

Valerie Nurr'araaluk Davidson
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
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Anchorage, Alaska 99501
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Becky Weimer
Department of Labor and Workforce Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: October 26, 2018

RE: Filed Permanent Regulations: Department of Labor and Workforce Development
Department of Labor and Workforce Development Regulations re: Wage scale, board
and lodging (8 AAC 30.050, .051 - .056, .900)

Attorney General File:	2018200748
Regulation Filed:	10/26/2018
Effective Date:	11/25/2018
Print:	228, January 2019

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

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

The attached 4 pages of regulations, dealing with board and lodging and per diem on public construction projects, are adopted and certified to be a correct copy of the regulation changes that the Department of Labor and Workforce Development adopts under the authority of AS 23.05.060, AS 23.10.060, AS 23.10.085, AS 23.10.360, AS 36.05.030, AS 36.10.075 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 Labor and Workforce 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: October 8, 2018



Heidi Drygas, Commissioner
Department of Labor and Workforce Development



FILING CERTIFICATION

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

October 26, 2018, at 12:37 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: November 25, 2018.

Register: 229, January, 2019.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, VALERIE NURR'ARAALUK DAVIDSON, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

**Claire Richardson
Scott Meriwether
April Simpson
Kady Levale**

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Anchorage, on October 24, 2018.




.....
**VALERIE NURR'ARAALUK DAVIDSON
LIEUTENANT GOVERNOR**

8 AAC 30.050(a) is amended to read:

(a) The department will determine the prevailing wage rate to be paid laborers, mechanics, and field surveyors. **The department will publish this** [THIS] determination [WILL BE PUBLISHED BY THE DEPARTMENT] in the pamphlet *Laborers' and Mechanics' Minimum Rates of Pay*. **The department will periodically revise the prevailing** [Prevailing] wage rates [WILL BE PERIODICALLY REVISED BY THE DEPARTMENT], on a regional basis, to correspond with the prevailing wage rate for similar work.

(Eff. 7/8/73, Register 47; am 7/30/82, Register 83; am 8/9/2001, Register 159; am 3/2/2008, Register 185; am 11 / 25 / 2018, Register 228)

Authority: AS 36.05.010 AS 36.05.030 AS 36.05.070

8 AAC 30 is amended by adding new sections to article 2 to read:

8 AAC 30.051. Purpose. The purpose of 8 AAC 30.052 – 8 AAC 30.056 is to ensure that wages paid to laborers, mechanics, and field surveyors do not fall below the prevailing rate of pay.

8 AAC 30.052. Board and lodging; remote sites. (a) A contractor on a public construction project located 65 or more road miles from the international airport closest to the project area in either Fairbanks, Juneau, or Anchorage, or that is inaccessible by road in a two-wheel drive vehicle, shall provide adequate board and lodging to each laborer, mechanic, or field surveyor while the person is employed on the project. If commercial lodging facilities are not available, the contractor shall provide temporary lodging facilities. Lodging facilities must

comply with all applicable state and federal laws. For a highway project, the location of the project is measured from the midpoint of the project.

(b) A contractor is not required to provide board and lodging:

(1) to a laborer, mechanic, or field surveyor who is a domiciled resident of the project area; or

(2) on a laborer, mechanic, or field surveyor's scheduled days off, when the person can reasonably travel between the project and the person's permanent residence; for the purposes of this paragraph, "scheduled day off" means a day in which a person does not perform work on-site, is not required to remain at or near the job location for the benefit of the contractor, and is informed of the day off at least seven days before the day off.

(c) Upon a contractor's written request, the commissioner may waive the requirements of (a) of this section where:

(1) the project is inaccessible by road in a two-wheel drive vehicle, but the laborer, mechanic, or field surveyor can reasonably travel between the project and the person's permanent residence within one hour; or

(2) a laborer, mechanic, or field surveyor is not a domiciled resident of the project area, but has established permanent residence, with the intent to remain indefinitely, within 65 road miles of the project, or for a highway project, the mid-point of the project. (Eff.

11/25/2018, Register 228)

Authority: AS 23.05.060 AS 36.05.030 AS 36.10.075
AS 36.05.010

8 AAC 30 is amended by adding a new section to read:

8 AAC 30.054. Per diem instead of board and lodging. (a) A contractor may pay a laborer, mechanic, or field surveyor per diem instead of providing board and lodging, when the following conditions are met

(1) the department determines that per diem instead of board and lodging is an established practice for the work classification; the department shall publish and periodically revise its determinations in the pamphlet *Laborers' and Mechanics' Minimum Rates of Pay*;

(2) the contractor pays each laborer, mechanic, or field surveyor the appropriate per diem rate as published and periodically revised in the pamphlet *Laborers' and Mechanics' Minimum Rates of Pay*; and

(3) the contractor pays the per diem to each laborer, mechanic, or field surveyor on the same day that wages are paid.

