

**State of Alaska
Occupational Safety and Health**



**Alaska Statutes
Title 18**

**Alaska Administrative Code
Chapter 61**



**ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT**

ALASKA STATUTES

Title 18. Health, Safety, and Housing

Chapter 60. Safety

Article 01. Prevention of Accident and Health Hazards

Sec. 18.60.010. Legislative intent.

(a) The legislature finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, the people of the state in terms of loss of production, wage loss, medical expenses, and disability compensation payments.

(b) For these reasons it is found and declared necessary to undertake a program to reduce the incidence of work-related accidents and health hazards in the state.

Sec. 18.60.020. Regulations.

(a) The Department of Labor and Workforce Development shall issue the orders and adopt the regulations necessary to carry out the purposes of AS 18.60.010 - 18.60.105.

(b) Upon adopting a regulation or standard, or granting any variance under this chapter, the commissioner shall include a statement of the reasons for the action, forward a copy to the OSHA Review Board, cause a copy to be published in newspapers, and submit a news release to the electronic news media in the state so as to receive statewide coverage.

Sec. 18.60.030. Duties of Department of Labor and Workforce Development.

The Department of Labor and Workforce Development shall

(1) study ways and means for prevention of accidents to persons on the streets and highways, in and on the water, in aircraft usage, in homes, on the farms, at schools, in industrial and commercial plants, and in public places;

(2) plan and execute safety programs, including educational campaigns, designed to reduce accidents in every field of activity;

(3) work in cooperation with official and unofficial organizations and instrumentalities in the state that are interested in the promotion of safety so that possible resources can be marshaled and utilized to reduce the menace of accidental death and injury;

(4) work toward obtaining better observance and enforcement of laws governing street and highway traffic, and assist in bringing about, wherever feasible, the application of modern engineering measures for the prevention of traffic accidents;

(5) confer with the public agencies responsible for safeguarding the people against accidents, and especially with the Department of Transportation and Public Facilities, the Department of Public Safety, the Department of Education and Early Development, the Department of Natural Resources, the Department of Health and Social Services, and the heads or representatives of federal departments and agencies operating in the state particularly concerned with safety programs and accident prevention;

(6) establish and enforce occupational safety and health standards that prescribe requirements for safe and healthful working conditions for all employment, including state and local government employment, and the requirements are to be at least as effective as those requirements adopted by the United States Secretary of Labor under 29 U.S.C. 655 (Sec. 6 of P.L. 91-596);

(7) require an employer to maintain records and submit reports to the department which records and reports are necessary or appropriate for the enforcement of AS 18.60.010 - 18.60.105 and to maintain records and submit reports to the United States Secretary of Labor in the same manner and to the same extent as set out in federal law and regulations;

(8) require an employer to maintain records and submit reports appropriate for use in developing information regarding the causes and prevention of occupational accidents and illnesses;

(9) require an employer to make periodic inspections when necessary to carry out the record and reporting requirements of (7) and (8) of this section;

(10) participate in occupational safety and health programs if it finds they are necessary to meet the occupational health and safety needs of the state;

(11) execute on behalf of the state agreements or contracts necessary or desirable to enable the state to participate in occupational safety and health programs, and to receive and expend funds made available for programs of the state;

(12) annually publish a list of toxic and hazardous substances and physical agents;

(13) maintain a current set of OSHA form 20's or equivalent information for toxic and hazardous substances and for physical agents, and other information relevant to toxic and hazardous substances and physical agents;

(14) assist employers, upon request, to develop employee safety education programs and to identify and obtain information on toxic and hazardous substances and physical agents.

Sec. 18.60.040. Report.

Before the sixth day of each regular legislative session, the department shall prepare a report showing the accomplishments in this state toward reductions in accidents of all types, and recommendations for legislation, together with a plan for the proposed safety program for the succeeding year. Copies of the report shall be available for public information, and the department shall notify the legislature that the report is available.

Sec. 18.60.050. Employment for education and enforcement purposes. *[Repealed, Sec. 9 ch 72 SLA 1973].*

Repealed or Renumbered

Sec. 18.60.055. Division of Labor Standards and Safety.

As established by AS 23.10.075 , there is in the department a division of labor standards and safety. Minimum qualifications shall be established for employees of the department acting as safety inspectors under AS 18.60.010 - 18.60.105. These qualifications must include, as a minimum requirement, at least five years general work experience in the field they are assigned to inspect. Training in safety principles, codes, and standards may be substituted for work

experience up to a maximum of three years.

Sec. 18.60.057. Occupational Safety and Health Review Board.

(a) There is created the Occupational Safety and Health Review Board within the Department of Labor and Workforce Development, referred to in this chapter as the OSHA Review Board. The board shall consist of three members appointed by the governor and confirmed by the legislature in joint session. One member of the board shall represent labor, one member shall represent industry, and the other shall represent the public. Each appointee must have adequate experience in the area of appointment. A member of the board may not be an employee of the state in another capacity nor may a member of the OSHA Review Board be a member or officer of another board or commission for which compensation other than per diem and travel expenses is paid.

(b) The members of the board serve staggered terms of four years. A vacancy caused by the death, resignation, or removal of a member before the expiration of the term for which the member was appointed shall be filled only for the remainder of the unexpired term. A member of the board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office.

(c) The governor shall designate one member of the board as chairman. This member shall serve as chairman for a term of one year, but may be appointed for successive terms.

(d) Members of the board are entitled to compensation in the amount of \$50 a day for each day or portion of each day spent in actual meeting or on authorized official business incident to their duties and, in addition, they are entitled to all other transportation and per diem as provided by

law for members of other state boards and commissions.

(e) The board may employ persons, subject to legislative appropriation, it considers necessary for the purpose of performing its duties under this chapter.

Sec. 18.60.058. Reporting of injuries and illnesses.

(a) In the event of an employment accident that is fatal to one or more employees or that results in the in-patient hospitalization of one or more employees, the employer shall report the accident orally by telephone or in person to the nearest office of the division of labor standards and safety or by telephone to the federal toll-free number provided by the division. The report must relate the name of the establishment, the location of the accident, the time of the accident, a contact person and the telephone number of the contact person, a brief description of the accident, the number of fatalities or hospitalized employees, and the extent of any injuries. The report must be made immediately but in no event later than eight hours after receipt by the employer of information that the accident has occurred. However, if the employer first receives information of a fatality or in-patient hospitalization of one or more employees eight or more hours after the accident but within 30 days after the accident, the employer must make the report within eight hours after receiving information of the fatality or in-patient hospitalization. This subsection does not apply to an employer that first receives information of a fatality or in-patient hospitalization more than 30 days after the accident.

(b) In the event of an employment accident that is fatal to one or more employees or that results in in-patient hospitalization of two or more employees,

equipment, material, or product related to the injury or fatality may not be moved or altered until clearance is given by the department, except when compliance with this requirement would interfere for an unreasonable length of time with work or create additional hazards. If equipment, material, or products must be moved or altered before department clearance, the employer shall submit a detailed investigative report of the accident to the division.

Sec. 18.60.059. Legal counsel.

(a) The attorney general is legal counsel for the OSHA Review Board. The attorney general shall advise the board on legal matters arising in the discharge of its duties and represent the board in actions to which it is a party. If, in the opinion of the board, the public interest is not adequately represented by counsel in a proceeding, the attorney general, upon request of the board, shall represent the public interest.

(b) Subject to the approval of the attorney general, the board may employ temporary legal counsel from time to time in matters in which the board is involved.

Sec. 18.60.060. Cooperation by other state agencies.

The agencies of the state shall cooperate with the department in its program of safety activities and shall make available information needed by the department relative to the accident problems and methods employed or recommended for accident prevention. The agencies may lend the personnel who may be spared from their regular duties for short periods to assist in safety programs.

Sec. 18.60.065. Importation of toxic and hazardous substances.

Toxic and hazardous substances imported into the state shall be accompanied by a federal Occupational Safety and Health Administration (OSHA) form 20 or equivalent information. This requirement does not apply to a substance for which the in-state purchaser has already received the most current information.

Sec. 18.60.066. Employee safety education programs.

(a) An employer shall conduct a safety education program for an employee before the employee performs a new work assignment that may result in the employee being exposed to a toxic or hazardous substance or a physical agent for which the employee has not received safety instruction as provided under (b) of this section.

(b) An employee safety instruction program shall inform the employee of

(1) the location, properties, and known or suspected acute and chronic health effects of the hazardous or toxic substances or physical agents to which the employee is exposed in the workplace;

(2) the nature of the operations that could result in exposure to hazardous or toxic substances or physical agents as well as any necessary handling or hygienic practices or precautions; and

(3) the location, purpose, proper use, and limitations of personal protective equipment used in the workplace.

Sec. 18.60.067. Information provided on employee's request.

(a) An employer shall make available to an employee on request a copy of the most recent OSHA form 20 or equivalent written information for a toxic or hazardous substance or for a physical agent to which the employee may be exposed. If the employer does not have the copy or information requested, the employer shall request a copy from the department or the manufacturer of the substance within three state government working days after receiving the request.

(b) If the copy or information requested under (a) of this section is not made available to the employee within 15 calendar days after the request is received, the employer shall take measures to assure that employees are not exposed to the substance to which the copy or information pertains until the copy or information is made available to the employee who made the request. This subsection applies only to substances for which an OSHA form 20 or equivalent information is required under OSHA regulations. This subsection does not alter, deny, or abrogate any right an employee may have under law to refuse to work under hazardous circumstances.

Sec. 18.60.068. Posting of information in workplace.

(a) The department shall print and make available to employers posters that contain notice of the provisions of this chapter relating to toxic and hazardous substances and physical agents.

(b) An employer whose employees are or may be exposed in the workplace to a toxic or hazardous substance or a physical agent shall display the following

information in a manner designed to notify the employees:

(1) a poster printed by the department under (a) of this section; and

(2) an OSHA form 20 or equivalent information for each toxic or hazardous substance and for each physical agent to which an employee may be exposed in the workplace

(A) under normal conditions of work; or

(B) during a reasonably foreseeable emergency, including equipment failure and rupture of containers.

(c) Instead of posting the information required under (b)(2) of this section, an employer may post a list of the chemical name and product name of each toxic or hazardous substance and each physical agent to which an employee may be exposed in the workplace, together with an identification of a location, in or near the workplace and accessible to employees, where an employee may inspect the information listed under (b)(2) of this section.

Sec. 18.60.070. Use of funds and contributions.

Funds appropriated by the legislature for AS 18.60.010 - 18.60.105 and contributions shall be spent only for the purposes of AS 18.60.010 - 18.60.105.

Sec. 18.60.075. Safe employment.

(a) An employer shall do everything necessary to protect the life, health, and safety of employees including, but not limited to

(1) complying with all occupational safety and health standards and regulations adopted by the department;

(2) furnishing and prescribing the use of suitable protective equipment, safety devices, and safeguards as are prescribed for the work and work place;

(3) adopting and prescribing control or technological procedures, and monitoring and measuring employee exposure in connection with hazards, as may be necessary for the protection of employees; and

(4) furnishing to each employee employment and a place of employment that are free from recognized hazards that, in the opinion of the commissioner, are causing or are likely to cause death or serious physical harm to the employees.

(b) An employee shall comply with occupational safety and health standards and all regulations issued under AS 18.60.010 - 18.60.105 that are applicable to the employee's own actions and conduct.

(c) *[Repealed, Sec. 9 ch 72 SLA 1973].*

Sec. 18.60.077. Variance from a standard.

(a) An employer who is affected by AS 18.60.010 - 18.60.105 may apply to the commissioner for a variance from a provision of the safety and health standards adopted by the department. Employees who are affected by an application for variance shall be given notice of the application for

variance and an opportunity to participate in the hearing. The commissioner shall issue the variance if the commissioner determines on the basis of the hearing record, after opportunity for an inspection where appropriate, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to employees that are as safe and as healthful as those that would prevail if the employer complied with the provisions of the safety and health standards adopted by the department. The variance shall prescribe the conditions the employer must maintain and the practices, means, methods, operations, and processes that the employer must adopt and utilize to the extent they differ from the standard in question. The variance may be modified or revoked upon application by an employer, by employees, or by motion of the commissioner, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

(b) When the commissioner grants a variance, the commissioner shall include in this grant a statement of the reasons for the action, and the statement shall be published in a newspaper of statewide circulation and in a newspaper of local circulation in the area where the variance will be implemented. A copy of the statement shall be sent to the OSHA Review Board.

Sec. 18.60.080. Contributions.

The department may accept contributions of funds, property, materials, supplies, and other forms of aid from business firms, organized groups, or individuals for furthering the safety program.

Sec. 18.60.081. Temporary variance.

(a) An employer who is affected by AS 18.60.010 - 18.60.105 may apply to the commissioner for a temporary variance from a provision of the safety and health standards adopted by the department. A temporary variance shall be issued only if the employer files an application fulfilling the requirements of (b) of this section and the employer establishes that the employer

(1) is unable to comply with a standard by its effective date because of unavailability of the professional or technical personnel or of the materials and equipment needed to come into compliance or because necessary construction or alteration of facilities cannot be completed by the effective date;

(2) is taking all available steps to safeguard employees against the hazards covered by the standard; and

(3) has an effective program for coming into compliance with the standards as quickly as practicable.

(b) An application for a temporary variance must contain

(1) a specification of the standard from which the employer seeks a temporary variance;

(2) a representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that the employer is unable to comply and a detailed statement of the reasons for this inability;

(3) a statement of the steps the employer has taken and will take, including specific dates, to protect employees against the hazard covered by the standard;

(4) a statement of when the employer expects to be able to comply with the standard and what steps the employer has taken and what steps the employer will take, including specific dates, to come into compliance;

(5) a certification that the employer has informed employees of the application for temporary variance and of their right to request a hearing by giving a copy of the application and a written statement of the right to a hearing to the employees' authorized representative, by posting a statement giving a summary of the application and stating the employees' right to a hearing and specifying where a copy of the application and notice of right to a hearing may be examined at the place or places where notices to employees are normally posted, and by other appropriate means.

(c) A temporary variance issued under this section must prescribe the practices, means, methods, operations, and processes that the employer shall adopt and use while the variance is in effect and state in detail the employer's program for coming into compliance with the standard. A temporary variance may be granted only after notice to affected employees and an opportunity for hearing. However, the commissioner may issue one interim order to be effective until a decision is made on the basis of a hearing. A temporary variance may not be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that a temporary variance may be renewed no more than twice if the requirements of (a) and (b) of this section are met and the application for renewal is filed at least 90 days before the expiration date of the variance. An interim renewal of

an order may not remain in effect for longer than 180 days.

