

Chapter 05. Child Labor.

The lead-in language of 8 AAC 05.020 is amended to read:

8 AAC 05.020. Permissible occupations. Employment of minors 14 **and 15** years of age [AND OLDER] is permitted in the following:

...

(Eff. 10/27/73, Register 48; am 6/4/82, Register 82; am 7/30/99, Register 151; am

3 / 2 / 2008, Register 185)

Authority: AS 23.10.350 AS 23.10.360

8 AAC 05.115 is amended to read:

8 AAC 05.115. Occupations involving exposure to bloodborne pathogens.

Occupations in hospitals, clinics, dental, orthodontic, or other medical or dental offices that involve exposure to bloodborne pathogens are hazardous and prohibited to minors, **unless the minor is**

(1) at least 16 years of age and is enrolled in or has successfully completed a state-certified nursing training course or a health care career program in conjunction with a high school, either as part of the curriculum or through a school-to-work partnership between the school district and an employer or group of employers; or

(2) 17 years old of age and is enrolled in or has successfully completed a health care career program approved by the commissioner that is offered by a training facility other than a school. (Eff. 7/30/99, Register 151; am 3 / 2 / 2008, Register 185)

Authority: AS 23.10.350 AS 23.10.360

8 AAC 05.315(a) is amended to read:

(a) **Except as provided in (f) of this section, as** [AS] a condition of receiving a permit under 8 AAC 05.300, an employer must provide a studio teacher for a child from **the age of** birth to [AGE] 16 years **of age**, and for a child **from** [AGE] 16 to [AGE] 18 **years of age** when required for the education of the child. Except as provided in (d) and (e) of this section, a studio teacher must possess an appropriate endorsement on a valid and current Type A Alaska teaching certificate to instruct the age level of the children in the teacher's care and exhibit a working knowledge of the [ALASKA] child labor laws of this state. One studio teacher must supervise each group of 10 or fewer children, from the age of birth to 16 years **of age**, except that on Saturdays, Sundays, holidays, or during school vacation periods, one studio teacher may supervise each group of 20 or fewer of those aged children.

8 AAC 05.315 is amended by adding new subsections to read:

(f) A studio teacher is not required if the employment of a minor in the entertainment industry does not conflict with the schooling of the minor, the employment occurs from a fixed location used by the employer in the employer's regular course of business, and the employment does not pose recognized serious hazards to the minor, such as employment in

- (1) dinner shows;
- (2) cultural dance exhibitions; and
- (3) theatrical productions.

(g) For the purposes of (f) of this section, to ensure that the employment of a minor in the entertainment industry will not conflict with the schooling of the minor, the department may

require written authorization from school officials if the employment occurs during school hours.

(Eff. 7/2/95, Register 135; am 7/30/99, Register 151; am 3 / 2 / 2008, Register 185)

^A
Authority: AS 23.10.330 AS 23.10.360

The lead-in language of 8 AAC 05.340 is amended to read:

8 AAC 05.340. Prohibited practices. ^A [(a) NO] person may **not** employ or allow a child under **18** [16] years of age to work in the entertainment industry in

...

(Eff. 7/2/95, Register 135; am 7/30/99, Register 151; am 3 / 2 / 2008, Register 185)

Authority: AS 23.10.325 AS 23.10.330 AS 23.10.360

Chapter 15. Alaska Wages and Hours.

8 AAC 15.100(a) is amended to read:

(a) An employee's regular rate is the basis for computing overtime. The regular rate is an hourly rate figured on a weekly basis. An employee need not actually be hired at an hourly rate. The employee may be paid by piece-rate, salary, commission, or any other basis agreeable to the employer and employee. However, the applicable compensation basis must be converted to an hourly rate when determining the regular rate for computing overtime compensation.

