

Kevin Meyer
Lieutenant Governor
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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: July 9, 2020

RE: Filed Permanent Regulations: Department of Labor and Workforce Development

Department of Labor and Workforce Development Regulation re: Emergency
Regulations Being Made Permanent (8 AAC 85.060, .440)

Attorney General File:	2020200318
Regulation Filed:	7/9/2020
Effective Date:	4/6/2020
Print:	235, October 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis

CERTIFICATION OF COMPLIANCE

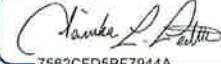
I, Dr. Tamika L. Ledbetter, Commissioner, certify that, as required by AS 44.62.260 in order to make the attached 2 pages of regulations permanent, as of this date a legal opinion of the Department of Law has been requested under AS 44.62.060, a notice conforming to AS 44.62.200 was issued in compliance with AS 44.62.190, and an opportunity for public comment was provided under AS 44.62.210, for the following emergency regulation:

8 AAC 85.060; 8 AAC 85.440(b), employment security as related to Covid -19

This regulation originally was filed as an emergency regulation on April 6, 2020.

Although no public comments were received, the Department of Labor and Workforce Development paid special attention to the cost to private persons of the regulatory action being taken.

Date: 6/1/2020

DocuSigned by:

7562CED5BE79448

Dr. Tamika L. Ledbetter, Commissioner

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 9th, 2020, at 10:05 a.m., I filed the attached regulation according to the provisions of AS 44.62.

for April Simpson
Kevin Meyer

Lieutenant Governor

Register: 235, October 2020

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, 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:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



K-Meyer

**KEVIN MEYER
LIEUTENANT GOVERNOR**

The emergency amendment of 8 AAC 85.060(c) is made permanent to read:

(c) Each employer shall issue to every separated employee, as soon as practicable, but not to exceed (seven) days from the last day the employee performed compensable work, written (written information) information furnished or approved by the division regarding unemployment insurance benefits. (must) ~~It~~ shall include instructions on how to file a claim for unemployment insurance benefits and the (Information is considered issued) division contact information for filing an unemployment insurance claim. ~~Delivery is made~~ when an employer provides the information to the employee in person, by mail to the employee's last known address, or by email, if correspondence in this form was previously authorized by the employee.

(Eff. 10/25/68, Register 27; am 8/20/70, Register 35; am 6/27/2014, Register 210; am 4/6/2020, Register 234)

Authority: AS 23.20.045

AS 23.20.335

*cc-insert circled text
from page 2 here.)))*

The emergency amendment of 8 AAC 85.440(b) is made permanent to read:

(b) The director may adjust an employer's quarterly payroll if

• • •

(7) the employer had a fluctuation in payroll as a result of COVID-19 as substantiated by government declarations of a state of emergency and corresponding mandates directly related to COVID-19.

The emergency amendment of 8 AAC 85.440(c) is made permanent to read:

(c) The employer's payroll may be adjusted as follows:

• • •

(6) a fluctuation in payroll as a direct result of COVID-19 may be adjusted for artificial peaks or declines, but only during a timeframe directly impacted by COVID-19 as established by government declarations.

(Eff. 3/27/82, Register 81; am 5/23/2003, Register 166; am 6/27/2014, Register 210; am 4/6/2020, Register 234)

Authority: AS 23.20.045 AS 23.20.285 AS 23.20.325

Editor's note: Amendments to 8 AAC 85.440(b) and (c) took effect on April 6, 2020, as emergency regulations, and were first published in Register 234 (July 2020). In reviewing the "permanent" regulations in accordance with AS 44.62.060 and 44.62.125(b), the regulations attorney made a technical change to 8 AAC 85.440(c). The technical change appeared in the "permanent" regulations as published in Register 235 (October 2020). The history note for 8 AAC 85.440 does not reflect the change made by the regulations attorney.

@@ absent circled text at spot marked on page 1.

Editor's note: An amendment to add 8 AAC 85.060(c) took effect on April 6, 2020, as an emergency regulation, and was first published in Register 234 (July 2020). In reviewing the "permanent" regulation in accordance with AS 44.62.060 and 44.62.125(b), the regulations attorney made technical changes to 8 AAC 85.060(c). The technical changes appeared in the "permanent" regulations as published in Register 235 (October 2020). The history note for 8 AAC 85.060 does not reflect the changes made by the regulations attorney.

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: July 8, 2020

File No.: 2020200318

Tel. No.: 465-3600

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

Re: Department of Labor and Workforce
Development Regulation re: 8 AAC
85.060, .440 Emergency Regulations

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 were adopted as emergency regulations on April 6, 2020, and will expire August 3, 2020 unless made permanent. The Department of Labor and Workforce Development proceeded to public notice and comment in order to make the regulations permanent under AS 44.62.260. The regulations amend 8 AAC 85.060 to require employers to notify employees of available unemployment insurance and 8 AAC 85.440 related to adjustment of employer experience ratings directly affected by COVID - 19.