Sec. 18.60.083. Right of entry and inspection.

(a) A representative of the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, may

(1) enter without delay and at reasonable times a factory, plant, establishment, construction site, or other area, work place, or environment where work is performed by an employee of an employer; and

(2) inspect and investigate during regular working hours and at other reasonable times, and with reasonable limits and in a reasonable manner, a place of employment and all pertinent conditions, structures, machines, devices, equipment, and materials, and question privately an employer, owner, operator, agent, or employee.

(b) In making inspections and investigations under (a) of this section, the department may issue subpoenas compelling the attendance of witnesses and the production of papers and records. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the state. If a person fails to grant a right of entry and inspection, the department may seek an order from the superior court compelling the person to submit to entry and inspection. If a person fails to comply with a subpoena or a witness refuses to testify to a matter regarding which the witness may be lawfully interrogated, a superior court may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify before it.

Sec. 18.60.085. Prohibition of unauthorized notice of inspection.

A person may not give unauthorized notice of a department safety or health inspection. A person who gives unauthorized notice of a safety or health inspection, upon conviction, is punishable by a fine of not more than \$7,000, or by imprisonment for not more than 180 days, or by both.

Sec. 18.60.087. Employer and employee participation in inspections.

(a) A representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the representative of the department during the physical inspection of a work place for the purpose of aiding the inspection. If the authorized representative is an employee, time spent aiding the inspection shall be considered as time worked and the employee shall be compensated accordingly. When there is no authorized employee representative, there shall be consultation with a reasonable number of employees concerning matters of health and safety in the work place.

(b) Comments relating to an employer's compliance with the provisions of AS 18.60.010 - 18.60.105 made by an employee or an employee representative to the representative of the department during the course of an inspection, and the name of any employee or employee representative making these comments to a representative of the department, are confidential and may not be made available by the department to the employer without the consent of the employee or the employee representative.

Sec. 18.60.088. Employee requests for special inspection.

(a) An employee or a representative of employees who believes that a violation of a safety or health standard exists that threatens physical harm or that an imminent danger exists may request an inspection by giving notice of the violation or danger to the department. The notice must be in writing and set out with reasonable particularity the grounds for the notice and be signed by the employee or the representative of the employees. If, upon receipt of the notice, the department determines that there are reasonable grounds to believe that a violation or danger exists, the department shall make a special inspection as soon as practicable. If the department determines there are no reasonable grounds to believe that a violation exists, the department shall notify in writing the employee or the representative of the employees of that determination.

(b) If the department makes a special inspection, or an inspection under AS 18.60.083 , a copy of an employee notice shall be provided the employer no later than at the time of the inspection. Unless expressly consented to by the person giving the notice, the person's name and the name of employees referred to in the notice shall be kept confidential and may not appear in the copy provided the employer or in any record available to the employer.

(c) The department shall furnish the notifying person a written explanation of why a citation was not issued after a special inspection.

(d) The department shall, by regulation, establish a review procedure for a failure to issue a citation after a special inspection and shall provide the employees requesting a

review a written statement of the final disposition of the case.

Sec. 18.60.089. Prohibition against retribution.

(a) A person may not discharge or discriminate against an employee because the employee has filed a complaint or instituted or caused to be instituted a proceeding related to the enforcement of occupational safety and health standards, or has testified or is expected to testify in a proceeding relating to occupational safety and health or because an employee has exercised personally or on behalf of others a right afforded under AS 18.60.010 - 18.60.105.

(b) An employee who has been discharged or discriminated against by a person in violation of this section may, within 30 days after the violation occurs, file a complaint with the commissioner alleging the discrimination. Upon receipt of the complaint, the commissioner shall investigate the matter as the commissioner considers appropriate. If, upon investigation, the commissioner determines that this section has been violated, the commissioner shall request the attorney general to bring an action in the superior court against the violator. The superior court has jurisdiction to restrain violations of (a) of this section and to order all appropriate relief, including rehiring or reinstatement of the employee to the employee's former position with back pay.

(c) Within 90 days of the receipt of a complaint filed under this section, the commissioner shall notify the complainant of the determination under (b) of this section.

Sec. 18.60.090. Penalty for violations.*[Repealed, Sec. 9 ch 72 SLA 1973].*

Repealed or Renumbered

Sec. 18.60.091. Citations.

(a) If, upon inspection or investigation, the department believes that an employer has violated a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer, the department shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and must describe with particularity the nature of the violation, including reference to the provisions of AS 18.60.010 - 18.60.105 or any order or regulation alleged to have been violated, and must fix a reasonable time for abatement of the violation. The department may prescribe procedures for the issuance of a notice instead of a citation with respect to minor violations that have no direct or immediate relationship to safety or health, or violations that are not serious and that the employer agrees to correct within a reasonable time. If an employer does not, within a reasonable time set out in the notice, correct a violation that is not serious, the department shall issue a citation to the employer.

(b) Upon receipt by the employer, each citation issued under this section, or a copy of the citation shall be immediately and prominently posted, at or near each place the violation referred to in the citation occurred.

(c) A citation may not be issued for a particular violation under this section after the expiration of 180 days following the discovery of the violation by the department or correction of a violation.

Sec. 18.60.093. Enforcement procedures.

(a) If, after an inspection or investigation, or after an employer's failure to correct a violation for which the employer has been issued a notice, the department issues a citation, the commissioner shall, at a reasonable time after the termination of the inspection or investigation, or expiration of the time period set out in the notice, notify the employer by certified mail of the penalty proposed to be assessed and that the employer has 15 working days within which to notify the commissioner and the OSHA Review Board that the employer wishes to contest the citation or proposed assessment of penalty. If, within 15 working days after receipt of the penalty notice issued by the commissioner, the employer fails to notify the OSHA Review Board that the employer intends to contest the citation or proposed assessment of penalty, the citation and the assessment, as proposed, are considered final and not subject to review by any court.

(b) If the commissioner has reason to believe that an employer has failed to correct, within the period allowed, a violation for which a citation has been issued, the commissioner shall notify the employer by certified mail of the failure, of the penalty proposed to be assessed because of the failure, and that the employer has 15 working days within which to notify the commissioner and the OSHA Review Board of a wish to contest the commissioner's notification of the proposed assessment of penalty. If, within 15 working days from the receipt of the notification issued by the commissioner, the employer fails to give notice of an intention to contest the notification or proposed assessment of penalty, the notification and assessment as proposed shall be considered a final order and not subject to review by any court.

(c) If an employer gives notice of an intention to contest the citation or

notification issued under (a) or (b) of this section, the OSHA Review Board shall afford an opportunity for a hearing and thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the original citation or proposed penalty, or directing other appropriate relief, and the order is final 30 days after its issuance.

(d) The OSHA Review Board shall notify the authorized representative of the affected employees that an employer is contesting a citation or notification issued under (a) or (b) of this section and afford the representative an opportunity to participate in the hearing on the matter.

(e) An employer, an affected employee, or a representative of affected employees has 15 working days from the receipt of a citation within which to notify the commissioner and the OSHA Review Board that the period of time fixed in the citation for the abatement of a violation is unreasonable. The OSHA Review Board shall afford an opportunity for a hearing and thereafter issue an order, based on findings of fact, affirming or modifying the original period for abatement, and the order is final 30 days after its issuance. If the contest is initiated by the employer, the OSHA Review Board shall notify the employees in the same manner as provided by (d) of this section. If the contest is initiated by the employees, the OSHA Review Board shall notify the employer and afford the employer an opportunity to participate in the hearing on the matter.

(f) If an employer fails without good cause to appear at a hearing held under this section after receiving proper notice of the hearing, the OSHA Review Board may order the employer to pay all reasonable expenses incurred by the board for the hearing, including the board's actual travel expenses and per diem.

(g) The board shall request the chief administrative law judge (AS 44.64.020) to appoint an administrative law judge employed or retained by the office of administrative hearings to preside at a hearing conducted under this section. AS 44.64.060 and 44.64.070 do not apply to the hearing. The administrative law judge who presided at the hearing shall be present during the consideration of the case and, if requested by the board, shall assist and advise the board. A member of the board who has not heard all of the evidence may not vote on the decision.

Sec. 18.60.095. Penalties.

(a) An employer who willfully or repeatedly violates a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 - 18.60.105 may be assessed by the commissioner a civil penalty of not more than \$70,000 for each violation. Except when a settlement is negotiated, the commissioner shall assess a minimum penalty of \$5,000 for a violation under this subsection that was committed willfully.

(b) An employer who receives a citation for a serious violation of a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or of a standard or regulation adopted under AS 18.60.010 - 18.60.105 shall be assessed by the commissioner a civil penalty of up to \$7,000 for each violation. For purposes of this subsection, a serious violation is considered to exist if the violation creates in the place of employment a substantial probability of death or serious physical harm. However, a serious violation is not considered to exist if the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(c) An employer who receives a citation for a violation of a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 - 18.60.105, and the violation is specifically determined not to be of a serious nature, may be assessed by the commissioner a civil penalty of up to \$7,000 for each violation.

(d) An employer who fails to correct a violation within the period permitted for its correction for which a citation has been issued may be assessed by the commissioner a civil penalty of not more than \$7,000 for each day during which the failure to correct the violation continues.

(e) An employer who willfully or repeatedly violates a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 - 18.60.105, and the violation causes death to an employee, upon conviction, is punishable by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both. However, upon a second conviction after a prior conviction for a violation causing death, an employer is punishable by a fine of not more than \$20,000, or by imprisonment for not more than one year, or by both. This subsection does not preclude prosecution of the employer under AS 11.

(f) A person who knowingly makes a false statement, representation, or certification with the intent to mislead in an application, record, report, plan or other document filed or required to be maintained under AS 18.60.010 - 18.60.105 is guilty of unsworn falsification in the second degree.

(g) An employer who violates the posting requirements of AS 18.60.010 - 18.60.105 shall be assessed by the

commissioner a civil penalty of up to \$7,000 for each violation.

(h) In assessing a civil penalty, the commissioner shall give due consideration to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

Sec. 18.60.096. Imminent dangers.

(a) The commissioner, or a designated agent as authorized by the commissioner, may issue orders restraining a particular condition or practice in any place of employment that constitutes a danger that could reasonably be expected to immediately cause death or serious physical harm. The terms of an order issued under this section may require steps to be taken as necessary to avoid, correct, or remove the imminent danger and may prohibit the employment or presence of an individual in locations or under conditions where imminent danger exists. The terms of the order may allow the presence of individuals necessary to avoid, correct, or remove the imminent danger.

(b) When and as soon as a representative of the department concludes that conditions or practices described in (a) of this section exist in any place of employment, the representative shall inform the affected employees and employer of the danger and that the representative is recommending to the commissioner, or a designated agent as authorized by the commissioner, the issuance of a restraining order.

(c) The attorney general shall, when requested by the commissioner, seek an injunction in superior court to enforce a restraining order issued under this section.

(d) If the commissioner arbitrarily or capriciously fails to issue a restraining order under this section, an employee who may be injured by reason of the failure, or the representative of the affected employees, may bring an action against the commissioner in superior court to compel the commissioner to issue a restraining order and for further relief as may be appropriate.

Sec. 18.60.097. Judicial review.

(a) A person affected by an order of the OSHA Review Board under AS 18.60.093 (c) or (e) or of the commissioner under AS 18.60.096 may obtain a review of the order by filing a notice of appeal in the superior court as provided in the Alaska Rules of Appellate Procedure.

(b) The department may obtain review of an order of the OSHA Review Board under AS 18.60.093 (c) or (e) by filing a notice of appeal in the superior court as provided in the Alaska Rules of Appellate Procedure.

(c) An order of the OSHA Review Board under AS 18.60.093 (c) or (e) or of the commissioner under AS 18.60.096 becomes final and is not subject to review by any court if a notice of appeal is not filed with the superior court within the period provided for by the Alaska Rules of Appellate Procedure.

(d) An employer seeking judicial review of an order of the OSHA Review Board or of the commissioner must inform the affected employees of the fact that the employer is seeking judicial review.

(e) The court shall review an order of the OSHA Review Board or of the commissioner on a substantial-evidence basis.

Sec. 18.60.098. Employee compensation for appearances.

(a) The employer shall compensate any of the employer's employees who appear at a board hearing under AS 18.60.010 - 18.60.105 for loss of wages if the employee appears at the hearing as the result of a request of the employer or as the result of a subpoena issued at the employer's request.

(b) The employer shall compensate any of the employer's employees who appear at a judicial proceeding under AS 18.60.010 - 18.60.105 for loss of wages if the employee appears at the proceeding as the result of a request of the employer or as the result of a subpoena issued at the employer's request.

(c) An employee who appears at a board hearing under AS 18.60.010 - 18.60.105 as the result of a request of the state or the OSHA Review Board or as the result of a subpoena issued at the request of the state or the OSHA Review Board shall be compensated at the rate of \$30 a day and transportation costs.

Sec. 18.60.099. Confidentiality of trade secrets.

Information obtained by the department in connection with an inspection or proceeding related to enforcement of occupational safety and health standards that contains or that might reveal a trade secret referred to in 18 U.S.C. 1905 is confidential. However, the information may be disclosed to other officers or employees concerned with carrying out occupational safety and health enforcement activities. In a proceeding, the commissioner or the court as may be applicable shall issue orders as may be appropriate to protect the confidentiality of trade secrets.

Sec. 18.60.100. Nonabrogation of powers of Department of Health and Social Services.

AS 18.60.010 - 18.60.105 are not intended to abrogate the powers, duties, and responsibilities of the Department of Health and Social Services in carrying out the provisions of this title and AS 17.

Sec. 18.60.105. Definitions.

