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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Robert Griffiths, Department of Public Safety

FROM: April Simpson, Office of the Lieutenant Governor 465.4081 

DATE: August 28, 2020

RE: Filed Emergency Regulations: Alaska Police Standards Council

Department of Public Safety - Alaska Police Standards Council Emergency Regulations
re: Hiring Qualifications (13 AAC 85.010; 13 AAC 85.215)

Attorney General File:	Emergency Regulations
Regulation Filed:	8/28/2020
Effective Date:	8/28/2020
Expiration Date:	December 25, 2020 unless made permanent by the adopting agency
Print:	236, January 2021

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Robyn Ramos, Regulations Specialist

FINDING OF EMERGENCY

On March 11, 2020, Alaska Governor Mike Dunleavy issued a declaration of public health disaster emergency in response to the COVID-19 anticipated outbreak. The ongoing global, national, and state effects of the COVID 19 response impact school, business, and government shutdowns; as well as redirection of medical services away from routine, administrative, and preventative care services. This has created a hardship in the hiring process for certified public safety positions certified by the Alaska Police Standards Council. Public safety agencies struggle to attract and recruit qualified applicants in normal times; travel and other pandemic health restrictions have made this process even more difficult, resulting in serious staffing shortages within many public safety agencies.

Currently, Alaska Police Standards regulations require an applicant be a United States Citizen to be eligible to be hired in an APSC certifiable position. Recently, the Council learned this regulatory language precludes the hiring of United States Nationals (U.S. Nationals) born in certain Territories of the United States. The Council finds that was not its intent when adopting the regulatory change in 2016 to exclude US Nationals from hire or certification as officers. This exclusion unreasonably limits the applicant pool in times when more applicants are drastically needed. In the last year, APSC has learned of interested applicants who were found ineligible because of their status as a U.S. National.

The Alaska Police Standards Council finds that, in an effort to immediately increase the pool of applicants, and quickly correct an unintended policy restriction, the regulations should be immediately updated to include United States Nationals as applicants eligible to be hired to APSC certifiable positions.

ORDER CERTIFYING ADOPTION

I certify that the Alaska Police Standards Council under the authority of AS 18.65.220, adopted at its August 26, 2020 meeting the attached two pages of regulation changes 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: August 28, 2020


Robert Griffiths, Executive Director

April Simpson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on August 28, 2020, at 11:23 a..m., I filed the attached regulation according to the provisions of AS 44.62.


Lieutenant Governor

Effective: August 28, 2020.

Register: 236, January 2021.

Expires December 25, 2020
unless made "permanent"
by the adopting agency

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.**



A handwritten signature in blue ink, appearing to read "K. Meyer", is written over a dotted line.

**KEVIN MEYER
LIEUTENANT GOVERNOR**

EMERGENCY REGULATION

Register 236, January 2021 ALASKA DEPARTMENT OF PUBLIC SAFETY

13 AAC 85.010(a)(1) is amended to read:

(a) A participating police department may not hire a person as a police officer unless the person meets the following minimum qualifications at the time of hire:

(1) is a citizen of the United States or a United States National; (Eff. 8/10/73, Register 47; am 8/10/80, Register 75; am 9/23/84, Register 91; am 3/16/89, Register 109; am 8/8/90, Register 115; am 10/24/92, Register 124; am 8/5/95, Register 135; am 7/15/98, Register 147; am 2/20/99, Register 149; am 8/16/2000, Register 155; am 3/25/2001, Register 157; am 8/8/2007, Register 183; am 2/13/2010, Register 193; am 9/24/2016, Register 219; am 9/1/2017, Register 223; am 8 / 28 / 2020, Register 236)

Authority: AS 18.65.220 AS 18.65.240

13 AAC 85.210(a)(1) is amended to read:

(a) A person may not be hired as a probation, parole, or correctional officer unless the person meets the following minimum qualifications at the time of hire:

