00 p.m. at Anchorage, from 3:00 p.m. to 5:00 p.m. at Fairbanks, and 10:00 a.m. to noon at Juneau, and might be extended to accommodate those present before indicated end times who did not have time to comment.

You may submit written questions relevant to the proposed action to Rich Sewell, Aviation Policy Planner, Alaska Department of Transportation and Public Facilities, P.O. Box 196900, Anchorage Alaska 99519-6900, or by email to StatewideAviation@alaska.gov. The questions must be received at least 10 days before the end of the public comment period, no later than 5:00pm ADT on March 25, 2017. The Alaska Department of Transportation and Public Facilities will aggregate its response to substantially similar questions and make the questions and response available on Alaska Online Public Notice System. The Alaska Department of Transportation and Public Facilities may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Rich Sewell at (907) 269-0725 or by email at StatewideAviation@alaska.gov no later than February 28, 2017 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Rich Sewell, Aviation Policy Planner at the mailing address or telephone number above. Or you may obtain an electronic copy of the proposed regulations at the webpage http://dot.alaska.gov/stwdav/documents/after_hours_draft_regulations.pdf

After the public comment period ends, the Alaska Department of Transportation and Public Facilities 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 regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.** Written comments received are public records and are subject to public inspection.

Statutory Authority: AS 02.10.010; AS 02.15.020; AS 02.15.060; AS 02.15.090; AS 02.15.160; AS 02.15.200; and AS 44.42.030.

Statutes Being Implemented, Interpreted, or Made Specific: AS 02.10.010; AS 02.15.060; AS 02.15.090; AS 02.15.160; AS 02.15.200; and AS 44.42.020.

Fiscal Information: The proposed regulation changes required fee for service payments to the State of Alaska, and may require an increased appropriation to the department to cover the additional services paid for by the requesting air carriers. At the present time it is impossible to estimate how often after hours services might be requested because the unknowable nature of future weather conditions.

DATE: February 16, 2017

/S/

John R. Binder III, Deputy Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION

(AS 44.62.190(d))¹

1. Adopting agency: Department of Transportation and Public Facilities
2. General subject of regulation: Requests of unbudgeted airport services
3. Citation of regulation (may be grouped): 17 AAC 45.035
4. Department of Law file number, if any: _____

5. Reason for the proposed action:

- () Compliance with federal law or action (identify): _____
- () Compliance with new or changed state statute
- () Compliance with federal or state court decision (identify): _____
- () Development of program standards
- (X) Other (identify): Allows rural airports to meet unbudgeted service requests.

6. Appropriation/Allocation: Central Region Highways and Aviation, Northern Region Highways and Aviation, Southcoast Highways and Aviation.

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

A private person: \$250.00 to \$1,000.00 per hour depending on the scope of the request.

Another state agency: 0.00

A municipality: 0.00

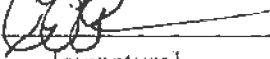
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 0 _____	Subsequent Years
Operating Cost	\$ _____ 0	\$ _____ 0
Capital Cost	\$ _____ 0	\$ _____ 0
1002 Federal receipts	\$ _____ 0	\$ _____ 0
1003 General fund match	\$ _____ 0	\$ _____ 0
1004 General fund	\$ _____ 0	\$ _____ 0
1005 General fund/ program	\$ _____ 0	\$ _____ 0
Other (identify)	\$ _____ 0	\$ _____ 0

Name: Rich Sewell
Title: Transportation Planner
Address: 4111 Aviation Avenue
Telephone: 907 269-0725
E-mail address: rich.sewell@alaska.gov

10. The origin of the proposed action:

☐ Staff of state agency
☐ Federal government
☐ General public
☐ Petition for regulation change
☒ Other (identify): Requests from airport users for unbudgeted services

11. Date: 2/17/2017 Prepared by: 
[signature]

Name (printed): Troy LaRue C.M.
Title (printed): Division Operations Manager
Telephone: 907 269-0730