(a) Except as provided in (b) of this section, in AS 18.60.010 - 18.60.105,

(1) "be exposed" means to ingest, inhale, or absorb through the skin or eyes a substance or physical agent, or fumes or other potentially harmful aspect of a substance or physical agent;

(2) "commissioner" means the commissioner of labor and workforce development;

(3) "department" means the Department of Labor and Workforce Development;

(4) "employee" means a person who works for an employer;

(5) "employer" means a person, including the state and political subdivisions of the state, who has one or more employees;

(6) "OSHA" means the federal Occupational Safety and Health Administration;

(7) "physical agent" means a physical agent that exceeds the threshold established in the 1986-1987 edition of "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment" published by the American

Conference of Governmental Industrial Hygienists;

(8) "suitable protective equipment" includes such personal protective equipment as is required by regulation issued under this chapter;

(9) "toxic or hazardous substance"

(A) includes

(i) a chemical listed in 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, "General Industry Standards", Occupational Safety and Health Administration;

(ii) a chemical listed in "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment", American Conference of Governmental Industrial Hygienists (Latest Edition);

(iii) a substance for which an OSHA form 20 or equivalent information is required under OSHA regulations; and

(iv) a substance determined by the department, in accordance with AS 44.62 (Administrative Procedure Act), to be a health hazard to an employee who is exposed to the substance, including a carcinogen, reproductive toxin, irritant, corrosive, sensitizer, hepatotoxin, nephrotoxin, neurotoxin, agent that acts on the hematopoietic system, agent that damages the lungs, a cutaneous hazard, and an eye hazard;

(B) does not include

(i) substances that because of their physical state, volume, or concentration do not pose a health hazard upon exposure;

(ii) substances that are goods, food, drugs, cosmetics, or tobacco products intended for personal consumption; or

(iii) substances in transit;

(10) "transit" means conveyed in a sealed or unopened container by a mode of transportation.

(b) In AS 18.60.030 (14), 18.60.065 - 18.60.068, and (a)(9) of this section,

(1) "employee" means a person who works for an employer, but not in a place used primarily as a personal residence;

(2) "employer" means a person, including the state and a political subdivision of the state, who has one or more employees working in a place not used primarily as a personal residence;

(3) "health hazard" means a substance or physical agent capable of causing acute or chronic adverse effects to health;

(4) "workplace" means a place of employment other than a place used primarily as a personal residence.

ALASKA ADMINISTRATIVE CODE

8 AAC 61.020. Inspections

(a) The right of entry to conduct inspections will be exercised in accordance with AS 18.60.083 . For the purposes of AS 18.60.083 , "appropriate credentials" means an employee identification card indicating that the person is an employee of the department.

(b) Upon refusal to permit a department representative, in the exercise of his official duties, to enter without delay and at

reasonable times, any place of employment, to inspect, review records, or to question any employer, owner, operator, agent, or employee in accordance with AS 18.60.083, or to permit an employee representative to accompany the department representative during the physical inspection of any workplace in accordance with AS 18.60.087, the department representative shall end the inspection or confine it to other areas where permission to inspect is granted. The department representative shall try to find out the reason for being denied permission to inspect, and immediately report his findings to the director. The director then shall consult with the appropriate assistant attorney general who shall take appropriate action, including compulsory process, if necessary. Where compulsory process is relied on to seek entry to a workplace under this section an ex parte inspection warrant is the preferred form.

(c) Compulsory process may be sought before an attempted inspection or investigation if, in the judgment of the director and the assistant attorney general, circumstances exist which make such pre-inspection process desirable or necessary. Some examples of circumstances in which it may be desirable or necessary to seek compulsory process before an attempt to inspect or investigate include, but are not limited to

(1) when the employer's past practice either implicitly or explicitly puts the commissioner on notice that a warrantless inspection will not be allowed;

(2) when circumstances exist which would, as determined by the commissioner or his designee, require considerable expenditure of time and money to return to the office for the purpose of obtaining a warrant; or

(3) when an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring a warrant before attempting to inspect would alleviate the difficulties or costs encountered in coordinating the availability of that equipment or expert.

(d) Department representatives will, in their discretion, take environmental samples and take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. As used in this subsection, the term "employ other reasonable investigative techniques" includes using devices to measure employee exposures and attaching personal sampling equipment such as dosimeters, pumps, badges, and other similar devices to employees in order to monitor their exposures.

(e) At the beginning of the inspection the department's representative shall explain the nature, purpose, and scope of the inspection and which employer records required by this chapter he intends to review. However, this explanation does not preclude expansion of the scope of the inspection or access to additional employer records required by this chapter.

(f) In taking photographs and samples, the department's representative shall take reasonable precautions to ensure that his actions with flash, spark-producing, or other equipment will not be hazardous. The department's representative shall comply with all employer safety and health rules and use appropriate protective clothing and equipment.

(g) At the conclusion of the inspection, the department's representative shall confer

with the employer or his representative and informally advise him of any apparent safety or health violations disclosed by the inspection. During this conference, the employer may bring to the attention of the department's representative any pertinent information regarding conditions of the workplace. (Eff. 1/10/75, Register 53; am 11/25/75, Register 56; am 3/31/82, Register 81; am 10/2/83, Register 87)

Authority: AS 18.60.020 AS 18.60.075
AS 44.62.130

8 AAC 61.030. Objections to inspections

Upon a refusal to permit the department's representative, in the exercise of his official duty, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, review records, or to question an employer, owner, operator, agent in charge, or employee in accordance with 8 AAC 61.020, the department's representative will terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objections are raised. The department's representative will endeavor to ascertain the reason for the refusal and immediately report the refusal and the reason therefore to the commissioner or his designee. In the event of a refusal of entry for inspection, the department may seek an appropriate order from the superior court compelling entry and inspection. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.083

8 AAC 61.040. Advance notice of inspections

No advance notice of inspection will be given, except in the following situations:

(1) in cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

(2) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

(3) where necessary to assure the presence of representative(s) of the employer or employees or the appropriate personnel needed to aid in an effective inspection;

(4) in other circumstances where the commissioner or his designee determines that the giving of advance notice would enhance the probability of an effective and thorough inspection. (Eff. 1/10/75, Register 53; am 11/22/75, Register 56)

Authority: AS 18.60.020 AS 18.60.085

8 AAC 61.050. Representatives of the employers and employees

(a) A representative of the employer and a representative authorized by the employees will be given an opportunity to accompany the department's representative during the inspection of any place of employment for the purpose of aiding the inspection. Additional employer representatives and additional representatives authorized by employees may accompany the department's representative when he determines that additional representatives will further aid the inspection. Different employer and employee representatives may accompany the department's representative during each different phase of an inspection if this will not interfere with the conduct of the inspection.

(b) The department's representative will resolve all disputes as to who is the representative authorized by the employer or employees. If there is no authorized representative of employees, or if the department's representative is unable to determine with reasonable certainty who is the representative, he shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

(c) The department's representative may deny the right of accompaniment to any person whose conduct interferes with a fair and orderly inspection. The right of accompaniment in areas containing trade secrets is subject to AS 18.60.099 . With regard to information classified by an agency of the United States government in the interest of national security, only persons authorized to have access to this information may accompany a department representative in areas containing the information. (Eff. 1/10/75, Register 53; am 11/22/75, Register 56)

Authority: AS 18.60.020 AS 18.60.087

8 AAC 61.060. Trade secrets

(a) At the commencement of an inspection the employer must identify areas of work which contain or which might reveal a trade secret. If the department's representative has no reason to question such identification, information obtained in such areas, including all negatives and prints of photographs, and environmental samples, will be labeled "Confidential Trade Secret" and will not be disclosed except in accordance with AS 18.60.099.

(b) Upon the request of an employer, the employees' representative authorized by 8 AAC 61.050, in an area containing trade secrets will be an employee in that area or

an employee authorized by the employer to enter that area. Where there is no representative of employees, the department representative will consult with a reasonable number of employees who work in that area concerning matters of safety and health. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.099

8 AAC 61.070 Consultation with employees

The department's representative may consult with employees concerning matters of occupational safety and health to the extent he deems necessary for the conduct of an effective and thorough inspection. During the course of an inspection, employees will be afforded an opportunity to bring any violations of AS 18.60.010 - 18.60.105 or regulations, standards, rules or orders promulgated pursuant thereto which exist in the place of employment to the attention of the department's representative. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.083
AS 18.60.087 AS 18.60.088

8 AAC 61.080. Special inspection

(a) An employee or a representative of employees who believes that a violation of a safety or health standard exists that threatens physical harm or that an imminent danger exists may request an inspection by giving notice of the violation or danger to the department. The notice must be in writing setting out with reasonable particularity the grounds for the notice, and must be signed by the employee or the representative of employees. Special inspections will be made in accordance with AS 18.60.088.

(b) If upon receipt of a notice under (a) of this section the commissioner determines that the complaint meets the requirement of that subsection and that there are reasonable grounds to believe that the alleged violation

exists, the commissioner will conduct an inspection as soon as practicable to determine if the alleged violation exists. Inspections under this section will not necessarily be limited to matters referred to in the complaint.

(c) Before or during any special inspection of a place of employment, an employee or representative of employees may inform the department's representative of any violation of AS 18.60.010 - 18.60.105 or regulations, standards, rules or orders promulgated pursuant to those statutes which exist in the place of employment.

(d) The party requesting a special inspection will be informed of the results of the special inspection. (Eff. 1/10/75, Register 53; am 11/22/75, Register 56; am 1/26/78, Register 65)

Authority: AS 18.60.020 AS 18.60.088

8 AAC 61.090. Special inspection, review

(a) If, after conducting a special inspection, the department does not issue a citation, the person giving the notice required by sec. 80 of this chapter will be informed within 30 days and in writing of the reason a citation was not issued. The notifying party may obtain a review of the department's decision by submitting a written statement of position to the director within 30 days of receiving notification that a citation was not issued. The director will notify the person requesting the review within 15 days of the results of his review.

(b) If the department determines, based on the notice required by sec. 80 of this chapter, that there are no reasonable grounds to believe that a violation of a safety regulation exists, and does not conduct a special inspection, the notifying party will be informed in writing of this determination

within 30 days. Review of this determination may be obtained by the notifying party by submitting a written statement of position to the director within 30 days of receiving notification that a special inspection was not conducted. The director will notify the person requesting the review within 15 days of the results of his review.

(c) If the director upholds the department's decision, the notifying party may obtain a review of the determination by submitting a written statement of position to the commissioner within 10 days of receipt of the director's review. The commissioner may affirm, modify or reverse the director's determination. The commissioner will inform the notifying party of his final disposition of a notice for special inspection within 15 days of receipt of the request for review of the director's decision. (Eff. 1/10/75, Register 53; am 11/22/75, Register 56)

Authority: AS 18.60.020 AS 18.60.088

8 AAC 61.100. Imminent danger

(a) When a representative of the department concludes that a condition or practice exists in a place of employment which creates an imminent danger, he will immediately request the commissioner or an agent authorized by the commissioner to issue an order restraining the condition or practice creating the imminent danger. If a restraining order is issued, it will be immediately and prominently posted by the department's representative at or near the condition or practice that creates the imminent danger.

(b) When the department's representative concludes that a practice or condition exists that creates an imminent danger, he will immediately inform the employer, employees, and the employees' authorized

representative, when known and readily available, of the danger and the action he has taken or recommended. For the purpose of this subsection, verbal notice is sufficient.

(c) Appropriate citations and notices of proposed penalties may be issued with respect to an imminent danger, even though after notice of the danger the employer immediately eliminates the immediacy of the danger and institutes steps to abate it.

(d) An imminent danger is a condition or practice in a place of employment which could reasonably be expected to cause death or serious physical harm, either immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this chapter. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.096

8 AAC 61.110. Citations

(a) If on the basis of an inspection the department believes that the employer has violated a requirement of AS 18.60.010 - 18.60.105 or any regulation, standard, rule, or order promulgated pursuant thereto, the department will with reasonable promptness issue a citation to the employer. The contents of the citation will conform with the requirements of AS 18.60.091.

(b) A citation will be issued for every violation that has a direct or immediate relationship to safety or health. The citation will be issued even though after notice of the violation the employer immediately abates or initiates steps to abate the violation. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.091

8 AAC 61.120 Posting of Citations

(a) Upon receipt of a citation issued under sec. 110 of this chapter, the employer shall immediately post the citation, or an unedited copy thereof, at or near each place an alleged violation referred to in the citation occurred. When, because of the nature of the employer's operation, it is not practicable to post a citation at or near each place of alleged violation, the citation shall be posted in a prominent place where it will be readily observable by all affected employees. The employer shall take steps to insure the citation is not altered, defaced or covered by other material.

(b) Each citation must remain posted until the violation has been abated, or for five working days, whichever is later. The filing by the employer of a notice of intention to contest under sec. 150 of this chapter does not affect his posting responsibilities under this section unless or until the board issues a final order vacating the citation.

(c) An employer who has filed a notice of intention to contest under sec. 150 of this chapter may post in the same location as the citation a notice that the citation is being contested before the board. The notice may explain the reasons for the contest and may indicate what specific steps have been taken to abate the violation. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.091

8 AAC 61.130. Failure to abate a violation for which a citation has been issued

If the commissioner has reason to believe that an employer has failed to correct, within the abatement period fixed by the citation, a violation of AS 18.60.010 - 18.60.105, or any regulation, standard, rule or order promulgated pursuant thereto, for which a

citation has been issued, the commissioner will notify the employer by certified mail of the failure. The notice may contain an additional penalty proposed to be assessed because of the failure to abate. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.095

8 AAC 61.135. Petitions for modification of abatement period

(a) An employer may file a petition for modification of an abatement date when that employer has made a good faith effort to comply with the abatement requirements of a citation, but the abatement has not been completed because of factors beyond the employer's reasonable control.

(b) A petition for modification of an abatement date must be in writing and must include the following information:

(1) all steps taken by the employer and the dates of that action, in an effort to achieve compliance during the prescribed abatement period;

(2) the specific additional abatement time necessary in order to achieve compliance;

(3) the reasons the additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date;

(4) all available interim steps being taken to safeguard the employees against the cited hazard during the abatement period;

(5) a certification that a copy of the petition has been posted and, if appropriate, served on the authorized representative of

affected employees, in accordance with (d) of this section, and a certification of the date upon which the posting and service were made.

(c) A petition for modification of an abatement date must be filed with the director no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition must be accompanied by the employer's statement of exceptional circumstances explaining the delay.

(d) At the time of filing the petition with the director, a copy of the petition must be posted in a conspicuous place where all affected employees will have notice of it or near each location where the violation occurred. The petition must remain posted for a period of 10 days. Where affected employees are represented by an authorized representative, the representative must be served with a copy of the petition.

(e) Affected employees or their representatives may file an objection in writing to the petition with the director. Failure to file an objection within 10 working days of the date of posting of the petition or of service upon an authorized representative will constitute a waiver of any further right to object to the petition.