Payment on a salary basis does not eliminate overtime pay requirements. The following provisions apply for an employee **whose work is not exempt by law from overtime pay requirements, but is** paid on a salary basis:

(1) **the** [THE] employment contract must **be in writing and must** set out the specific number of straight time and overtime hours the employee is expected to work each day and each week; **the** [. THE] contract must establish a regular straight time hourly rate of pay and the appropriate overtime rate with respect to the salary to be paid and the number of hours to be worked; **changes** [. CHANGES] to the pay schedule of a salaried employee must conform to the provisions of AS 23.05.160; [.]

(2) **if** [IF] a contract fails to establish a fixed number of daily and weekly hours that the salary is intended to compensate, or if the actual hours of work deviate from the hours specified in the contract **without a corresponding adjustment in hourly pay**, the salary will be considered to be compensation for an eight-hour work day and 40-hour workweek, and overtime will be computed on that basis.

8 AAC 15.100 is amended by adding a new subsection to read:

(e) Except for an employee described in 8 AAC 15.908(c), an employee paid on a daily rate whose work is not otherwise exempted from overtime pay requirements under AS 23.10.055 or 23.10.060(d) must be compensated for overtime based on a written employment contract. The following provisions apply for an employee paid on a daily rate:

(1) if the daily rate is compensation for a set number of hours in a day, the written employment contract must set out the applicable straight time and overtime rates;

(2) if the employee works overtime hours not covered by the daily rate established in the employment contract, the employer must provide for an adjustment to the employee's pay at the overtime rate for

(A) hours worked in excess of the established daily number of hours; and

(B) all hours worked on days worked after 40 straight time hours in a week;

(3) to maintain the hourly rates, the employer must reduce the employee's pay when the employee works less than the prescribed number of hours in a day; if the wages are not reduced, the daily rate is considered to compensate an employee for a variable number of hours worked and the overtime must be calculated and paid in accordance with (4) of this subsection;

(4) if there is not a written employment contract or if the daily rate provides compensation for a variable number of hours worked, the overtime must be calculated as follows:

(A) each week, the employer must calculate the straight time rate of pay by dividing the total amount paid at the daily rate by the total number of hours worked in the week; and

(B) the employer must pay one-half of the straight time rate established under (1) of this subsection for each overtime hour worked in the week to bring the employee's wages up to one and one-half times the regular rate for hours worked over eight hours in a day and over 40 straight time hours in a week; this calculation must be performed separately each week. (Eff. 12/9/78, Register 68; am 9/28/85, Register 95; am 4/29/99, Register 150; am 3 / 2 / 2008, Register 182)

Authority: AS 23.05.060 AS 23.10.085 AS 23.10.095

AS 23.10.060

Editor's note: Copies of the federal regulations cited in 8 AAC 15.100 may be obtained from the department's wage and hour administration office in Anchorage, Alaska at 3301 Eagle Street, Suite 301 or by **contacting** [WRITING OR TELEPHONING] the office at Department of Labor and Workforce Development, **3301 Eagle Street, Suite 301** [P.O. BOX 107021], Anchorage, **AK 99503** [ALASKA 99510-7021]; **telephone** [PHONE]: (907) 269-4900.

As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.

The lead-in language of 8 AAC 15.102(a) is amended to read:

(a) A request for an exemption for a voluntary flexible work hour plan established under AS 23.10.060(d)(14) must be **signed** [FILED] by the employer **and submitted to** [WITH] a wage and hour administration office of the department. The request must be in writing **on a form provided by the department**, and must include

...

8 AAC 15.102(a)(2) is amended to read:

(2) a description of the **daily and weekly hours to be worked under the** flexible work hour plan;

8 AAC 15.102(a)(4) is amended to read:

(4) the [ORIGINAL] signature of the employer or authorized representative.

8 AAC 15.102 is amended by adding new subsections to read:

(f) A voluntary flexible work hour plan is not valid, unless the employee working under the plan has been offered an equivalent weekly schedule of hours with overtime pay after eight straight time hours in a day.