(1) is a citizen of the United States or a United States National; (Eff. 8/8/90, Register 115; am 10/24/92, Register 124; am 8/5/95, Register 135; am 7/15/98, Register 147; am 2/20/99, Register 149; am 8/16/2000, Register 155; am 3/25/2001, Register 157; am 4/12/2001, Register 158; am 8/8/2007, Register 183; am 2/13/2010, Register 193; am 9/24/2016, Register 219; am 9/1/2017, Register 223; am 8 / 28 / 2020, Register 236)

Authority: AS 18.65.220 AS 18.65.242 AS 18.65.248

13 AAC 85.215(a)(1) is amended to read:

(a) A Person may not be hired as a municipal correctional officer unless the person meets the following minimum qualifications at the time of hire:

(1) is a citizen of the United States or a United States National; (Eff. 4/12/2001, Register 158; am 6/13/2002, Register 162; am 8/8/2007, Register 183; am 2/13/2010, Register 193; am 9/24/2016, Register 219; am 8 / 28 / 2020, Register 236)

Authority:	AS 18.65.220	AS 18.65.248
	AS 18.65.242	AS 18.65.285

13 AAC 89.010(a)(2) is amended to read:

(2) is a citizen of the United States or a United States National; (Eff: 10/18/81, Register 80; am 1/15/95, Register 133; am 6/17/2020, Register 234; am 8 / 28 / 2020, Register ²³⁶↑)

Authority:	AS 18.65.220	AS 18.65.230	AS 18.65.240
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NOTICE OF ADOPTION OF EMERGENCY REGULATION
ON MINIMUM STANDARDS FOR POLICE, VILLAGE POLICE, CORRECTIONS,
PROBATION & PAROLE, AND MUNICIPAL CORRECTIONAL OFFICERS OF ALASKA
POLICE STANDARDS COUNCIL

On August 26, 2020 the Alaska Police Standards Council adopted, as an emergency regulation, changes in 13 AAC 85.010, 13 AAC 85.210, 13 AAC 85.215 and 13 AAC 89.010 of the Alaska Administrative Code dealing with the inclusion of United States Nationals in officer's eligibility standards, including the following:

- (1) 13 AAC 85.010 is proposed to be changed as follows: Include United States Nationals, in addition to United States Citizens, in standards for hiring of police officers;
- (2) 12 AAC 85.210 is proposed to be changed as follows: Include United States Nationals, in addition to United States Citizens, in standards for hiring of corrections and probation parole officers;
- (3) 13 AAC 85.215 is proposed to be changed as follows: Include United States Nationals, in addition to United States Citizens, in standards for hiring of municipal corrections officers;
- (4) 12 AAC 89.010 is proposed to be changed as follows: Include United States Nationals, in addition to United States Citizens, in standards for hiring of village police officers officers;

The emergency regulation took effect on August 28, 2020 and will expire December 26, 2020. The Alaska Police Standards Council intends to make the emergency regulation permanent.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Alaska Police Standards Council, PO Box 111200, Juneau, Alaska 99811-1200, or by dropping them off at 150 3rd Street, Juneau, Alaska. Additionally, the Alaska Police Standards Council will accept comments by facsimile at 907-456-3263 and by electronic mail at wendy.menze@alaska.gov. Comments also may 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 on October 9, 2020.

You may submit written questions relevant to the proposed action to Alaska Police Standards Council, PO Box 111200, Juneau, Alaska 99811-1200, or by dropping them off at 150 3rd Street, Juneau, Alaska. The questions must be received at least 10 days before the end of the public comment period. The Alaska Police Standards Council 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. The Alaska Police Standards Council 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 to participate in this

process, please contact Wendy Menze at 907-465-4378 or wendy.menze@alaska.gov not later than October 2, 2020 to ensure that any necessary accommodation can be provided.

A copy of the emergency regulation is available on the Alaska Online Public Notice System and/or through the agency website at: <https://dps.alaska.gov/APSC/Regulations> and by contacting Wendy Menze at 907-465-4378 or wendy.menze@alaska.gov.