(f) The commissioner or his authorized representative will not act on the petition until the expiration of at least 15 working days from the date the petition was filed with the director.

(g) If a petition is objected to by the commissioner, his authorized representative, or affected employees, the petition, citation, and any objections will be forwarded to the board for a hearing and decision on the petition within three days after the

expiration of the 15-day period set out in (f) of this section.

(h) An employer whose petition for modification of an abatement date is heard by the board will have the burden of proof to demonstrate that it has made a good-faith effort to comply with the abatement requirements of the citation but that abatement has not been completed because of factors beyond the employer's reasonable control. (Eff. 11/22/75, Register 56; am 1/4/78, Register 64; am 2/1/85, Register 93) Authority: AS 18.60.020 AS 18.60.093

8 AAC 61.140. Assessment of penalties for citations

(a) The department will, in the department's discretion, assess a civil penalty when it issues a citation under 8 AAC 61.110. The department will assess a penalty for any violation classified as a serious, repeat, willful, or failure-to-abate violation. The department will, in the department's discretion, assess a penalty for any other-than-serious violation.

(b) The maximum civil penalty that the department may assess is set out in AS 18.60.095.

(c) For purposes of the department's classifying a violation, handling a citation, and assessing a civil penalty for a violation; the department adopts by reference sections (C)(2)(a) - (f), (C)(3), and (C)(5) of chapter III and section (C) of chapter IV of the U.S. Department of Labor, Occupational Safety and Health Administration Instruction CPL 2.103 Field Inspection Reference Manual, revised as of September, 1994.

(d) The commissioner will determine the amount of any proposed penalty, giving due consideration to the size of the employer's

business, gravity of the violation, good faith of the employer, and the employer's previous history of violations based on the criteria adopted by reference in (c) of this section. The commissioner will, in the commissioner's discretion, also consider the recommendations of a representative of the department who has consulted with the employer concerning the factors that the commissioner will consider in assessing a penalty.

(e) The department will notify the employer of the penalty proposed according to the requirements set out in AS 18.60.093. A notice will be sent even if no penalty is proposed.

(f) The department will, in the department's discretion, propose a penalty with respect to an alleged violation even though the employer immediately abates the alleged violation.

(g) Failure to abate a violation within the period allowed by the department will subject the employer to liability on the full amount of the proposed penalty as well as a possible additional proposed penalty, as provided by 8 AAC 61.130.

(h) In deciding cases contested under 8 AAC 61.150 - 8 AAC 61.220, the board is not bound by the chapters in the Federal Inspection Reference Manual adopted by reference in (c) of this section when it decides the classification of a violation or the assessment of a penalty for a violation.

(i) Unless the context in which a term is used clearly requires a different meaning, the following revisions are necessary to make requirements adopted by reference in (c) of this section technically feasible in this state:

(1) all references to "Section 5(a)(1)" are revised to read "AS 18.60.075 (a)(4)";

(2) all references to "Section 17" are revised to read "AS 18.60.095 ";

(3) all references to "29 C.F.R. Part 1903.2" are revised to read "8 AAC 61.1940 - 8 AAC 61.1950";

(4) all references to "29 C.F.R. Part 1903.16" are revised to read "8 AAC 61.120";

(5) repealed 10/6/2002;

(6) repealed 10/6/2002;

(7) repealed 10/6/2002;

(8) all references to "29 C.F.R. Part 1904.7" are revised to read "8 AAC 61.270";

(9) all references to "29 C.F.R. Part 1904.8" are revised to read "AS 18.60.058 ";

(10) all references to "29 C.F.R. Part 1910.20" are revised to read "8 AAC 61.270";

(11) all references to "Area Director" are revised to read "director of the Division of Labor Standards and Safety";

(12) all references to "Assistant Area Director" are revised to read "Chief of Alaska Occupational Safety and Health (AKOSH)";

(13) all references to "Regional Solicitor" are revised to read "Department of Law, Civil Division";

(14) all references to "U.S. Department of Justice" are revised to read "Department of Law, Criminal Division"; and

(15) all references to "Secretary" are revised to read "Commissioner of Labor and Workforce Development". (Eff. 1/10/75, Register 53; am 11/22/75, Register 56; am 11/12/93, Register 128; am 3/27/96, Register 137; am 9/27/98, Register 147; am 10/6/2002, Register 164)

Authority: AS 18.60.020 AS 18.60.091
AS 18.60.095

Editor's note: Copies of the Federal Inspection Reference Manual (the "FIRM") are available from the Alaska Department of Labor and Workforce Development, division of labor standards and safety, occupational safety and health section, P.O. Box 21149, Juneau, Alaska 99802-1149. In addition, the FIRM is available on the Internet at <http://www.osha.gov/readingroom.html>

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 61.142. Abatement verification

(a) 29 C.F.R. 1903.19, as amended is adopted by reference, except as provided in (b) and (c) of this section.

(b) 29 C.F.R. 1903.19(b)(4)(ii), as amended, is revised to read: 'Final order date for a contested citation means the 30th day after the date on which the Alaska Occupational Safety and Health Review Board issues its decision or order disposing of all or pertinent part of a case. If a decision of the Alaska Occupational Safety and Health Review Board is stayed under Rule 603 of the Alaska Rules of Appellate Procedure, the final order date means the

date that the court issues its decision affirming the violation."

(c) Unless the context in which a term is used clearly requires a different meaning, the following revisions are necessary to make requirements adopted by reference in (a) of this section technically feasible in this state:

(1) all references to "29 C.F.R. 1903.16" are revised to read "8 AAC 61.120";

(2) all references to "Occupational Safety and Health Act of 1970" are revised to read "AS 18.60.010 - 18.60.105";

(3) all references to "OSHA" are revised to read "Alaska Occupational Safety and Health (AKOSH)";

(4) all references to "Occupational Safety and Health Review Commission" are revised to read "Alaska Occupational Safety and Health Review Board"; and

(5) all references to "Area Director" are revised to read "director of the Division of Labor Standards & Safety." (Eff. 9/27/98, Register 147)

Authority: AS 18.60.020 AS 18.60.091
AS 18.60.095

8 AAC 61.145 Abatement period for contested violations

The period for abatement of a violation does not begin until the issuance of a final order by the review board in any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties. (Eff. 1/26/78, Register 65)

Authority: AS 18.60.020 AS 18.60.093

8 AAC 61.150. Notice of contest

(a) A citation, notice of proposed penalty, or notice of abatement date is final unless the employer, an affected employee, or an authorized employee representative files a notice of contest. An affected employee or an authorized representative may contest only abatement dates.

(b) A notice of contest must be in writing and must be postmarked or personally delivered to the department within 15 working days of receipt by the employer of the citation, notice of proposed penalty, or notice of abatement date. A notice of contest must contain

(1) a specification of the citation, proposed penalty, or abatement date being contested;

(2) a concise statement of fact giving the reason for the contest; and

(3) any views or arguments on any issue of fact or law presented.

(c) For the purposes of this section, the term "proposed penalty" includes a notice of assessment of additional penalty for failure to abate.

(d) Mailing or personally delivering a notice of contest with the department satisfies the requirement of filing the notice of contest with the board. The department will transmit the notice of contest to the board or its authorized designee in accordance with procedures that the board may establish. If a notice of contest is filed by an employer, a copy of it must be mailed or personally delivered by the employer to any authorized employee representatives and must be posted at the place of employment where notices to employees are customarily

posted. If a notice of contest is filed by an employee or employee representative, a copy of it must be mailed or personally delivered by the employee or employee representative to the employer.

(e) Repealed 12/2/94.

(f) A notice of contest that is not timely filed in accordance with this section must include a statement of the reasons why the notice of contest was untimely filed. The department will promptly transmit a late notice of contest to the board and will state in writing whether it opposes the board's acceptance of the late notice of contest. After review of the submissions, the board shall issue a written order accepting or rejecting the late notice of contest. (Eff. 1/10/75, Register 53; am 1/4/78, Register 64; am 10/2/83, Register 87; am 12/2/94, Register 132)

Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093

Editor's note: The address for mailing or personally delivering notices of contest to the department is Department of Labor and Workforce Development, division of labor standards and safety, occupational safety and health section, 3301 Eagle Street, Suite 305, Anchorage, Alaska 99503-4149.

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 61.155. Informal conference

(a) Within 15 working days of receipt of a citation, an affected employer, employee, or representative of employees may request the director to hold an informal conference for the purpose of reviewing and discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest.

(b) During the conference, the director or his designee, acting for the commissioner, may change the citation, proposed penalty, or abatement dates.

(c) If the conference is requested by the employer, affected employees or their representative may be afforded an opportunity to participate, at the discretion of the director. If the conference is requested by an employee or representative of employees, the employer may be afforded an opportunity to participate, at the discretion of the director.

(d) Any party may be represented by counsel at the informal conference.

(e) An informal conference or request for an informal conference does not operate as a stay of any 15-working-day period for filing a notice of intention to contest prescribed in AS 18.60.093 (e). (Eff. 11/22/75, Register 56)

Authority: AS 18.60.020 AS 18.60.091

Article 3

Occupational Safety and Health Review Board

Section

160. Powers and duties of the board.

165. Filing and service of documents.

170. Rules of procedure.

175. Pleadings and parties.

180. Prehearing conferences.

185. Withdrawal of citations, proposed penalty, or notices of contest.

190. (Repealed).

195. Settlements.

200. Discovery of information.

205. Hearings.

210. (Repealed).

220. Decisions of the board.

8 AAC 61.160. Powers and duties of the board

(a) When a notice of contest is filed in accordance with 8 AAC 61.150, the board shall conduct a full and impartial hearing.

(b) During the course of the proceedings in a contested case, the board may

(1) administer oaths and affirmations;

(2) hold conferences for the settlement or simplification of the issues by consent of the parties;

(3) make, or cause to be made, an inspection of the place of employment involved; and

(4) issue subpoenas to compel the attendance of witnesses and the production of records.

(c) During the course of the proceedings in a contested case, the board shall

(1) rule upon offers of proof and receive relevant evidence;

(2) rule upon discovery requests and determine their scope;

(3) regulate the course of the hearing and the conduct of the parties and their counsel; and

(4) consider and rule upon procedural requests.

(d) A board member may not discuss the merits of any pending matter with any person or party unless notice and an opportunity to participate is given to all parties.

(e) A board member may disqualify himself or herself from participating in a hearing by giving notice to the remaining board members.

(f) A party may request disqualification or removal of a board member. The party shall file with the board a motion requesting disqualification or removal of a board member. A motion to disqualify must be supported by an affidavit setting forth the reasons why the board member should be disqualified from participating or continuing to participate in the proceedings. The challenged board member may not vote on the motion. The motion to disqualify will be granted only if both of the other board members vote to disqualify the challenged board member.

(g) A quorum of the board consists of two members. If only two board members hear a case and, after deliberation, are unable to reach a decision, the absent board member shall review the entire record and

shall deliberate with the other board members to reach a decision in the case.

(h) The board may authorize a hearing officer to preside over contested cases, including ruling on prehearing motions, discovery disputes, and procedural requests, issuing subpoenas, regulating the course of the hearing, ruling on evidentiary matters, preparing decisions and orders for the board's review and performing other acts requested by the board. (Eff. 1/10/75, Register 53; am 1/4/78, Register 64; am 12/2/94, Register 132)

Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093 AS 23.05.050

8 AAC 61.165. Filing and service of documents

(a) Documents filed with the board must be mailed to the Alaska Occupational Safety and Health Review Board. The date of filing is the date of receipt of the documents by the board.

(b) When a party files documents with the board, the party shall mail or personally deliver copies of the documents to all parties of record. Documents filed with the board must be accompanied by a statement giving the names of all parties served and the date and manner of service.

(c) Documents may be filed with the board or served on a party by means of facsimile transmission. Copies of all documents filed by facsimile transmission must be concurrently mailed or personally delivered to the board and to all parties of record. The date of filing is the date of receipt of the facsimile transmission by the board. (Eff. 12/2/94, Register 132)

Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093

Editor's note: The address for mailing documents to the Alaska Occupational

Safety and Health Review Board is P.O. Box 111149, Juneau, Alaska 99811-1149.

8 AAC 61.170. Rules of procedure

(a) The rules of procedure in this chapter govern the proceedings for notices of contest before the board. In the absence of a specific provision, procedure is governed by the rules of civil procedure. The board may make other rulings of procedure in a specific case if the board finds that the ruling is necessary for the fair and orderly conduct of the proceeding.

(b) The board's rules of procedure are intended to facilitate business and promote a speedy and just resolution of contested cases. The board may relax the rules of procedure if strict adherence to them would work an injustice to one or more of the parties. (Eff. 1/10/75, Register 53; am 11/22/75, Register 56; am 1/4/78, Register 64; am 1/26/78, Register 65; am 12/31/80, Register 76; am 12/2/94, Register 132)
 Authority: AS 18.60.020 AS 18.60.057
 AS 18.60.093

8 AAC 61.175. Pleadings and parties

(a) Within 30 days of receipt by the department of a timely notice of contest, if the matter has not been settled or otherwise resolved, the department will file a complaint with the board. The complaint must specify the alleged violations, proposed penalties, and abatement dates that are contested. A copy of the complaint must be mailed or personally delivered to the party filing the notice of contest and to all parties of record.

(b) Within 30 days of receipt of the department's complaint, the party against whom the complaint was issued shall file an answer with the board. The answer must contain a statement responding to the

allegations in the department's complaint and must include any affirmative defenses known to the party. A copy of the answer must be mailed or personally delivered to the department and to all parties of record.

(c) An employer, affected employee, or authorized employee representative, who has not filed a notice of contest, may participate as a party in the proceedings before the board by filing a written notice of participation with the board at least 20 days before the hearing. The notice of participation must contain the name, address and telephone number of the employer, affected employee, or authorized employee representative requesting to participate as a party and must be mailed or personally delivered to all parties of record. Failure to give notice of participation as a party does not prevent an employer, affected employee, or authorized employee representative, from attending the hearing or testifying as a witness for a party to the hearing.