(g) The department will not approve a voluntary flexible work hour plan for a weekly schedule of less than four days or 33 hours.

(h) Except for occasional deviations in an employee's work schedule that do not exceed 20 percent of the weeks worked by an employee under a voluntary flexible work hour plan, an employer shall pay overtime as required by AS 23.10.060(b) when an employee deviates from the approved flexible work hour plan. (Eff. 9/28/85, Register 95; am 3 / 2 / 2008, Register 185)

Authority: AS 23.05.060 AS 23.10.085 AS 23.10.100

AS 23.10.060

8 AAC 15.160 is amended to read:

8 AAC 15.160. Deductions from an employee's wages. (a) **The provisions of AS 23.05.140 and AS 23.10.085(c) do** [AS 23.10.085(c) DOES] not limit the right of an employer and employee to enter into a written agreement to provide for deductions of monetary obligations of an employee. Requiring or inducing an employee to return or give up any part of the compensation **that** [TO WHICH] the employee is entitled, whether by force, intimidation, or threat of dismissal from employment, or by any other manner, is prohibited. A written agreement for deductions payable to the employer or person acting in the employer's behalf or interest is not valid if it would have the effect of reducing an employee's wage rate below the statutory minimum wage or overtime rates, or if it would require an employee to reimburse the employer for any of the following:

- (1) customer checks returned due to insufficient funds or any other reason;
- (2) non-payment for goods or services as a result of theft or credit default;
- (3) cash or cash register shortages unless the employee admits, willingly and in writing, to having personally taken the specific amount of cash that is alleged to be missing;
- (4) lost, missing, or stolen property, unless the employee admits willingly and in writing, to having personally taken the specific property alleged to be lost, missing, or stolen; or
- (5) damage or breakage costs unless clearly due to willful conduct of the employee and the employee has acknowledged responsibility in writing.

(b) **An employer may deduct an amount** [NOTHING IN (a) OF THIS SECTION PROHIBITS DEDUCTIONS] from earnings based on a written agreement **signed by the employee**, if the employer has been directed by the employee to pay a sum for the benefit of that employee to a creditor, donee, or other third party. **The** [NEITHER THE] employer, **or** [NOR] any person acting in the employer's behalf or interest, may **not** derive any profit or benefit from the transaction.

(c) **An employer may deduct an amount** [NOTHING IN (a) OF THIS SECTION PROHIBITS DEDUCTIONS] from earnings based on a written agreement **signed by the employee** to reimburse an employer for transportation from the place of hire to the place of employment if the deduction does not **reduce the**

(1) [REDUCE THE] employee's wages below the statutory minimum; or

(2) [REDUCE THE] overtime compensation rate below one and one-half times the contractual rate of pay.

(d) **An employer may deduct an amount** [NOTHING IN (a) OF THIS SECTION PROHIBITS DEDUCTIONS] from earnings, based on a written agreement **signed by the employee**, to reimburse an employer for the reasonable cost of furnishing board and lodging, if

(1) repealed 5/16/2003;

(2) the board and lodging facilities of the employer are **“customarily”** [CUSTOMARILY] furnished, **as described in 29 C.F.R. 531.31**, by the employer and **voluntarily** used by the employees; and

(3) the cost to the employee for the use of the employer's board and lodging facilities[,] is reasonable and without profit to the employer.

(e) Unless the employer and the employee have executed a written agreement as described in (d) of this section, **before the deduction** [AT THE TIME OF HIRE], the employer is prohibited from seeking to retroactively deduct the cost of board and lodging as an offset against wages due upon termination or wage deficiencies subject to collection by the department.