(b) A contractor may not pay per diem instead of board and lodging on a highway project located

(1) west of Livengood on the Elliot Highway, AK-2;

(2) on the Dalton Highway, AK-11;

(3) north of milepost 20 on the Taylor Highway, AK-5;

(4) east of Chicken on the Top of the World Highway; or

(5) south of Tetlin Junction to the Alaska-Canada border on the Alaska Highway,

AK-2. (Eff. 11/25/2018, Register 228)

Authority: AS 23.05.060 AS 36.05.030 AS 36.10.075

AS 36.05.010

8 AAC 30 is amended by adding a new section to read:

8 AAC 30.056. Alternative arrangement. Upon a contractor's written request, the commissioner may approve an alternative board and lodging or per diem arrangement, provided

(1) the arrangement does not reduce the laborer, mechanic, or field surveyor's wages below the prevailing wage rate; and

(2) the laborer, mechanic, or field surveyor voluntarily enters into and signs the written arrangement ^{f/a} a labor organization representing laborers, mechanics, or field surveyors may enter into the written agreement on their behalf. (Eff. 11/25/2018, Register 228)

Authority: AS 23.05.060 AS 36.05.030 AS 36.10.075
AS 36.05.010

8 AAC 30.900 is amended by adding new paragraphs to read:

(22) "domiciled resident" means a person living within 65 road miles of a public construction project, or in the case of a highway project, the mid-point of the project, for at least 12 consecutive months prior to the award of the public construction project;

(23) "employed on the project" means the time period from the date the laborer, mechanic, or field surveyor first reports on-site to the project through the final date the person reports on-site to the project. (Eff. 7/8/73, Register 47; am 12/4/76, Register 60; am 7/30/82, Register 83; am 9/27/87, Register 103; am 1/2/91, Register 116; am 8/9/01, Register 159; am 8/12/2018, Register 227; am 11/25/2018, Register 228)

Authority: AS 23.05.060 AS 36.10.075 AS 36.95.010
AS 36.05.030 AS 36.10.140

MEMORANDUM

State of Alaska Department of Law

To: The Honorable
Valerie Nurr'araaluk Davidson
Lieutenant Governor

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

Date: October 19, 2018
File No.: 2018200748
Tel. No.: 465-3600

Re: Department of Labor and Workforce
Development Regulations re: Wage
scale, board and lodging (8 AAC
30.050, .051 – .056, .900)

The Department of Law has reviewed the attached regulations of the Department of Labor and Workforce Development against the statutory standards of the Administrative Procedure Act. Based upon our review, 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 regulations concern payment of board and lodging or per diem to laborers, mechanics, and field surveyors working on remote public construction projects.

The August 2, 2018 public notice and the October 8, 2018 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.

We have made a minor technical correction to conform the regulations in accordance with AS 44.62.125; it is shown on the attached copy of the regulations.

SRP:lbp

cc: Honorable Heidi L Drygas, Commissioner
Department of Labor and Workforce Development

Becky Weimer, Regulations Specialist II
Labor Standards and Safety Division
Department of Labor and Workforce Development

Deborah Kelly, Director
Labor Standards and Safety Division
Department of Labor and Workforce Development

Michael Stanker, Assistant Attorney General
Labor and State Affairs Section
Department of Law

NOTICE OF PROPOSED CHANGES RELATING TO PUBLIC CONSTRUCTION
PROJECTS IN THE REGULATIONS OF THE DEPARTMENT OF LABOR AND
WORKFORCE DEVELOPMENT

BRIEF DESCRIPTION

The Department of Labor and Workforce Development, Division of Labor Standards and Safety, Wage and Hour Administration proposes to change regulations on board and lodging.

The Department of Labor and Workforce Development proposes to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with board and lodging and per diem on public construction projects, including the following:

- (1) 8 AAC 30.050(a) is proposed to be amended to replace passive voice with active voice.
- (2) 8 AAC 30.052 is proposed to be adopted as a new section. This new section establishes board and lodging requirements to ensure that the prevailing wage rate paid to laborers, mechanics, and field surveyors does not fall below the minimum rate.
- (3) 8 AAC 30.054 is proposed to be adopted as a new section. This new section allows contractors to provide per diem instead of board and lodging.
- (4) 8 AAC 30.056 is proposed to be adopted as a new section. This new section establishes that the commissioner may approve an alternative board and lodging or per diem arrangement.
- (5) 8 AAC 30.900 is proposed to be amended to add new paragraphs with the definitions of “domiciled resident” and “employed on the project”.

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 Becky Weimer, Department of Labor and Workforce Development, Labor Standards and Safety, P.O. Box 111149, Juneau, AK 99811-1149. Additionally, you may submit comments by facsimile at (907) 465-6012 and by electronic mail at dol.lss.regulations@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 4:30pm on September 3, 2018.

You may submit written questions relevant to the proposed action to Becky Weimer by e-mail at dol.lss.regulations@alaska.gov or by mail to the Department of Labor and Workforce Development, Labor Standards and Safety, P.O. Box 111149, Juneau, AK 99811-1149. The

questions must be received at least 10 days before the end of the public comment period. The Department of Labor and Workforce Development will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and agency website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Becky Weimer at dol.lss.regulations@alaska.gov or (907) 465-6002 not later than August 24, 2018 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 or by contacting Becky Weimer, Department of Labor and Workforce Development, Labor Standards and Safety, P.O. Box 111149, Juneau, AK 99811-1149 or dol.lss.regulations@alaska.gov or (907) 465-6002.