(d) A party may appear in person or through an attorney. The board may allow a person who is not an attorney to assist a party, for no compensation, in the presentation of the party's case. A corporation may be represented by an authorized officer or agent. (Eff. 12/2/94, Register 132)
 Authority: AS 18.60.020 AS 18.60.057
 AS 18.60.093

8 AAC 61.180. Prehearing conferences

(a) Upon a motion by any party, or on its own motion, the board may require the parties to participate in a prehearing conference for the purpose of clarifying and simplifying the issues or procedures in a contested case. At the prehearing conference, the board may require the parties to

(1) state their positions on the issues in dispute;

(2) submit witness and exhibit lists;

(3) address any disputes regarding discovery of information;

(4) discuss scheduling matters that will facilitate the hearing process; and

(5) discuss any other matter that may expedite the proceedings and assure a just conclusion.

(b) After a prehearing conference, the board may issue an order regarding matters discussed at the conference and setting out the procedures to be followed at the hearing. The order controls the subsequent course of the proceedings unless modified by the board.

(c) At any stage of the proceedings in a contested case, the parties may enter into stipulations regarding issues, facts, applicable law, witnesses, exhibits, or any other relevant matters. A stipulation must be submitted in writing to the board unless it is made verbally on the record in a board proceeding. (Eff. 1/10/75, Register 53; am 1/4/78, Register 64; am 12/2/94, Register 132)

Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093

8 AAC 61.185. Withdrawal of citations, proposed penalty, or notices of contest

(a) The department will, in its discretion, withdraw a citation or proposed penalty at any stage in the proceedings in a contested case. If a citation or proposed penalty is withdrawn before the hearing in a contested case, a notice of withdrawal must be submitted in writing to the board and copies must be mailed or personally delivered to all

parties of record. In addition, the employer shall mail or personally deliver a copy of the notice of withdrawal to any authorized employee representatives and shall post a copy of the notice of withdrawal, for not less than 10 days, at the place of employment where notices to employees are customarily posted. Proof of the mailing or delivery and posting at the place of employment must be made by the employer in an affidavit submitted to the board.

(b) An employer, affected employee, or authorized employee representative that has filed a notice of contest may withdraw the notice of contest at any stage in the proceedings in a contested case. A notice of withdrawal must be submitted in writing to the board and copies must be mailed or personally delivered to all parties of record.

(c) Upon the filing of a notice of withdrawal of a citation, proposed penalty, or notice of contest, the board shall issue an order dismissing the case. (Eff. 12/2/94, Register 132)

Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093

8 AAC 61.190. Consent findings and rules or orders

Repealed. (Eff. 1/10/75, Register 53; repealed 12/2/94, Register 132)

8 AAC 61.195 Settlements

(a) At any stage in the proceedings in a contested case, the parties may enter into a settlement agreement disposing of part or all of a contested case. A settlement agreement must be in writing and must be filed with the board.

(b) A settlement agreement must include:

(1) an attached copy of each citation being settled;

(2) a statement of the terms of settlement for each citation being settled;

(3) evidence or documentation of abatement for each citation affirmed under the settlement agreement;

(4) a statement of any contested citations or issues that remain for hearing;

(5) a statement that the board may enter a final order having the same force and effect as a final order made after a hearing;

(6) an affidavit completed by the employer verifying that a copy of the settlement agreement was mailed or personally delivered to any authorized employee representatives and was posted for not less than 10 days at the place of employment where notices to employees are customarily posted; and

(7) a waiver of any further proceedings before the board or the department concerning a citation settled under this section.

(c) A settlement agreement mailed or personally delivered to an authorized employee representative and posted at the place of employment must include a cover page containing the following language:

**NOTICE OF SETTLEMENT OF
ALASKA OSH CITATION**

Attached is a settlement agreement concerning occupational safety and health citations issued by the Alaska Department of Labor and Workforce Development. Any affected employee or authorized employee representative may object to the reasonableness of any abatement dates in the

settlement agreement by giving written notice of the objection within 15 days of the receipt or posting of the settlement agreement. Notice of objection to the reasonableness of the abatement date must be mailed to the Alaska Occupational Safety and Health Review Board, P.O. Box 21149, Juneau, Alaska 99802-1149. Upon receipt of an objection, the board may schedule a conference or hearing.

(d) Upon receipt of an objection to the reasonableness of an abatement date in a settlement agreement, the board may schedule a conference or hearing. (Eff. 12/2/94, Register 132)

Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093

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.

8 AAC 61.200. Discovery of information

(a) Depositions must be taken in accordance with AS 44.62.440.

(b) The parties may undertake discovery by any other appropriate procedure, including written interrogatories, requests for production, requests for admission, or inspection of the place of employment. Discovery under this subsection must be done in accordance with the rules of civil procedure; however, the mandatory rules of disclosure under Alaska Rules of Civil Procedure 16, 16.1, and 26 do not apply. (Eff. 1/10/75, Register 53; am 12/2/94, Register 132; am 3/27/96, Register 137)

Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093

8 AAC 61.205. Hearings

(a) The board shall conduct hearings on a quarterly basis, unless upon a motion by a party or on its own motion, the board schedules an expedited hearing.

(b) At least 30 days before the hearing, the board shall notify all parties at their addresses of record of the date, time, and place of hearing. In an expedited hearing or if an emergency exists, the board shall notify the parties at least 10 days before the hearing date.

(c) In determining the place of hearing, the board shall consider the convenience and expense to the board, the parties, and their witnesses.

(d) The board may postpone a hearing upon a showing of good cause. A motion to postpone a hearing must be in writing and must set out the reasons for the delay. A motion for postponement filed less than 20 days before the hearing will be denied unless good cause is shown for filing the motion after that time. A party's failure to obtain counsel or make discovery in a timely fashion will not be considered good cause for postponement.

(e) The board or its authorized designee may issue subpoenas under 8 AAC 61.160 upon application by a party. An application for a subpoena must be in writing and must state the name of each witness or describe an item of evidence with sufficient detail so that the witness or item of evidence can be readily identified. The preparation and service of a subpoena, including the payment of applicable witness fees and expenses, are governed by the rules of civil procedure and are the responsibility of the party requesting issuance of the subpoena.

(f) Unless otherwise ordered by the board, the department will present its case first at the hearing, followed by the party filing the notice of contest, followed by any other parties. Each party shall be permitted to make an opening statement, present evidence, cross-examine witnesses, and make a closing argument.

(g) An unrepresented party may be permitted to testify in a narrative fashion.

(h) Evidence shall be admitted in accordance with AS 44.62.460 - 44.62.480.

(i) The burden of proof for citations, penalties, or abatement dates is on the department by a preponderance of the evidence. The burden of proof for affirmative defenses is on the party asserting those defenses by a preponderance of the evidence. "Preponderance of the evidence" means that it is more likely than not that the asserted proposition is true.

(j) At the request of a party or on its own motion, the board may direct the parties to file posthearing briefs and the board shall establish a schedule for the submission of those briefs.

(k) The board may allow a party, an attorney, a witness, or any other person to participate telephonically in a board proceeding in the absence of a showing of substantial prejudice to opposing parties. A request for telephonic participation must be made at least 10 days before the hearing unless good cause is shown for filing the request after that time. The party requesting telephonic participation is responsible for arranging the call and paying the associated costs.

(l) The board may allow a board member or a hearing officer to participate telephonically in a board proceeding in the

absence of a showing of substantial prejudice to a party to the proceeding.

(m) If a party fails to appear at a hearing without a showing of good cause after receiving proper notice of the hearing, the board may find that party to be in default, may receive any evidence it deems appropriate, and may issue a final decision against that party. In addition, if an employer fails to appear at a hearing without a showing of good cause after receiving proper notice of the hearing, the board may order the employer to pay all reasonable expenses incurred by the board for holding the hearing, including the board's actual travel expenses and per diem. Expenses will be apportioned according to the number of board hearings actually held at the hearing location. A showing of good cause shall be considered by the board if the non-appearing party, within 10 days of the hearing, files with the board a written statement giving the reasons for failing to appear.

(n) A hearing before the board shall be tape recorded. A person may obtain a duplicate audiotape or a typed transcript of a hearing by submitting a request in writing to the board and paying the cost of preparing the duplicate audiotape or typed transcript. (Eff. 12/2/94, Register 132)
Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093

8 AAC 61.210. Evidence

Repealed. (Eff. 1/10/75, Register 53; repealed 12/2/94, Register 132)

8 AAC 61.220. Decisions of the board

(a) The board shall prepare and issue a written decision within a reasonable time after the close of the hearing record in a contested case. In reaching its decision, the board shall consider the whole record and

shall include in the written decision findings of fact, conclusions of law, and an appropriate order.

(b) The board shall mail or distribute the decision and order to all parties of record. A decision and order of the board becomes final 30 days after mailing or distribution unless a party files a notice of appeal under AS 18.60.097. (Eff. 1/10/75, Register 53; am 1/4/78, Register 64; am 12/2/94, Register 132)

Authority: AS 18.60.020 AS 18.60.057
AS 18.60.093

Article 4
Recording and Reporting Occupational Injuries and Illnesses

Section

225. (Repealed).

230. (Repealed).

240. (Repealed).

250. (Repealed).

260. (Repealed).

270. (Repealed).

275. (Repealed).

277. (Repealed).

280. (Repealed).

285. (Repealed).

290. (Repealed).

295. (Repealed).

Editor's note: Provisions covering the subject matter of the repealed sections in Article 4, on recording and reporting of occupational injuries and illnesses, may be found in 8 AAC 61.1010 - 61.1190.

8 AAC 61.225. Recording and reporting occupational injuries and illnesses

Repealed. (History: Eff. 9/30/76, Register 59; am 1/4/78, Register 64; am 10/2/83, Register 87; repealed 10/6/2002, Register 164)

8 AAC 61.230. Log of occupational injuries and illnesses

Repealed. (Eff. 1/10/75, Register 53; am 11/22/75, Register 56; am 9/30/76, Register 59; am 1/4/78, Register 64; am 10/2/83, Register 87; repealed 10/6/2002, Register 164)

8 AAC 61.240. Annual summary

Repealed. (History: Eff. 1/10/75, Register 53; am 9/30/76, Register 59; am 1/4/78, Register 64; am 12/31/80, Register 76; repealed 10/6/2002, Register 164)

8 AAC 61.250. Maintaining records in an establishment without a fixed location

Repealed. (History: Eff. 1/10/75, Register 53; repealed 10/6/2002, Register 164)

8 AAC 61.260. Retention of records

Repealed. (Eff. 1/10/75, Register 53; am 6/24/79, Register 70; am 2/6/82, Register 81; am 3/30/90, Register 113; repealed 10/6/2002, Register 164)

8 AAC 61.270. Access to records

Repealed. (Eff. 1/10/75, Register 53; am 11/22/75, Register 56; am 6/24/79, Register

70; am 2/6/82, Register 81; am 3/30/90, Register 113; repealed 10/6/2002, Register 164)

8 AAC 61.275. Failure to keep records or reports

Repealed. (Eff. 9/30/76, Register 59; repealed 10/6/2002, Register 164)

8 AAC 61.277. Falsification of records or reports

Repealed. (Eff. 1/4/78, Register 64; repealed 10/6/2002, Register 164)

8 AAC 61.280. Reporting of injuries and illnesses

Repealed. (Eff. 1/10/75, Register 53; am 11/22/75, Register 56; am 1/26/78, Register 65; repealed 10/6/2002, Register 164)

8 AAC 61.285. Annual survey

Repealed. (Eff. 1/10/75, Register 53; repealed 10/6/2002, Register 164)

8 AAC 61.290. Change of ownership

Repealed. (Eff. 1/10/75, Register 53; repealed 10/6/2002, Register 164)

8 AAC 61.295. Recordkeeping variances

Repealed. (Eff. 1/10/75, Register 53; am 1/26/78, Register 65; repealed 10/6/2002, Register 164)

Article 5
Variances

Section

300. (Repealed).

310. (Repealed).

320. Form of documents.

330. Temporary variances.

340. Permanent variances.

350. Modification or revocation of a permanent variance.

360. Action on applications.

365. Effective date of variances.

370. Hearings.

380. Consolidation of proceedings.

390. Notice of hearing.

400. Manner of service.

8 AAC 61.300. Effect of contest

Repealed 1/26/78.

8 AAC 61.310. Public notice of a granted, modified or revoked variance

Repealed 1/26/78.

8 AAC 61.320. Form of documents

(a) No particular form is prescribed for applications and other papers which may be required by secs. 330 - 350 of this chapter.

(b) Each application or other paper filed in proceedings under secs. 330 - 350 of this chapter must be subscribed by the person filing same or by his attorney or other authorized representative. (Eff. 1/10/75, Register 53; am 1/26/78, Register 65)
Authority: AS 18.60.020

8 AAC 61.330. Temporary variances

(a) An employer desiring a temporary variance from a safety or health standard adopted pursuant to AS 18.60.010 - 18.60.105 may file a written application with the commissioner requesting a temporary variance.

(b) An application filed pursuant to (a) of this section must include

(1) the name and address of the applicant;

(2) the name and address of the place of employment involved;

(3) specification of the standard or portion thereof from which the applicant seeks a temporary variance, with an explanation and description of the variance;

(4) a representation by the applicant supported by representations from qualified persons having first-hand knowledge of the facts represented that he is unable to comply with the standard or portion thereof by its effective date and detailed statement of the reasons therefore;

(5) a statement of the steps the applicant has taken and will take with specific dates where appropriate, to protect employees against the hazard covered by the standard;

(6) a statement of when the applicant expects to be able to comply with the standard and of what steps he has taken and will take, with specific dates where appropriate, to come into compliance with the standard;

(7) a statement of facts which shows that

(A) the applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

(B) he is taking all available steps to safeguard his employees against the hazards covered by the standard; and

(C) he has an effective program for coming into compliance with the standard as quickly as practicable;

(8) any request for a hearing as provided by sec. 370 of this chapter; and

(9) a certified statement that the applicant has informed his employees of the application; the statement must contain the following:

(A) if the employees have an authorized representative, that a copy of the application, a written statement of the employees' right to a hearing, and any other supporting documents were furnished to the representative; and

(B) that a summary of the application was posted at or near the condition or practice that would be affected by the variance and at the place or places where notices to employees are customarily posted; the summary shall specify where a copy of the application may be obtained and contain a statement of the employee's right to a hearing on the application.

(c) An application for a temporary variance may contain a request for an interim order ex parte.

(1) If a request for an interim order is denied, the applicant will be given prompt notice of the denial. The notice of denial will contain a brief statement of the reasons therefore.