(f) The director will make the determination regarding the cost of board and lodging under (d)(3) of this section. The determination will be made in accordance with 29 C.F.R. 531.3 - 531.5 and 531.29 - 531.35. **A deduction of \$15 per day or less for board and lodging will not require a special determination, unless evidence indicates that the charge is unreasonable for the facilities provided or results in a profit to the employer.**

(g) An employer may deduct an amount from the wages of an employee as a security deposit to ensure the return, [IN] clean and in a state of good repair, of uniforms or equipment issued by the employer, if **the**

(1) [THE] deduction is based on a written agreement;

(2) [THE] total deposit does not exceed the cost of the item; and

(3) [THE] deduction does not reduce the employee's wage below the statutory minimum[,] or reduce the employee's overtime compensation below one and one-half times the contractual rate of pay.

(h) An employer shall give each employee a **written or electronic** statement of earnings and deductions for each pay period. The statement of earnings and deductions must contain **the employee's**

(1) [EMPLOYEE'S] rate of pay;

(2) gross wages;

(3) net wages;

[THE]

(4) [^]beginning and ending dates of the pay period [AND THE WEEKLY HOURS ACTUALLY WORKED DURING THE PERIOD];

(5) repealed 9/28/85;

(6) repealed 9/28/85;

(7) federal income tax deductions;

(8) Federal Insurance Contribution Act deductions;

(9) Alaska Employment Security Act contributions;

(10) board and lodging costs;

(11) advances; [AND]

(12) **straight time and overtime hours actually worked in the pay period;**

and

(13) other authorized deductions. (Eff. 12/9/78, Register 68; am 9/28/85, Register 95; am 4/29/99, Register 150; am 5/16/2003, Register 166; am 3 / 2 / 2008, Register 185)

Authority: AS 23.05.060 AS 23.10.065 AS 23.10.095
AS 23.10.060 AS 23.10.085

8 AAC 15.165 is amended to read:

8 AAC 15.165. Purchase of uniform or equipment. An employer may not require an employee to purchase a uniform or equipment if **the**

(1) [THE] uniform or equipment is required by the federal, state, or local safety or health codes; [,] or

(2) [THE] nature of the employer's business requires the use of either, and if the uniform or equipment

(A) is distinctive and advertises or is associated with the products or services of the employer, **except that the clothing that constitutes a uniform or equipment may advertise the products or services of the employer if the uniform or equipment is customarily sold to the public by the employer; or [AND]**

(B) cannot be worn or used during normal social activities of the employee. (Eff. 9/28/85, Register 95; am 4/29/99, Register 150; am 3 / 2 / 2008, Register 185)

Authority: AS 23.05.060 AS 23.10.085 AS 23.10.095

AS 23.10.065

8 AAC 15.908(a) is amended to read:

(a) Subject to the exceptions specified in 29 C.F.R. **541.602 and 541.603** [PARTS 541.118(a)(1) - (6)], **revised as of July 1, 2007 and** [HEREBY] adopted by reference; an exempt employee must receive the full salary for any week in which the employee performs any work regardless of the number of days or hours worked, except as provided in (c) of this section.

8 AAC 15.908(d) is amended to read:

(d) Except as provided in 29 C.F.R. **541.602 and 541.603** [541.118(a)(1) - (6)], determining an exempt employee's salary is subject to the general rule that an employee **is not required** [DOES NOT NEED] to be compensated for any week in which no work is performed or for any day in which no work was performed. (Eff. 4/29/99, Register 150; am 3 / 2 / 2008, Register 185)

Authority: AS 23.05.060 AS 23.10.085

Editor's note: Copies of the federal regulations cited in 8 AAC 15.908 may be obtained from the department's wage and hour administration office in Anchorage, Alaska at 3301 Eagle Street, Suite 301, or by **contacting** [WRITING OR TELEPHONING] the office at Department of Labor and Workforce Development, 3301 Eagle Street, Suite 301 [P.O. Box 107021], Anchorage, AK 99503 [ALASKA 99510-7021]; **telephone** [PHONE]: (907) 269-4900.

As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.