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

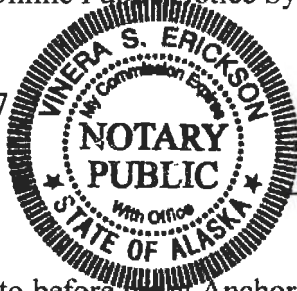
I, Richard Sewell, Transportation Planner I, of the Alaska Department of Transportation and Public Facilities, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 17 AAC 45.035 After hours requests for airport services 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 Transportation Committees 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: March 10, 2017



Richard Sewell

Richard Sewell, Transportation Planner I

Subscribed and sworn to before me at Anchorage, Alaska on March 10, 2017

Vinera S Erickson

Notary Public in and for the State of Alaska

[NOTARY SEAL]

AFFIDAVIT OF ORAL HEARINGS

I, Troy LaRue, Division Operations Manager, of the Division of Statewide Aviation, Alaska Department of Transportation and Public Facilities, being sworn, state the following:

On March 6, 2017 at 3:00 pm to 5:00 pm in the Central Region Main Conference Room, Alaska Department of Transportation and Public Facilities, 4111 Aviation Avenue, Anchorage, Alaska; and

on March 7, 2017 at 3:00 p.m. to 5:00 p.m. in the Northern Region Main Conference Room, Alaska Department of Transportation and Public Facilities, 2301 Peger Road, Fairbanks, Alaska; and

on March 10, 2017 at 10:00 a.m. to noon in the first floor conference room at the Alaska Department of Transportation and Public Facilities, 3 Mile Road building, Juneau, Alaska

I presided over three public hearings held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 17 ACC 45.035 After Hours Requests for Airport Services.


Date: March 13, 2017



Troy LaRue, Division Operations Manager

Subscribed and sworn to before me at Anchorage, Alaska on March 13, 2017





Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Richard E. Sewell, Transportation Planner I for the Alaska Department of Transportation and Public Facilities, being duly sworn, state the following:

In compliance with AS 44.62.215, the Alaska Department of Transportation and Public Facilities 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 Alaska Department of Transportation and Public Facilities' regulation on 17 AAC 45.035 After hours requests for airport services.

The Alaska Department of Transportation and Public Facilities did not receive any factual or other substantive information that was submitted orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alaska Department of Transportation and Public Facilities' regulation on 17 AAC 45.035 After hours requests for airport services.

Date: April 7, 2017



Richard E. Sewell, Transportation Planner I

Subscribed and sworn to before me at Anchorage, Alaska on April 7, 2017.



Notary Public in and for the State of Alaska

[NOTARY SEAL]



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\$801.80

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

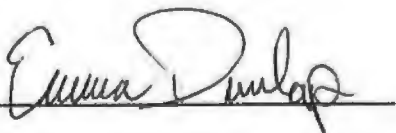
Emma Dunlap

being first duly sworn on oath deposes and says that he/she is a representative of the 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, and 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 supplemental form) of said newspaper on

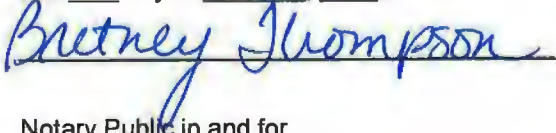
February 19, 2017, February 20, 2017

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

Signed



Subscribed and sworn to before me
this 20th day of February, 2017



Notary Public in and for

The State of Alaska.

Third Division

Anchorage, Alaska

MY COMMISSION EXPIRES

Notary Public
BRITNEY L. THOMPSON

State of Alaska

Commission Expires Feb 23, 2019

NOTICE OF PROPOSED CHANGES ON AFTER HOURS REQUESTS FOR AIRPORT SERVICES IN THE REGULATIONS OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

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Statutory Authority: AS 02.10.010; AS 02.15.020; AS 02.15.060; AS 02.15.090; AS 02.15.160; AS 02.15.200; and AS 44.42.030.

Statutes Being Implemented, Interpreted, or Made Specific: AS 02.10.010; AS 02.15.060; AS 02.15.090; AS 02.15.160; AS 02.15.200; and AS 44.42.020.

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

DATE: February 17, 2017

/s/
John R. Binder III, Deputy Commissioner

Published: February 19 & 20, 2017