(2) If an interim order is granted, a copy of the order will be served upon the applicant for the order. It will be a condition of the order that the affected employer must give notice thereof to affected employees by the same means to be used to inform them of an application for a variance. The interim order will be effective until a decision is rendered on the application for a temporary variance. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.081

8 AAC 61.340. Permanent variances

(a) An employer desiring a permanent variance from a safety or health standard, or portion thereof, adopted pursuant to AS 18.60.010 - 18.60.105 may file a written application with the commissioner requesting a permanent variance.

(b) An application filed pursuant to (a) of this section must include

(1) the name and address of the applicant;

(2) the name and address of the place or places of employment involved;

(3) specification of the standard or portion thereof from which the applicant seeks a variance;

(4) a description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;

(5) a statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment for employees which are as safe and as healthful as those required by the standard from which a variance is sought;

(6) any request for a hearing, as provided by sec. 370 of this chapter; and

(7) a certified statement that the applicant has informed his employees of the application. The statement must contain the following:

(A) if the employees have an authorized representative, that a copy of the application, a written statement of the employees' right to a hearing, and any other supporting documents were furnished to the representative; and

(B) that a summary of the application was posted at or near the condition or practice that would be affected by the variance and at the place or places where notices to employees are customarily posted. The summary must specify where a copy of the application may be obtained and contain a statement of the employees' right to a hearing on the application.

(c) An application for a permanent variance may contain a request for an interim order ex parte.

(1) If a request for an interim order is denied, the applicant will be given prompt notice of the denial. The notice of denial

will contain a brief statement of the reasons therefore.

(2) If an interim order is granted, a copy of the order will be served upon the applicant for the order. It will be a condition of the order that the affected employer must give notice thereof to affected employees by the same means to be used to inform them of an application for a variance. The interim order will be effective until a decision is rendered on the application for a permanent variance. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.081

8 AAC 61.350. Modification or revocation of a permanent variance

(a) An employer, employee, or the employees' authorized representative may apply in writing to the commissioner for modification or revocation of a permanent variance issued pursuant to AS 18.60.077. An application will not be considered unless the variance has been in effect for six or more months.

(b) The application must contain

(1) the name and address of the applicant and specify if applicant is an employer, employee, or authorized representative of the employees;

(2) a description of the relief which is sought;

(3) a statement setting forth with particularity the grounds for relief;

(4) if the applicant is an employer, a certification that the applicant has informed his affected employees of the application by

(A) giving a copy thereof to their authorized representative, if any;

(B) posting at the place or places where notices to employees are normally posted a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and

(C) other appropriate means;

(5) if the applicant is an employer, a certification that the applicant has informed his affected employees, and their authorized representative, if any, of their right to request a hearing on the application;

(6) if the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and

(7) any request for a hearing, as provided in 8 AAC 61.370.

(c) The commissioner may on his own motion propose to modify or revoke a permanent variance issued pursuant to AS 18.60.077. In this event, the commissioner will publish in a newspaper of statewide circulation and in a newspaper of local circulation in the area where the variance is implemented a notice of his intention. The notice will grant to interested persons the opportunity to submit written data, views or arguments regarding the proposal and inform the affected employer, employees and the authorized representative of the employees of their right to request within a stated time limit a hearing. The commissioner may take other action as appropriate to give actual notice to the affected employer and employees. A request for a hearing must include a short and plain statement of

(1) how the proposed modification or revocation would affect the requesting party; and

(2) what the requesting party would seek to show on the subjects or issues involved. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.077

8 AAC 61.360. Action on applications

(a) If an application filed pursuant to 8 AAC 61.330 - 8 AAC 61.350 does not substantially conform to the requirements of the applicable section, the commissioner will, in his discretion, deny the application. If denied, the commissioner will give prompt notice of the denial with reasons for it to the applicant.

(b) If an employer is contesting a citation, proposed penalty, or period of abatement, the commissioner will, at his discretion, refuse to entertain the employer's application for a variance until a final order on the contest is issued by the board.

(c) If an application has been determined to conform substantially to the requirements in 8 AAC 61.330 - 8 AAC 61.350, the commissioner will cause a notice to be published in a newspaper of statewide circulation and in a newspaper of local circulation in the area where the variance would apply. The notice will include

(1) the terms, or an accurate summary, of the application;

(2) the legal authority under which the application has been filed;

(3) a statement that interested persons may submit, within a designated period of time, written data, views, or arguments regarding the application; and

(4) a statement that affected employers or employees have a right to request, within a designated period of time, a hearing on the application.

(d) A summary of every final action granting, modifying or revoking a temporary or permanent variance will be published in a newspaper of statewide circulation and in a newspaper of local circulation in the area where the variance will be implemented. The public notice will include a statement of the reasons for the action and will tell how a copy of the full text of the action may be obtained.

(e) When the commissioner grants, revokes, or modifies a permanent variance, the department will also furnish the board the notice under (d) of this section. (Eff. 1/10/75, Register 53; am 1/26/78, Register 65)

Authority: AS 18.60.020 AS 18.60.077
AS 18.60.081

8 AAC 61.365. Effective date of variances

All variances granted pursuant to 8 AAC 61.330 - 8 AAC 61.350 take effect on the date the order is signed by the commissioner or at a future date as determined by the commissioner and specified in the order.

(Eff. 1/26/78, Register 65)

Authority: AS 18.60.020 AS 18.60.077
AS 18.60.081

8 AAC 61.370. Hearings

(a) Requests for a hearing allowed by 8 AAC 61.330 - 8 AAC 61.350 must be filed with the commissioner within 20 days of the filing of the application required by 8 AAC 61.330 - 8 AAC 61.350. If the commissioner on his own motion intends to modify or revoke a variance, the hearing request must be filed within the time limit established by

the public notice published in accordance with 8 AAC 61.350.

(b) No particular form is prescribed for the hearing request. However, any request must contain the following information:

(1) a concise statement of facts showing how the employer or employee would be affected by the relief applied for;

(2) a specification of any statement or representation in the application which is denied, and a concise summary of the evidence that would be supplied in support of each denial; and

(3) any views or arguments on any issue of fact or law presented.

(c) The hearing will be conducted by the commissioner or his designee. The commissioner's decision will be based upon a consideration of the whole record and will state the facts relied upon. The decision of the commissioner granting, continuing, revoking, or modifying the variance is a final decision. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.077

8 AAC 61.380. Consolidation of proceedings

The commissioner, on his own motion or by motion of any party, may consolidate or contemporaneously consider two or more proceedings which involve the same or closely related issues. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020

8 AAC 61.390. Notice of hearing

(a) Upon request for a hearing on an application as provided in 8 AAC 61.330 - 8 AAC 61.350, or upon his own initiative, the

commissioner will serve the affected parties personally or by registered mail, a notice of the hearing. The notice will be given at least 30 days prior to the date of the hearing.

(b) A notice of hearing served under (a) of this section will include

(1) the time and place and nature of the hearing;

(2) the legal authority under which the hearing is to be held; and

(3) a specification of issues of fact and law. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.077

8 AAC 61.400. Manner of service

Service of a document upon a party may be made by personal delivery or registered mail to the last known address of the party. The person serving the document shall certify to the manner and the date of the service.

(Eff. 1/10/75, Register 53)

Authority: AS 18.60.020 AS 18.60.077

Article 6

Consultation and Training

Section

410. Consultative services.

420. Powers of consultants and trainers.

425. Exemption from scheduled enforcement inspections.

8 AAC 61.410. Consultative services

(a) Upon request of an employer, the department may provide consultative and training services. Services will be limited to the interpretation and application of AS 18.60.010 - 18.60.105 and the regulations,

standards, orders and rules adopted pursuant thereto.

(b) Requests may be verbal or written and must specify the conditions, structures, machines, equipment, devices, methods, means and practices for which the service is requested.

(c) 8 AAC 61.410 - 8 AAC 61.420 are not to be construed as providing immunity to any employer who has requested consultative or training services during the pendency of the granting of such request from an inspection or investigation conducted under AS 18.60.083 or AS 18.60.088. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020

8 AAC 61.420. Powers of consultants and trainers

(a) Consultants and trainers may make recommendations regarding the elimination of any condition or practice discovered that creates a safety or health hazard during the course of an on-site visit.

(b) A visit by a consultant or trainer to a place of employment will not be regarded as an inspection or investigation under the provisions of AS 18.60.010 - 18.60.105.

(c) An employer shall take the necessary action to eliminate or control employee exposure to a serious violation as defined in AS 18.60.095 (b) which is discovered during an on-site visit. If the employer fails to correct the serious violation within the time specified by the division, the division will, in its discretion, have the affected place of employment inspected by a compliance officer. The compliance officer may recommend to the department that a citation be issued.

(d) Consultants and trainers may not issue citations for alleged violations of AS 18.60.010 - 18.60.105 or any regulation, standard, rule or order promulgated pursuant thereto. However, if a consultant or trainer during the course of a visit to a place of employment discovers an imminent danger, he is designated an agent of the commissioner and may issue an order restraining the practice or condition creating the imminent danger. If a consultant or trainer issues a restraining order, he shall immediately inform the commissioner and the division that a restraining order was issued. The division will have the affected place of employment inspected by a compliance officer. The compliance officer may modify or revoke the restraining order and recommend to the department that a citation be issued. (Eff. 1/10/75, Register 53; am 2/1/85, Register 93)

Authority: AS 18.60.020

8 AAC 61.425. Exemption from scheduled enforcement inspections

(a) An employer will, upon request, be exempt from a general scheduled enforcement inspection for a period of one year after the end of the closing conference of a consultative on-site visit that covers all conditions and operations in the workplace, if the employer

(1) corrects all hazards identified by the consultant within the time agreed upon;

(2) posts a notice in the workplace that all hazards have been corrected;

(3) demonstrates that core elements of an effective safety and health program are in effect, and that any remaining elements of an effective safety and health program, as specified by the consultant, will be

implemented within a reasonable, agreed-upon, time; and

(4) agrees to request a consultative visit if changes in working conditions or work processes occur which may introduce new hazards.

(b) This section does not provide an exemption from enforcement inspections conducted as a result of an employee complaint or an industrial accident. (Eff. 2/1/85, Register 93)

Authority: AS 18.60.020

Article 7 **Discrimination**

Section

470. Employees protected.

480. Protected activity.

490. Unprotected activity.

500. Filing discrimination complaints.

510. Withdrawal of complaint.

520. Arbitration or other proceeding.

530. Review procedures.

8 AAC 61.470. Employees protected

(a) In AS 18.60.089 and 8 AAC 61.470 - 8 AAC 61.530, an "employee"

(1) includes an employee as defined in AS 18.60.105;

(2) may, in the department's discretion, include an applicant for employment, as required by 29 C.F.R. 1977.5(b); and

(3) need not be employed by the discriminator when engaging in the protected activity as long as the employee was an "employee" under (1) or (2) of this subsection at that time.

(b) The term "person" as used in AS 18.60.089 includes employers, organizations representing employees for collective bargaining purposes, employment agencies, or any person in a position to discriminate against the employee. (Eff. 9/21/85, Register 95)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.089

8 AAC 61.480. Protected activity

(a) To establish a violation of AS 18.60.089, the employee's engagement in a protected activity need not be the only consideration for discharge or other discrimination. AS 18.60.089 is violated if

(1) engaging in a protected activity is a substantial reason for the action; and

(2) the discharge or other discrimination would not have taken place if the employee had not engaged in a protected activity.

(b) The following activities are protected:

(1) An employee may file a discrimination complaint that is related to conditions at the work place, as distinguished from a complaint related only to general public safety and health. The employee may file a complaint with the department, a federal, state or local government agency, or the employer. The employee is not required to make the complaint directly. It is sufficient if the employee sets into motion, or participates with others in, an action that results in a complaint being made.

(2) An employee may institute or cause to be instituted any proceedings related to the enforcement of occupational

safety and health standards. These proceedings include contesting an abatement date under AS 18.60.093 (e), petitioning for adoption of an occupational safety and health standard, requesting modification or revocation of a variance, or judicially challenging a standard. The employee is not required to institute the proceeding directly. It is sufficient if the employee sets into motion, or participates with others in, activities which result in proceedings related to AS 18.60.010 - 18.60.105.

(3) An employee may testify or intend to testify in proceedings under AS 18.60.010 - 18.60.105. This protection is not limited to testimony in proceedings instituted or caused to be instituted by employees, but extends also to any statements given in the course of judicial, quasi-judicial, or administrative proceedings including inspections, investigations, and administrative regulations adoption or adjudicative functions.

(4) An employee may exercise any other right afforded by AS 18.60.010 - 18.60.105. These rights include participating in an enforcement inspection, requesting a copy of the log and summary of occupational injuries and illnesses, and requesting access to an employee's own medical records.

(c) An employee's engagement in a protected activity described in (b) of this section does not protect the employee from discharge or discipline for legitimate reasons unrelated to the protected activity.

(d) An employee who walks off the job because of an unsafe condition at the worksite is engaged in protected activity if the employee is confronted with the choice of not performing an assigned task or being subjected to a risk of serious injury or death arising from the unsafe condition. The

condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person would conclude that there is a real danger of serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through the employer or regular governmental enforcement channels. An employee, if feasible, must also have first sought from the employer, and have been unable to obtain, a correction of the unsafe condition. (Eff. 9/21/85, Register 95)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.089

8 AAC 61.490. Unprotected activity

An employee who refuses to comply with occupational safety and health regulations or valid safety rules implemented by an employer may jeopardize rights afforded by AS 18.60.010 - 18.60.105. Disciplinary measures taken by an employer solely in response to employee refusal to comply with appropriate safety or health rules and regulations ordinarily will not be regarded as discriminatory. (Eff. 9/21/85, Register 95)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.089

8 AAC 61.500. Filing discrimination complaints

An employee, or a representative of an employee, who believes that a violation of AS 18.60.089 has occurred, may file a complaint. The complaint must be in writing and must be filed with the department within 30 days after the discriminatory action.

(Eff. 9/21/85, Register 95)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.089

8 AAC 61.510. Withdrawal of complaint

The department will, in its discretion, continue its investigation of a discrimination complaint and pursue appropriate legal proceedings regardless of the withdrawal of a complaint. (Eff. 9/21/85, Register 95)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.089

8 AAC 61.520. Arbitration or other proceeding

(a) An employee who files a complaint under AS 18.60.089 may also seek relief under grievance arbitration provisions in applicable collective bargaining agreements and may concurrently seek relief from other agencies, such as the National Labor Relations Board. The department's jurisdiction to investigate discrimination complaints is independent of the jurisdiction of other agencies or bodies. The department will, in its discretion, file an action in the superior court regardless of other pending proceedings.