8 AAC 15.910(a)(1) is repealed:

(1) repealed 3 / 2 / 2008;

8 AAC 15.910(a)(6) is repealed and readopted to read:

(6) "domestic service, including a baby-sitter, in or about a private home," as used in AS 23.10.055(a)(4),

(A) means a service or activity performed in or about a private home by an individual that is employed or paid by the owner or occupant of the private home or a family member of the owner or occupant of the private home; and

(B) includes services or activities such as a

(i) baby-sitter;

- (ii) cook;
- (iii) butler;
- (iv) valet;
- (v) maid;
- (vi) housekeeper;
- (vii) governess;
- (viii) janitor;
- (ix) laundress;
- (x) caretaker;
- (xi) handyman;
- (xii) gardener;
- (xiii) footman;
- (xiv) groom;
- (xv) chauffeur of automobiles for family use;

8 AAC 15.910(a)(7) is repealed:

(7) repealed 3 / 2 / 2008;

8 AAC 15.910(a)(10) is repealed:

(10) repealed 3 / 2 / 2008;

8 AAC 15.910(a)(11) is repealed:

(11) repealed 3 / 2 / 2008;

8 AAC 15.910^(a)(12) is repealed:

(12) repealed 3 / 2 / 2008;

8 AAC 15.910^(a)(14) is repealed:

(14) repealed 3 / 2 / 2008;

8 AAC 15.910(a)(20) is amended to read:

(20) "fee basis" means an agreed sum for a single job regardless of the time required for its completion as specified in 29 C.F.R. **541.605, revised as of July 1, 2007 and [PARTS 541.313(b), WHICH IS HEREBY] adopted by reference, with the following revision: Section 541.605(b) is revised in its entirety to read: (b) To determine whether the fee payment meets the minimum amount of salary required for an exemption with a weekly minimum of two times the minimum wage for 40 hours, the amount paid to the employee will be tested by dividing the fee paid for the job by the number of hours required to**

complete the job and multiplying the result by 40 hours. Thus, an artist paid \$600 for a painting that took 20 hours to complete would meet the minimum salary requirement, since the earnings at this rate (\$30 per hour) would yield the artist \$1,200 if 40 hours were worked;

8 AAC 15.910(d)(1)(D) is amended to read:

(D) records of hours worked and leave records;

(Eff. 12/9/78, Register 68; am 9/28/85, Register 95; am 10/4/90, Register 115; am 2/10/93, Register 125; am 3/18/93, Register 125; am 4/29/99, Register 150; am 3 / 2 / 2008, Register 185)

Authority: AS 23.05.060 AS 23.10.085 AS 23.10.430

Chapter 20. Transportation of Employees.

8 AAC 20.010(a)(4) is amended to read:

(4) [PROLONGED,] unexcused absence from duties for more than three consecutive scheduled work days.

8 AAC 20.010(b)(1) is amended to read:

(1) misrepresentation of wages, **working hours, lodging, or other** conditions of employment [, OR LODGING]; or

(Eff. 4/17/74, Register 49; am 4/29/99, Register 150; am 3 / 2 / 2008, Register 185)

Authority: AS 23.10.380 AS 23.10.395

8 AAC 20.030(2) is amended to read:

(2) "subsistence" means board and lodging furnished **by the employer or** [AT THE EMPLOYER'S FACILITIES IF BOARD AND LODGING FACILITIES ARE NORMALLY FURNISHED BY THE EMPLOYER, OR, WHEN THE EMPLOYER'S FACILITIES ARE NOT USED,] \$100 per day **furnished by the employer** for living expenses.

(Eff. 4/17/74, Register 49; am 9/28/85, Register 95; am 4/29/99, Register 150; am

3 / 2 / 2008, Register 185)

Authority: AS 23.10.380 AS 23.10.395

Chapter 30. Public Contracts.