The public notice for the emergency and permanent regulations and the 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 some technical corrections to the emergency regulations as adopted to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations. Because these are technical corrections made by the regulations attorney, they do not affect the effective date of the regulations, which remains April 6, 2020.

SRP:sjw

cc w/enclosures:

Tamika L. Ledbetter, Commissioner
Department of Labor and Workforce Development

Becky Weimer, Regulations Coordinator
Department of Labor and Workforce Development

Ned Brasington, Assistant Attorney General
Department of Law

NOTICE OF ADOPTION OF EMERGENCY REGULATION
ON EMPLOYMENT SECURITY OF THE DEPARTMENT OF LABOR AND WORKFORCE
DEVELOPMENT

BRIEF DESCRIPTION: The Department of Labor and Workforce Development, Division of Employment and Training Services, Unemployment Insurance proposes to make permanent regulation changes made by emergency regulation on the requirement of employers to notify employees of the availability of unemployment insurance and adjustment to employer experience rating as related to COVID-19.

On April 3, 2020, the Department of Labor and Workforce Development adopted, as an emergency regulation, changes in 8 AAC 85 of the Alaska Administrative Code dealing with Employment Security including the following:

- (1) 8 AAC 85 is proposed to be changed as follows:
 - 85.060 is amended to add subsection (c) requiring employers to notify employees, at time of separation, of the availability of UI.
 - 85.440 is amended to add subsection (b)(7) which allows COVID-19 as a reason for payroll adjustment at director discretion, and add subsection (c)(6) which allows adjustment for artificial peaks and declines as a direct result of COVID-19.

The emergency regulation took effect April 6, 2020, and will expire August 3, 2020. The Department of Labor and Workforce Development intends to make the emergency regulation permanent.

You may comment on the regulation changes, including the potential costs to private persons complying with the changes, by submitting written comments to Chalise Fisk at P.O. Box 115509, Juneau, AK 99811-5509, or chalise.fisk@alaska.gov. Comments also may be submitted through the Alaska Public Online 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 May 11, 2020.

You may submit written questions relevant to the proposed action to Chalise Fisk at P.O. Box 115509, Juneau, AK 99811-5509, or chalise.fisk@alaska.gov. 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 response available on the Alaska Online Public Notice System. The Department of Labor and Workforce Development 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 Chalise Fisk at (907) 465-8291 or chalise.fisk@alaska.gov not later than May 1, 2020 to ensure that any necessary accommodations can be provided.

A copy of the emergency regulation is available on the Alaska Online Public Notice System

<https://aws.state.ak.us/OnlinePublicNotices/default.aspx> and by contacting Chalise Fisk at (907) 465-8291 or chalise.fisk@alaska.gov.

The language of the permanent regulations may be different from that of the original emergency regulation and may include other provisions dealing with the same subject. 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 23.20.045; AS 23.20.285; AS 23.20.325; AS 23.20.335

Statutes being implemented, interpreted, or made specific: AS 23.20.285; AS 23.20.335

Fiscal information: The regulations are not expected to require an increased appropriation.

Date: April 3, 2020

A handwritten signature in black ink, appearing to read "Tamika L. Ledbetter", is written over a horizontal line.

Dr. Tamika L. Ledbetter, Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Labor and Workforce Development
2. General subject of regulation: Employment Security
3. Citation of regulation (may be grouped): 8 AAC 85.060, 8 AAC 85.440
4. Department of Law file number, if any: _____

5. Reason for the proposed action:

- (X) Compliance with federal law or action (identify): Families First Coronavirus Response Act; USDOL Guidance: UIPL 13-20 _____
- () Compliance with new or changed state statute
- () Compliance with federal or state court decision (identify): _____
- () Development of program standards
- () Other (identify): _____

6. Appropriation/Allocation: Unemployment Insurance component 2276

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

A private person: 0.00

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 2020	Subsequent Years
Operating Cost	\$ <u>0.00</u>	\$ <u>0.00</u>
Capital Cost	\$ <u>0.00</u>	\$ <u>0.00</u>
1002 Federal receipts	\$ <u>0.00</u>	\$ <u>0.00</u>
1003 General fund match	\$ <u>0.00</u>	\$ <u>0.00</u>
1004 General fund	\$ <u>0.00</u>	\$ <u>0.00</u>
1005 General fund/ program	\$ <u>0.00</u>	\$ <u>0.00</u>
Other (identify)	\$ <u>0.00</u>	\$ <u>0.00</u>

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

Name: Chalise Fisk

Title: Employment Security Analyst III

Address: PO Box 115509 Juneau, AK 99811-5509

Telephone: (907) 465-8291

E-mail address: chalise.fisk@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency

☐ Federal government

☐ General public

☐ Petition for regulation change⁷

☐ Other (identify): _____

11. Date: 4.3.20

Prepared by: _____

Patsy Westcott

Name: Patsy Westcott

Title: Director, Unemployment Insurance

Telephone: (907) 465-5543

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 392592 EMPLOYMENT & TRAINING SVC

Attention To: attn to: MILA SALDIVAR

PO Box 115509, JUNEAU, AK 99801

Order #: W0014357

Cost: \$378.52

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that 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

04/08/2020

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 13th day of April 2020.