(b) If a complainant chooses to seek other relief, the department will, in its discretion, suspend its determination and defer to the results of the other proceedings, if the rights and remedies provided in the other proceedings are substantially the same as those provided under AS 18.60.089.

(Eff. 9/21/85, Register 95)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.089

8 AAC 61.530. Review procedures

(a) The director shall determine if a complaint under AS 18.60.089 merits referral to the attorney general to bring an action in the superior court against the violator.

(b) If the director determines that the complaint does not have merit, the complainant may obtain a review of the

determination by submitting a written request to the commissioner within 10 days after receiving notification of the director's determination. The commissioner will inform the complainant of the results of the review within 15 days after receipt of the request for review of the director's determination. (Eff. 9/21/85, Register 95)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.089

Article 8
Asbestos Abatement Certification

Section

600. Certification required.
610. Training.
620. Training program and contractor plan approval required.
630. Application for training program approval.
635. Application for renewal course approval.
640. Changes to an approved training program or contractor plan.
650. (Repealed).
660. Action on applications.
670. Duration of training program approval.
680. Minimum instructor qualifications.
690. (Repealed).
700. Initial Course Requirements.
710. Examination.
720. Issuance and duration of certificate.
730. Certificate fees.
735. (Repealed).
740. Renewal course requirements and renewal of certificate.
745. Notification of department.
750. Suspension or revocation of certificate.
760. Withdrawal of training program approval.
765. Citation and penalties.
770. Appeals.
780. Department monitoring of training programs.

785. Course provider recordkeeping.
790. Definitions.

8 AAC 61.600. Certification required

A person performing, directly supervising, or monitoring asbestos abatement work must have a certificate issued under 8 AAC 61.720. The certificate must be in the person's possession when performing work subject to AS 18.31.200, and must be shown to a representative of the department upon request. (Eff. 10/1/85, Register 96)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.610. Training

An employer must assure that an employee who performs, designs, directly supervises, or monitors asbestos abatement work has a current certification, as specified in 8 AAC 61.600, through a department-approved asbestos abatement training program. (Eff. 10/1/85, Register 96; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.620. Training program and contractor plan approval required

(a) Before a person, association, union, corporation, contractor, or other entity may undertake a program to train and certify persons under AS 18.31.200, the person, association, union, corporation, contractor, or other entity must submit to the department an application, as described in 8 AAC 61.630, and obtain approval of the program from the department.

(b) Before a contractor may undertake work to abate an asbestos health hazard, the contractor must submit to the department, and receive approval of, a plan that assures that its employees are certified as required under 8 AAC 61.600. The plan must include

(1) the names and certificate numbers of the employees who will be employed to abate the asbestos health hazard;

(2) the starting and ending dates of the abatement project; and

(3) the location of the abatement project.

(c) The plan required under (b) of this section, as approved by the department, must be available at the asbestos abatement worksite. (Eff. 10/1/85, Register 96; am 1/4/90, Register 113)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.630. Application for training program approval

(a) An application for approval of an asbestos abatement training program submitted to the department must include

(1) the applicant's name, address, telephone number, and social security number;

(2) a detailed description of the topics, including the amount and type of hands-on training, used in the training course, which verifies inclusion of the subjects and procedures described in 8 AAC 61.700;

(3) a description of all audio-visual materials to be used in the training course;

(4) a copy of the written examination and a detailed description of the practical examination to be administered to trainees to test their skills and knowledge; information must be provided to describe the length, format, and passing score of the written and

practical examinations used to test the trainees' skill and knowledge;

(5) a detailed description of the scoring methodology to be used in grading the written and practical examinations described in 8 AAC 61.710, and a detailed statement about the development of the examination used in the course;

(6) the names of the course instructors and a description of the instructors' qualifications, which verifies that the instructors meet the minimum qualifications in 8 AAC 61.680;

(7) an application fee of \$1,000;

(8) a list of any other states that currently approve the training course;

(9) a copy of all course materials, including student manuals, instructor notebooks, and handouts; and

(10) a copy of the instructions provided to students that specify the procedures that students must follow under 8 AAC 61.720 and 8 AAC 61.730 to obtain an asbestos certification after successful completion of the initial training course.

(b) The department will, in its discretion, request copies of the audio-visual materials described in (a)(3) of this section. After its review, the department will return the materials to the applicant. (Eff. 10/1/85, Register 96; am 11/7/93, Register 128; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.635. Application for renewal course approval

(a) The training provider must have an approved training course under 8 AAC

61.630 in order to receive approval to instruct an asbestos renewal course.

(b) The renewal course specified in (a) of this section must be conducted as a separate and distinct course and may not be combined with any other training during the period of the renewal course.

(c) An application for approval of an asbestos abatement training program submitted to the department must include

(1) the applicant's name, address, telephone number, and social security number;

(2) a detailed description of the

(A) topics, including the amount and type of hands-on training as appropriate;

(B) audio-visuals used in the training course, which verifies inclusion of the subjects; and

(C) procedures described in 8 AAC 61.740;

(3) a copy of all course materials, including student manuals, instructor notebooks, and handouts;

(4) the names of the course instructors and a description of the ins' qualifications, which verifies that the instructors meet the minimum qualifications in 8 AAC 61.680;

(5) a list of any other states that currently approve the training course; and

(6) a copy of the instructions provided to students that specify the procedures that students must follow under 8 AAC 61.720, 8 AAC 61.730, and 8 AAC 61.740 to obtain an asbestos certification

after successful completion of the renewal training course.

(d) The department will, in its discretion, request copies of the audio-visual materials described in (c)(2) of this section. After its review, the department will return the materials to the applicant. (Eff. 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.640. Changes to an approved training program or contractor plan

(a) A change to an approved asbestos abatement training program or contractor plan must be approved by the department before any implementation of the proposed change. A filing fee of \$250 must be submitted with any proposed content change.

(b) If a change in state or federal asbestos regulations occurs, the department will notify approved training programs of the change. The training program then must incorporate the change into its next scheduled training course.

(c) The department must be notified in writing of a proposed change of course instructors demonstrating that the proposed instructors meet the requirement of 8 AAC 61.880. The proposed instructors may not begin to provide instruction until the department has, in writing, approved the instructors. (Eff. 10/1/85, Register 96; am 11/7/93, Register 128; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.650. Contractor's plan

Repealed 1/4/90.

8 AAC 61.660. Action on applications

(a) The department will, within 90 days after receipt,

(1) review an application filed under 8 AAC 61.620(a) that meets the requirements of 8 AAC 61.630, or 8 AAC 61.635, as appropriate; and

(2) review a contractor's plan that meets the requirements of 8 AAC 61.620(b).

(b) If an application for a training program or contractor plan does not meet the requirements of 8 AAC 61.630, 8 AAC 61.635, or 8 AAC 61.620(b), as applicable, the department will assist the applicant in meeting the requirements by outlining the deficiencies and suggesting solutions.

(Eff. 10/1/85, Register 96; am 1/4/90, Register 113; am 9/10/99, Register 151)
Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.670. Duration of training program approval

(a) The department's approval of a training program is valid for one year after the date of approval unless the department withdraws approval of the program under 8 AAC 61.760.

(b) The department will renew its approval of an initial training program for a period of one year, if

(1) the department has not withdrawn approval of the training program;

(2) the applicant submits an application that meets the requirements of 8 AAC 61.630 or an affidavit stating that no changes in the program have occurred; and

(3) the applicant submits a nonrefundable filing fee of \$250.

(c) The department will renew its approval of a renewal training program for a period of one year, if

(1) the department has not already withdrawn approval of the renewal training program;

(2) the applicant submits an application that meets the requirements of 8 AAC 61.635 or an affidavit stating that no changes in the program have occurred;

(3) the applicant has met the requirements of 8 AAC 61.670(b); and

(4) the initial course has not been withdrawn or revoked under 8 AAC 61.760. (Eff. 10/1/85, Register 96; am 11/7/93, Register 128; am 9/10/99, Register 151)
Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.680. Minimum instructor qualifications

(a) An instructor of a training program that certifies persons under 8 AAC 61.720 must

(1) be an industrial hygienist who

(A) is certified by the American Board of Industrial Hygiene; or

(B) has asbestos field experience doing air and bulk asbestos sampling and has made written recommendations to an employer or organization on at least three occasions, regarding the abatement of asbestos health hazards; or

(2) have education and experience that includes

(A) at least

(i) five days of Asbestos Hazard Emergency Response Act (AHERA) Supervisor/Contractor training at an asbestos training course recognized by the U.S. Environmental Protection Agency, that includes training on the subjects and procedures described in 8 AAC 61.700; and

(ii) two years of experience in asbestos abatement work, asbestos abatement training, or a combination of the two; or

(B) at least five years of experience as a safety professional.

(b) A person who qualifies as an instructor under (a)(2) of this section must, when instructing a training course, be under the supervision of a person who meets the requirements of (a)(1) of this section.

(c) Nothing in this section prevents a person who does not meet the requirements of this section from assisting a qualified instructor in conducting a training course, except that the qualified instructor must be present at all times during the training course. The initial training course must have a minimum of two qualified instructors that meet the qualifications under (a)(1) or (a)(2) of this section. The renewal training course may have only one instructor qualified under (a)(1) or (a)(2) of this section.

(d) The department will, in its discretion, require proof that an instructor meets the minimum qualifications described in (a) of this section.

(e) In this section

(1) "industrial hygienist" means a person who has a bachelor of science degree in an environmental or health-related

science, with training in chemistry and toxicology, and at least two years of experience in industrial health;

(2) "safety professional" means an individual who, by virtue of specialized knowledge and skill, has achieved professional status in the safety field; and

(3) "supervision" does not require the constant presence of the supervisor on the premises. (Eff. 10/1/85, Register 96; am 2/7/86, Register 97; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.690. Consideration of previous training

Repealed 1/4/90.

8 AAC 61.700. Initial Course Requirements

(a) An initial training course must

(1) be conducted in the state;

(2) provide two department-approved instructors that meet the requirements of 8 AAC 61.680;

(3) provide at least 40 hours of instruction given in a five-day period, with 14 hours of hands-on training that includes subject matter instruction on

(A) topics and definitions specified in 40 C.F.R. Part 763, Appendix C to Subpart E, (I)(B)(2), revised as of July 1, 1998, of the course requirements for contractors/ supervisors in the AHERA;

(B) notification requirements specified for demolition and renovation in 40 C.F.R. Part 61, Subpart M (National Emission Standard Hazardous Air Pollutants

(NESHAP) for asbestos), revised as of July 1, 1998;

(C) proper disposal of asbestos-containing materials and clothing, including the requirements of 40 C.F.R. Part 61, Subpart M (NESHAP), revised as of July 1, 1998, and the Alaska Department of Environmental Conservation (ADEC) under 18 AAC 61.450 pertaining to disposal of asbestos;

(D) proper emission and disposal controls and regulations in 40 C.F.R. Part 61, Subpart M (NESHAP), revised as of July 1, 1998;

(E) all of 29 C.F.R. 1926.1101, revised as of July 1, 1998, asbestos standard, including all appendices;

(F) all of 29 C.F.R. 1910.134, revised as of July 1, 1998, pertaining to respiratory protection when working with asbestos;

(G) the additional respiratory protection standards under 8 AAC 61.1030;

(H) proper asbestos spill response, including

(i) evacuation and isolation of the spill area;

(ii) the need for exposed persons who were inadequately protected to shower and change clothes;

(iii) selection of personal protective equipment and clothing for cleaning up a spill; and

(iv) techniques for cleaning up minor versus major asbestos fiber release after a spill;

(I) proper use and application of surfactants and encapsulants.

(b) The 14 hours of hands-on training described in (a)(3) of this section must include, in addition to any audio-visual instruction provided;

(1) the use of barrier and decontamination systems, airlocks, and hepa-filtered negative pressure ventilation;

(2) proper tool selection, including selection of tools with HEPA vacuum attachments;

(3) proper contamination prevention and decontamination procedures;

(4) proper work area preparation, including

(A) assembly and maintenance of airlock, barrier, and decontamination systems; and

(B) recognition of flaws in a decontamination setup which could cause inhalation of asbestos fibers, or contamination of clothing or the environment;

(5) proper working techniques for minimizing fiber release as specified for various classes of work in 29 C.F.R. 1926.1101, revised as of July 1, 1998, including

(A) wet methods and use of surfactants, including water injection and airless spray techniques;

(B) scoring and breaking techniques for rigid asbestos products; and

(C) glove bag techniques to meet specifications in 29 C.F.R. 1926.1101, revised as of July 1, 1998, including

(i) selection and maintenance of personal protective equipment and clothing;

(ii) pipe lagging preparation;

(iii) sequence of glove bag operations;

(iv) proper clean up, disposal, and tool decontamination procedures; and

(v) proper cleaning and disposal of personal protective equipment and clothing;

(6) proper takedown and disposal techniques and procedures;

(7) qualitative or quantitative fit testing of each trainee in accordance with fit test protocols found in Appendix A, 29 C.F.R. 1910.134, revised as of July 1, 1998, and

(8) proper methods of respirator inspection, maintenance, cleaning, and storage.

(c) Only mock asbestos materials, such as plaster, may be used for the hands-on training required under (b) of this section or other practical training the instructor may provide. Asbestos may be used only for observation by trainees and must be enclosed in glass or plastic.

(d) Each trainee must be provided with a copy of the Alaska Occupational Safety and Health regulations, 29 C.F.R. 1926.1101, EPA asbestos regulations (40 C.F.R. Part 61, Subpart M, and 40 C.F.R. Part 763) revised as of July 1, 1998, and the training manual

used during the course. (Eff. 10/1/85, Register 96; am 2/7/86, Register 97; am 1/4/90, Register 113; am 11/7/93, Register 128; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.710. Examination

(a) An examination must be given to each trainee to test the trainee's knowledge and skill in the subjects and procedures covered by the initial training course. The examination must include

(1) a closed-book written examination that tests the trainee's knowledge of the material covered in 8 AAC 61.700(a); and

(2) a practical examination that tests the trainee's

(A) skills in the techniques and procedures covered in the course under 8 AAC 61.700(b); and

(B) ability to wear a respirator for at least one hour during activities similar to asbestos abatement work.