8 AAC 30.020(a) is amended to read:

(a) Before Friday of **every second** [EACH] week, each contractor, subcontractor, or owner/operator who performs work on a public construction contract for the state or political subdivision of the state shall file with the department a certified payroll (Form 07-6058) that covers the preceding **reporting period** [WEEK].

8 AAC 30.020(c) is amended to read:

(c) **Instead** [IN LIEU] of submitting Form 07-6058, a contractor may submit the contractor's payroll form. However, the payroll form must contain the **same information and statement of compliance required by Form 07-6058** [INFORMATION REQUIRED BY AS 36.05.040 AND A STATEMENT THAT THE CONTRACTOR IS COMPLYING WITH AS 36.10 (EMPLOYMENT PREFERENCE)].

8 AAC 30.020(d) is amended to read:

(d) Owner/operators who perform duties as laborers, mechanics, or field surveyors while working as contractors or subcontractors on a public work project shall be included on their certified payrolls in the same manner as any other laborer, mechanic or field surveyor. **However an owner/operator who performs duties as a laborer, mechanic, field surveyor is not required to pay themselves each reporting period, but shall report hours worked and actual payments received under the terms of the contract and the period covered by each payment. After deducting operating expenses, the actual payment received by an owner/operator performing duties as a laborer, mechanic, or field surveyor must meet or exceed the minimum prevailing rate of pay in the applicable classification for each hour worked on a public construction project.**

8 AAC 30.020 is amended by adding a new subsection to read:

(e) If a contractor is under contract to provide trucks on a public construction project and leases a truck to an individual truck driver or dispatches an owner/operator working on that same

project, the contractor shall pay no less than the prevailing wage for each hour worked each certified payroll reporting period to that driver. (Eff. 7/8/73, Register 47; am 7/30/82, Register 83; am 8/9/2001, Register 159; am 3 / 2 / 2008, Register 185)

Authority: AS 36.05.030 AS 36.05.040 AS 36.10.075

Editor's note: As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.

Form 07-6058 (payroll form) required in 8 AAC 30.020 may be obtained from the department's wage and hour administration office in Anchorage, Alaska at 3301 Eagle Street, Suite 301 or by contacting the office at Department of Labor and Workforce Development, 3301 Eagle Street, Suite 301, Anchorage, AK 99503; telephone: (907) 269-4900. The form is also available on the department's website at <http://labor.state.ak.us/lss/lssforms.htm>.

8 AAC 30.025 is amended by adding new subsections to read:

(b) A private pension plan or other fringe benefit plan as referenced in (a) of this section must meet the following conditions in order to be approved as an offset against the prevailing wage rate requirement for fringe benefits:

- (1) plan contributions must be
 - (A) irrevocable;

(B) deposited on a regular basis, not less than monthly, to a trustee or third-party administrator;

(C) free of administrative expense charges to employees, except reasonable and customary administrative fees charged to the plan as a whole, subject to approval of the plan trustee;

(D) non-discretionary;

(E) factored across all work performed by an employee in public construction and non-public construction with the exception of an automatic vesting 401(k) plan;

(2) plan contributions may not be made on behalf of employees who are not eligible to participate in the plan;

(3) except for an automatic vesting 401(k) plan, plan contributions must not be funded solely through hours worked on public construction projects.

(c) Except for an automatic vesting 401(k) plan which allows the actual hourly amount contributed to the plan during the public construction project to be directly credited against fringe benefit payment requirements, to establish an hourly rate for credit against prevailing wage requirements, the amount paid by the employer for the benefit shall be divided by the hours worked by the employee under the plan during the interval under which payments are due to the plan administrator. To allow for seasonal variations, the plan costs may be calculated on an annual basis.

(d) If the hourly rate established under (c) of this section does not meet the prevailing fringe benefit rate, the remainder must be paid to the employee.

(e) If a pension plan meets the requirements under 29 U.S.C. 1001 – 1461 (Employee Retirement Income Security Act of 1974) and includes a minimum vesting requirement, any forfeited amounts must remain in the trust, subject to the authority of the trustee and may not revert to the employer.