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

MY COMMISSION EXPIRES

7/1/2020

NOTICE OF ADOPTION OF EMERGENCY REGULATION ON EMPLOYMENT SECURITY OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

On April 3, 2020, the Department of Labor and Workforce Development adopted, as an emergency regulation, changes in 8 AAC 85 of the Alaska Administrative Code dealing with Employment Security including the following:

(1) 8 AAC 85 is proposed to be changed as follows:

- * 85.060 is amended to add subsection (c) requiring employers to notify employees, at time of separation, of the availability of UI.
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The emergency regulation took effect April 6, 2020, and will expire August 3, 2020. The Department of Labor and Workforce Development intends to make the emergency regulation permanent.

You may comment on the regulation changes, including the potential costs to private persons complying with the changes, by submitting written comments to Chalise Fisk at P.O. Box 115509, Juneau, AK 99811-5509, or chalise.fisk@alaska.gov. Comments also may be submitted through the Alaska Public Online 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 May 11, 2020.

You may submit written questions relevant to the proposed action to Chalise Fisk at P.O. Box 115509, Juneau, AK 99811-5509, or chalise.fisk@alaska.gov. 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 response available on the Alaska Online Public Notice System. The Department of Labor and Workforce Development 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.

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A copy of the emergency regulation is available on the Alaska Online Public Notice System <https://aws.state.ak.us/OnlinePublicNotices/default.aspx> and by contacting Chalise Fisk at (907) 465-8291 or chalise.fisk@alaska.gov.

The language of the permanent regulations may be different from that of the original emergency regulation and may include other provisions dealing with the same subject. 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 23.20.045; AS 23.20.285; AS 23.20.325; AS 23.20.335

Statutes being implemented, interpreted, or made specific: AS 23.20.285; AS 23.20.335

Fiscal information: The regulations are not expected to require an increased appropriation.

Date: April 3, 2020

By: /s/ Dr. Tamika L. Ledbetter
Commissioner

Published: April 8, 2020

AFFIDAVIT OF NOTICE OF EMERGENCY REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Becky Weimer, Regulations Specialist of the Department of Labor and Workforce Development, under penalty of perjury, certify the following:

As required by AS 44.62.190, notice of the emergency adoption of changes to 8 AAC 85.060; 8 AAC 85.440(b), employment security as related to Covid -19, 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.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: May 20, 2020

Becky Weimer Digitally signed by Becky Weimer
Date: 2020.05.20 12:22:33 -08'00'

Becky Weimer, Regulations Specialist

State of Alaska
City and Borough of Juneau

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Chalise Fisk, Employment Security Analyst for the Alaska Department of Labor and Workforce Development, under penalty of perjury, state the following:

The Department of Labor and Workforce Development did not receive any factual or other substantive information that was submitted in writing or orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Labor and Workforce Development's regulation on unemployment insurance.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: 05/12/2020

DocuSigned by:



24E945EF97704BE...

Chalise Fisk, Employment Security Analyst III

State of Alaska
Juneau, City and Borough of Juneau

FINDING OF EMERGENCY

The Department of Labor, Division of Employment and Training Services, Unemployment Insurance finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

Governor Mike Dunleavy issued a Public Health Disaster Emergency Declaration for COVID-19 on March 11, 2020. Further mandates have required social distancing and elimination of certain forms of employment which has created a substantial population of unemployed workers in need of Unemployment Insurance (UI) benefits. Federal funding is available to help with the administration of the UI program during this period of increased unemployment. In order to be eligible for this grant funding the UI program must adhere to specific requirements by May 8, 2020: 1) require employers to notify individual employees of their UI eligibility options at the time of separation, and 2) provide temporary emergency flexibility for employer experience rating.

ADOPTION ORDER

Under the authority of AS 23.20.045, the attached 2 pages of regulation changes are therefore adopted as an emergency regulation to take effect immediately upon filing by the Lieutenant Governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date: April 3, 2020



Dr. Tamika L. Ledbetter, Commissioner

April Simpson for

FILING CERTIFICATION

I, Kevin Meyer

, Lieutenant Governor for the State of Alaska, certify that on April 6th, 2020, at 1:21 p.m., I filed the attached regulation according to the provisions of AS 44.62.



for Lieutenant Governor Kevin Meyer

Effective: April 6th 2020.

Register: 234, July 2020.

Expires August 3, 2020
unless made "permanent"
by the adopting agency