The language of the permanent regulation 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 18.65.220; AS 18.65.240; AS 18.65.242

Statutes being implemented, interpreted, or made specific: AS 18.65.240; AS 18.65.242.

Fiscal information: The regulation is not expected to require an increased appropriation.

Date: August 27, 2020

A handwritten signature in black ink, appearing to read "Robert E. Griffiths", is written over a horizontal line.

Robert E Griffiths
Executive Director

**EXCERPT from DRAFT MINUTES OF
THE ALASKA POLICE STANDARDS COUNCIL
138TH PUBLIC MEETING
Statewide Teleconference
August 26, 2020**

9. New Business:

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C. US Nationals

Motion was made by Joe White to accept the draft regulation change provided by the Executive Director. Leon Morgan 2nd.

Discussion:

The Executive Director explained the reason for the discussion about U. S. Nationals' eligibility for hire, and the intent of the proposed emergency regulations change. He recommended adoption on a permanent basis.

Justin Doll- I don't know why we would want to exclude U. S. Nationals. Suggest we move forward with the regulation change and to fix permanently.

Wendi Shackelford- Are there any legal issues to be aware of?

Jack McKenna (DOL)- no, we need to make sure that it is clear as to why this is an emergency requiring the change in regulation.

Justin Doll - do we need to adopt an emergency regulation for this or go right to changing the regulations, or timeframe is too short?

Executive Director - yes, timeframe is too narrow for normal process.

Justin Doll – We can declare COVID emergency is having negative impact on operation by delaying the ability to get U. S. National/U. S. Citizenship sorted out for DOC, and follow up with permanent change.

Jack McKenna - we need to show something that, without the change there would be a lack of corrections officers that provide the necessary public safety through DOC.

- Draft finding of emergency was sent to all council members.

Justin Doll – Let us consider the draft that was sent.

Justin Doll - to DOC- does this create a hardship for DOC to lose staff to this, especially during a time of difficulty in recruiting and instilling positions?

April Wilkerson (DOC) - yes, it does especially when we have brought individuals on and doing well and committed, then to lose them in this fashion. Both work at ACC where it is understaffed at this time- it would be a burden.

Executive Director - this change also is to the eligibility for police officers. It extends the pool of eligible applicants for law enforcement agencies. I've spoken with several agencies who have turned away applicants who are otherwise qualified but are not citizens. This exacerbates the emergency for their staffing. The change would help by expanding the ability for agencies to hire.

The Council needs to also adopt a finding of emergency so we are in compliance with statutes that require both a finding of emergency and the adoption of proposed regulation change language.

Joe White moved to amend his motion to include the finding of an emergency justifying the regulation change and to adopt the E.D. draft of the regulation change for U.S. National. Leon Morgan 2nd. Motion passed unanimously.

Motion passed unanimously, by roll call vote.

AFFIDAVIT OF ALASKA POLICE STANDARDS COUNCIL ACTION


I, Robert Griffiths, Executive Director for the Alaska Police Standards Council, under penalty of perjury, state the following:

The attached motion dealing with basic standards for hiring police, village police, corrections, probation and parole, and municipal corrections officers was passed by the Alaska Police Standards Council during its public meeting on August 26, 2020.

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: August 28, 2020



Robert E Griffiths,
Executive Director

State of Alaska
City & Borough of Juneau

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Police Standards Council
2. General subject of regulation: Basic Standards for APSC Certified officers
3. Citation of regulation: 13 AAC 85.010, .210, .215 and 13 AAC 89.010
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
☒ Other (identify): Emergency regulation
6. Appropriation/Allocation: Department of Public Safety/Alaska Police Standards Council
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):

	Initial Year FY <u>2021</u>	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	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>


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

Name: Robert Griffiths
Title: Executive Director
Address: PO Box 111200, Juneau, AK 99811
Telephone: 907-465-5523
E-mail address: bob.griffiths@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: August 28, 2020

Prepared by: 
Name: Robert Griffiths
Title: Executive Director
Telephone: 907-465-5523