(f) The department may disallow an employer from taking credit for fringe benefit contributions as an offset to prevailing wage requirements if the provisions of this section are not met. Upon request, the employer shall provide the following to the department:

- (1) a copy of the plan;
- (2) a copy of the plan adoption agreement;
- (3) the name, address, and telephone number of the plan broker;
- (4) the name, address, and telephone number of the plan administrator;
- (5) the United States Internal Revenue Service approval letter;
- (6) the calculations of the hourly cost equivalent for the plan.

(g) An apprentice shall receive 100 percent of the prevailing fringe benefit rate established in the applicable *Laborers' and Mechanics' Minimum Rates of Pay*, unless another rate is specified in the apprentice training agreement approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

(f) In this section, “automatic vesting 401(k) plan,” means a 401(k) plan maintained in compliance with 29 U.S.C. 1001 – 1461 (Employee Retirement Income Security Act of 1974) that allows for immediate vesting in the plan to ensure that the employee will not be subject to any forfeiture of amounts contributed to the plan since it has no vesting requirements. (Eff. 1/2/91, Register 116; am 3 / 2 / 2008, Register 185)

Authority: AS 23.05.060 AS 36.05.030 AS 36.05.070

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. This determination will be published by the department in the pamphlet Laborers' and Mechanics' Minimum Rates of Pay [LABORERS AND MECHANICS MINIMUM RATES OF PAY]. Prevailing wage rates will be periodically revised by the department, on a regional basis, to correspond with the prevailing wage rate for similar work.

8 AAC 30.050(b)(4) is amended to read:

(4) In determining the prevailing wage rate for a region or zone, the department will consider the prevailing union wage, ^[.] local practice, and any other standard considered by the department to be appropriate.

(Eff. 7/8/73, Register 47; am 7/30/82, Register 83; am 8/9/2001, Register 159; am

3 / 2 / 2008, Register 185)

Authority: AS 36.05.010 AS 36.05.030 AS 36.05.070

Editor's note: The pamphlet titled *Laborers' and Mechanics' Minimum Rate of Pay* may be obtained from the department's wage and hour administration office in Anchorage, Alaska at 3301 Eagle Street, Suite 301 or by contacting the office at Department of Labor and Workforce Development, 3301 Eagle Street, Suite 301, Anchorage, AK 99503; telephone: (907) 269-4900. The ^{pamphlet} form is also available on the department's website at <http://labor.state.ak.us/lss/lssforms.htm>.

8 AAC 30.073(a) is amended to read:

(a) The commissioner will, at least **biennially** [ANNUALLY], determine whether an area is a zone of preference under AS 36.10 and this chapter if enough data is available to make that determination.

(Eff. 9/27/87, Register 103; am 3 / 2 / 2008, Register 185)

Authority: AS 36.10.075

8 AAC 30.081(d) is repealed and readopted to read:

(d) An employer subject to a resident hiring preference who is unable to find enough eligible residents may request from the department a waiver to hire an ineligible person for a specific job. The waiver request must be submitted to the department at least seven calendar days before the waiver is required to ~~can~~ be considered for approval. Within three working days, the department shall determine whether the contractor's proposed minimum qualifications for the position covered by the waiver request are acceptable. The employer must place an advertisement using at least one public form of statewide advertising, such as a newspaper with statewide circulation, and must request that the Alaska Employment Service post a statewide facilitated recruitment job order through the Alaska Job Center Network. The advertisement and the job order must run for at least three calendar days, and both must

- (1) state that the purpose of the request is to satisfy employment preference requirements of this state under AS 36.10 and that applicants must be residents of this state;
- (2) list the job title and minimum qualifications as accepted by the department;
- (3) identify the rate of pay including fringe benefits and other compensation, such as travel or room and board;

(4) identify the job location, expected duration of the job, and the number of expected daily and weekly work hours; and

(5) specify that all job seekers apply through the Alaska Job Center Network.