After the public comment period ends, the Department of Labor and Workforce 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 23.05.060; AS 23.10.060; AS 23.10.085; AS 23.10.360; AS 36.05.030; AS 36.10.075

Statutes being implemented, interpreted, or made specific: AS 23.05.060; AS 36.05.010; AS 36.05.030; AS 36.10.075; AS 36.10.140; AS 36.95.010

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

Date: _____

7/31/18



Heidi Drygas, Commissioner
Department of Labor and Workforce Development

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Labor and Workforce Development, Division of Labor Standards and Safety
2. General subject of regulation: Board and lodging and per diem on public construction projects
3. Citation of regulation (may be grouped): 8 AAC 30.050; 8 AAC 30.052; 8 AAC 30.054; 8 AAC 30.056; 8 AAC 30.900
4. Department of Law file number, if any: N/A
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
 Other (identify): _____
6. Appropriation/Allocation: Labor Standards and Safety (113)/Wage and Hour Administration (345)
7. Estimated annual cost to comply with the proposed action to:
A private person: 0
Another state agency: 0
A municipality: 0
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2019	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

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

Name: Becky Weimer
 Title: Regulations Specialist II
 Address: P.O. Box 111149 Juneau, AK 99811-1149
 Telephone: (907) 465-6002
 E-mail address: Becky.Weimer@alaska.gov

10. The origin of the proposed action:

Staff of state agency
 Federal government
 General public
 Petition for regulation change
 Other (identify): _____

11. Date: 7/31/2018 Prepared by: 

[signature]

Name (printed): Deborah Kelly
 Title (printed): Director, Labor Standards and Safety
 Telephone: (907) 465-4855

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 268975

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STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin

being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily 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

August 02, 2018

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 Joleesa Stepetin
Joleesa Stepetin

Subscribed and sworn to before me
this 2nd day of August, 2018

Britney Thompson
Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019
Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

NOTICE OF PROPOSED CHANGES RELATING TO PUBLIC CONSTRUCTION PROJECTS IN THE REGULATIONS OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

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AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Tina Cochran, Administrative Officer II for the Division of Labor Standards and Safety, Department of Labor and Workforce Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to Title 8 of the Alaska Administrative Code, dealing with board and lodging and per diem on public construction projects has been given by being

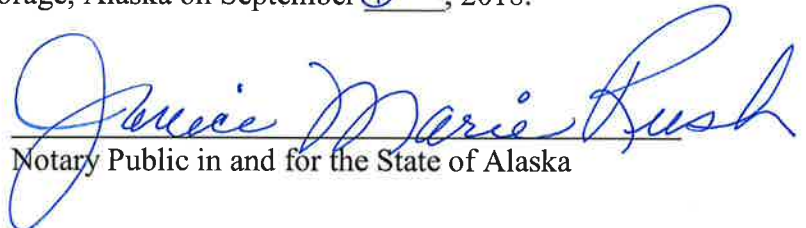
- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (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);

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 (2), (4), and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: September 6, 2018


Tina Cochran, Administrative Officer II

Subscribed and sworn to before me at Anchorage, Alaska on September 6th, 2018.


Notary Public in and for the State of Alaska

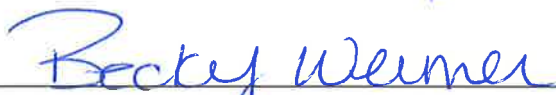


AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

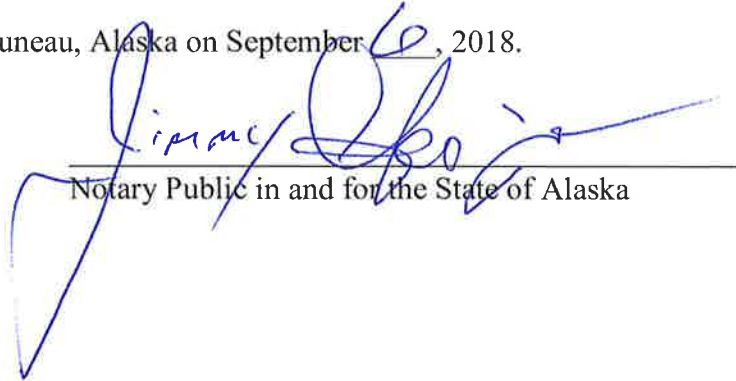
I, Becky Weimer, Regulations Specialist for the Department of Labor and Workforce Development, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Labor and Workforce 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 Labor and Workforce Development regulation on board and lodging and per diem on public construction projects.

Date: 9-6-18


Becky Weimer, Regulations Specialist

Subscribed and sworn to before me at Juneau, Alaska on September 6, 2018.


Notary Public in and for the State of Alaska