8 AAC 30.081(e) is amended to read:

(e) An employer subject to a resident hiring preference who is unable to find enough eligible residents from either private sources or from the applicants referred by the state employment center ^{under (d) of this section} may request from the department a waiver to hire an ineligible person for a specific job. A request for a waiver under this subsection must contain

(1) a description of the job for which a waiver is requested, **to include the wages,**

benefits, expected start date, work schedule, and job duration;

(2) the required qualifications for the job for which a waiver is requested;

(3) the qualifications of the person for whom the waiver is requested;

(4) the name and residence address of the person for whom the waiver is

requested;

(5) a description of the employer's efforts to obtain an eligible resident from private sources for the job for which a waiver is requested;

(6) a copy of the **recruitment report from the Alaska Job Center Network**

containing the following information and documentation:

(A) a copy of the job order, a listing of all applicants from the job

order and other private recruitment efforts, and the listing of the applicants referred

to the employer;

(B) the recruitment result report to show the number of individuals

interviewed, hired or not hired;

(C) and, a statement from the Alaska Job Center Network that the

employer did or did not comply with the recruitment requirements; [EMPLOYER'S REQUEST

TO THE STATE EMPLOYMENT CENTER FOR REFERRAL OF ELIGIBLE RESIDENTS FOR THE JOB FOR WHICH A WAIVER (7) the name and location of the project for which the [A CERTIFICATION IS REQUESTED];

FROM THE STATE EMPLOYMENT CENTER AS TO THE NUMBER OF APPLICANTS

REFERRED FOR THE JOB FOR WHICH A] waiver is requested; and

(8) an explanation of why each applicant referred was not hired.

8 AAC 30.081(f) is amended to read:

(f) The department will grant a waiver to employ an ineligible person if the employer establishes, to the department's satisfaction, that there are no qualified eligible residents for a specific job. A waiver granted by the department expires **six months from the approval date**, at the completion of the specific job for which the ineligible person was hired, or at the time the ineligible person terminates, whichever occurs first. The department will either grant or deny the waiver within 20 working days after receiving the request for a waiver and the supporting evidence required under (e) of this section.

8 AAC 30.081 is amended by adding a new subsection to read:

(g) A waiver granted under this section will be determined invalid unless the same benefits provided to the ineligible nonresident, such as housing and transportation to the work site, are also offered and provided to eligible resident applicants. (Eff. 9/27/87, Register 103; am

3 / 2 / 2008, Register 185)

Register 185, April 2008 LABOR AND WORKFORCE DEV.

Authority: AS 36.10.070 AS 36.10.140 AS 36.10.190
AS 36.10.075 AS 36.10.180

8 AAC 30.090(b)(2) is amended to read:

(2) **the division will provide an opportunity for** an informal conference with the respondent to discuss the matter and attempt to eliminate the alleged violations [WILL BE SCHEDULED].

(Eff. 12/4/76, Register 60; am 7/30/82, Register 83; am 1/2/91, Register 116; am 8/9/2001, Register 159; am 3 / 2 / 2008, Register 185)

Authority: AS 23.05.060 AS 36.10.075 AS 36.10.120
AS 36.05.030

8 AAC 30.220(a) is amended to read:

(a) **Within 90 days of concluding a hearing, the** [THE] hearing officer will prepare a written recommendation to the director containing findings of fact and conclusions of law. A copy of the recommendations will be mailed or otherwise delivered to the respondent and to the complainant, if any. The director may accept the recommendations, in part or in whole, or may remand the matter for further hearing. The director must act upon the hearing officer's recommendation and render a decision within 30 days.

(Eff. 1/2/91, Register 116; am 3 / 2 / 2008, Register 185)

Authority: AS 23.05.060 AS 36.05.030 AS 36.05.090