(b) The examination will consist of a written test of 100 multiple-choice questions, and a practical examination. The passing grade for both the written and the practical examination is 70 percent.

(c) An oral examination by the course instructor may be substituted for the written test with the department's approval.

(d) Trainees may not be provided with copies of the written and practical tests before or after the test is administered to the trainees. Test materials must be returned to the instructor. Examination papers must be numbered and the trainee's name must be on each examination paper. Only the instructor

may grade the tests. The instructor may verbally review the test questions after all tests have been returned. (Eff. 10/1/85, Register 96; am 1/4/90, Register 113; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.720. Issuance and duration of certificate

(a) A training provider must provide notification to the department in accordance with 8 AAC 61.745.

(b) A person may submit an application for certification after successfully completing a department-approved training course in accordance with 8 AAC 61.700 and 8 AAC 61.710, and must include with the application

(1) payment of a fee in accordance with 8 AAC 61.730(a);

(2) a head and shoulders photograph that is at least two inches by two inches in size or have a photograph taken at the Department of Labor and Workforce Development, Division of Labor Standards and Safety;

(3) the person's name, height, weight, social security number, date of birth, current address, telephone number, and name of employer if applicable;

(4) the dates of the course attended;

(5) whether initial or renewal course;
and

(6) name of the training provider.

(c) The department will issue an initial certificate that is valid for one year from the date of successful completion of the initial course or, in the case of renewal, one year

from completion of the renewal training course. The certificate will contain the following information:

(1) the certificate holder's name, height, weight, social security number, date of birth, and current address; and

(2) the date that the certificate is issued, the date that the certificate expires, and the unique certificate number.

(d) For each certificate holder, the department shall maintain the following information:

(1) the name of the certificate holder;

(2) whether the certificate holder has a supervisor/contractor designation;

(3) the date that the certificate holder took the initial training course;

(4) the date that the certificate holder took the renewal training course, if applicable;

(5) the date that the certificate holder took the initial training course examination;

(6) the name, address and telephone number of the training provider that provided the certificate holder with the required training;

(7) that the person receiving the certificate has completed the requisite asbestos training for certification under TSCA Title II; and

(8) the expiration date of the certificate.

(e) A person who has successfully completed the initial or renewal course must

submit an application to the department for certification to perform asbestos work.

(f) Repealed 9/27/2008.

(g) The department will require a person, who fails to renew a certificate in accordance with 8 AAC 61.740 within one year of the certification expiration date, to repeat the initial course in accordance with 8 AAC 61.700 and 8 AAC 61.710.

(h) A person may not perform asbestos work as defined under 8 AAC 61.600 without a current certificate issued under this chapter. (Eff. 10/1/85, Register 96; am 11/7/93, Register 128; am 9/10/99, Register 151; am 9/27/2008, Register 187)
Authority: AS 18.31.020 AS 18.31.200

Editor's note: A photograph required under 8 AAC 61.720(b) may be taken at the Department of Labor and Workforce Development, Division of Labor Standards and Safety, 3301 Eagle Street, Anchorage, Alaska, Monday through Friday, from 8:00 a.m. to 3:30 p.m.

8 AAC 61.730. Certificate fees

(a) An applicant shall pay a fee of \$100 to the department for a certificate and \$25 for a duplicate certificate issued under 8 AAC 61.720.

(b) Repealed 9/10/99. (Eff. 10/1/85, Register 96; am 1/4/90, Register 113; am 11/7/93, Register 128; am 9/10/99, Register 151; am 6/14/2006, Register 178; am 9/27/2008, Register 187)
Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.735. Special requirements for persons performing abatement work under the Asbestos Hazard Emergency Response Act

Repealed.

(Eff. 1/4/90, Register 113; repealed 9/10/99, Register 151)

8 AAC 61.740. Renewal course requirements and renewal of certificate

(a) A renewal course must

(1) be conducted in the state;

(2) provide an instructor that meets the requirements of 8 AAC 61.680; and

(3) must provide at least eight hours of instruction.

(b) A certificate issued under 8 AAC 61.720 may be renewed if

(1) the certificate holder pays the required fee under (c) of this section;

(2) an instructor of a training program approved under 8 AAC 61.660(a) certifies that the certificate holder has completed at least eight hours of instruction in an approved renewal course under (a) of this section that includes instruction in

(A) changes in state or federal regulations pertaining to asbestos abatement, if any;

(B) changes in the state-of-the-art of asbestos abatement practices and procedures, if any;

(C) the personal protective, decontamination, and disposal procedures set out in 8 AAC 61.700(a) (4) - (6); and

(D) a review of the key aspects of the initial training course that includes appropriate work practices, potential health

effects related to asbestos exposure, respiratory protection programs and medical surveillance programs, additional safety hazards and medical monitoring; and

(3) the course is completed within one year of expiration of the previously issued certificate.

(c) A certificate renewed under this section is valid until the expiration date indicated on the issued certificate. The fee for a certificate renewal is the same as for an initial certificate under 8 AAC 61.730.

(d) Renewal of a certificate under this section may be accomplished by attending a department-approved renewal course in accordance with this section.

(e) The qualified instructor of a training provider shall submit a class roster to the department listing the names of those attendants that have successfully completed the renewal training specified under this section. The roster shall be submitted in accordance with 8 AAC 61.745.

(Eff. 10/1/85, Register 96; am 11/7/93, Register 128; am 9/10/99, Register 151; am 9/27/2008, Register 187)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.745. Notification of department

(a) Training providers must notify the department at least 10 days before conducting an approved course. The notification must contain the

(1) name of the training course;

(2) name of training provider and approval number;

(3) dates of the course;

(4) location of the course, and;

(5) names of the course instructors.

(b) The training provider must notify the department at least 10 days after the completion of the initial training course of all persons who have successfully completed the requirements of 8 AAC 61.700 and 8 AAC 61.710 in accordance with 8 AAC 61.785(c).

(c) The training provider must notify the department at least 10 days after the completion of the renewal training course of all persons who have successfully completed the requirements of 8 AAC 61.740 in accordance with 8 AAC 61.785(c).

(d) The department must be notified of any changes to the training programs before conducting those courses in accordance with 8 AAC 61.640.

(e) If a training provider cancels a training class, the training provider shall notify the department no later than two working days before the date of the scheduled class. (Eff. 10/1/85, Register 96; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.750. Suspension or revocation of certificate

(a) The department will, in its discretion, suspend or revoke a certificate issued under 8 AAC 61.720 if a certificate holder

(1) provides false information to the employer or the department;

(2) shows evidence of a mental or physical impairment, which the department determines may interfere with the certificate holder's safe performance of asbestos abatement work;

(3) knowingly or recklessly disregards safe work practices while performing asbestos abatement work;

(4) permits the duplication or use of one's own certificate by another;

(5) performs work for which certification has not been received;

(6) obtains certification from a training provider that does not have approval to offer training for the particular discipline from either the EPA or AKOSH, provided AKOSH has a contractor certification plan at least as stringent as the EPA MAP;

(7) performs work requiring certification required under 8 AAC 61.600 at a job site without being in physical possession of a valid certificate; or

(8) is civilly fined or criminally convicted under Section 16 of TSCA, 15 U.S.C. 2615 or 2647, for violations of 40 C.F.R. Part 763, or Section 113 of the Clean Air Act, 42 U.S.C. 7413, for violations of 40 C.F.R. Part 61, Subpart M.

(b) If the department suspends or revokes a certificate, the department will promptly notify the certificate holder in writing of the reason for the suspension or revocation, and that the suspension or revocation may be appealed to the commissioner within 30 days after receipt of notice of the suspension or revocation.

(c) A person whose certificate is suspended or revoked under this section shall surrender the certificate to the department. A person is ineligible to obtain a new certificate for a period of at least 90 days, but not exceeding one year, after the date of suspension or revocation, as determined by the department. A certificate

obtained by a person during a period of ineligibility is not valid.

(d) In determining the period of ineligibility under (c) of this section, the department will consider the circumstances upon which the suspension or revocation is based. (Eff. 10/1/85, Register 96; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.760. Withdrawal of training program approval

(a) The department will, in its discretion, withdraw its approval under 8 AAC 61.660(a) of a training program if the training program applicant

(1) falsifies certification records, instructor qualifications, or other certification information

(2) fails to provide training as specified in the training program's approved plan;

(3) fails to adequately test the trainee's skill as required by 8 AAC 61.710;

(4) violates any other provision of 8 AAC 61.600 - 8 AAC 61.790;

(5) misrepresents the extent of the training course's approval by the state or EPA;

(6) fails to submit required information or notification as specified in 8 AAC 61.640, 8 AAC 61.745 and 8 AAC 61.780; or

(7) fails to maintain requisite records required in 8 AAC 61.785.

(b) If the department withdraws approval of a training program, the department will promptly notify the administrator of the

program in writing of the reason for the withdrawal of approval and that the withdrawal may be appealed to the commissioner within 30 days after receipt of the notice of withdrawal.

(c) A training program for which approval has been withdrawn under this section is ineligible for approval for a period of at least 90 days but not exceeding one year after the date of withdrawal, as determined by the department. A training program may not issue a certificate under 8 AAC 61.720 during a period of ineligibility.

(d) In determining a period of ineligibility under (c) of this section, the department will consider the severity of the infraction upon which the withdrawal of program approval is based.

(e) After the period of ineligibility specified by the department under (c) of this section has expired, a training program may apply to the department for re-approval. The application must meet the requirements of 8 AAC 61.630.

(f) The training course provider must permit a representative of the department to attend, evaluate, monitor any course, and review any records without charge. The department is not required to give advance notice of an inspection. (Eff. 10/1/85, Register 96; am 9/10/99, Register 151)
Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.765. Citation and penalties

(a) As provided in AS 18.31.200 (d), the department will issue a citation to, and assess a civil penalty on, a contractor who employs a person to perform, directly supervise, or monitor asbestos abatement work if the person does not have the certificate required by 8 AAC 61.600. The department will also issue a citation to, and

assess a civil penalty on, a contractor who fails to submit a contractor plan as required by 8 AAC 61.620. The department will consider the severity of the violations in determining the amount of the penalty.

(b) For purposes of (a) of this section, a separate citation will be issued for each person who is not certified as required by AS 18.31.200 (c) and 8 AAC 61.600. Each citation will, in the department's discretion, include a separate penalty. (Eff. 8/8/90, Register 115)
Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.770. Appeals

(a) A suspension or revocation under 8 AAC 61.750, a withdrawal under 8 AAC 61.760, or a citation and penalty under 8 AAC 61.765 is final unless the person affected files an appeal with the commissioner within 30 calendar days after receipt of the notice of suspension or revocation, notice of withdrawal, or citation and penalty. The appeal must be in writing and must include

(1) a specification of objections to the department's findings, and a concise summary of facts in support of each objection; and

(2) a description of the relief sought.

(b) The commissioner's decision will be based upon the departmental record and will state the facts relied upon by the commissioner in deciding the matter.

(c) The commissioner will, in his or her discretion, hold a hearing on the appeal to supplement the departmental record if clarification or additional facts are necessary for a proper resolution of the appeal.

(d) A copy of the commissioner's decision will be sent to the appellant by certified mail. The decision will include a statement of the appellant's right to further appeal. (Eff. 10/1/85, Register 96; am 8/8/90, Register 115; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.780. Department monitoring of training programs

(a) Repealed 9/10/99.

(b) A representative of the department will, in the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved under 8 AAC 61.660.

(c) The department shall maintain records that document the names of all persons who have been awarded certification, the disciplines for which certification was conferred, training and expiration dates, and the training location. The department shall maintain the records in a manner that allows verification by telephone of the required information. (Eff. 10/1/85, Register 96; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.785. Course provider record-keeping

(a) All approved providers of accredited asbestos training courses must comply with the following minimum recordkeeping requirements. The training provider

(1) must retain copies of all instructional materials used in the delivery of the classroom training such as student

manuals, instructor notebooks, and handouts;

(2) must retain copies of all instructors' resumes and the documents approving each instructor issued by the department or EPA; instructors must be approved by the department or EPA before teaching courses for certification purposes; training provider must notify the department in advance whenever it changes course instructors; records must accurately identify the instructors that taught each particular course for each date that a course is offered;

(3) must keep a record of each person who attends an initial training course and achieves a passing score on the examination for the initial course; these records must clearly indicate the date upon which the examination was administered, the training course and discipline for which the examination was given, the name of the person who proctored the examination, a copy of the examination, and the name and test score of each person taking the examination; the topic and dates of the training course must correspond to those listed on that person's certification certificate;

(4) shall validate whether students have successfully completed the initial or renewal course within the past 24 calendar months before allowing admission of the student into a new renewal course; and

(5) must retain records for 30 years.

(b) If a training provider ceases to conduct training, the training provider shall notify the department and give the department the opportunity to take possession of that provider's asbestos training records.

(c) The training provider must submit to the department within 10 calendar days following the completion of an approved course, all of the following items:

(1) dates of the training course taught;

(2) names of approved instructors providing the course;

(3) name of course students and their addresses;

(4) whether initial or renewal course;

(5) dates and results of examination taken;

(6) the expiration date upon when the student completed the course and examination, if applicable;

(7) proof of completion of the initial course for renewal students;

(8) the name, address, and telephone number of the training provider approved by the department;

(9) a statement that the person successfully completing the course meets the requisite training for asbestos certification under TSCA Title II; and

(10) a signed statement certifying that the training records specified in (1) - (9) of this subsection, are accurate for each training course provided by the department-approved instructor. (Eff. 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.790. Definitions

In 8 AAC 61.600 - 8 AAC 61.790

(1) "asbestos abatement work" means all activities involved in

(A) Class I or Class II asbestos work under 29 C.F.R. 1915.1001 or 29 C.F.R. 1926.1101 revised as of July 1, 1998; and

(B) responding to a major fiber release episode;

(2) "asbestos-containing material" means any material containing more than one percent asbestos that has been applied on ceilings, walls, structural members, piping, duct work, or any other part of a building, as determined using the method specified in 40 C.F.R. Part 763, Subpart E, Appendix E, Section 1 (Polarized Light Microscopy), revised as of July 1, 1998;

(3) "commissioner" means the commissioner of the Department of Labor and Workforce Development or the commissioner's designee;

(4) "department" means the Department of Labor and Workforce Development;

(5) "HEPA" means a high efficiency particulate air filter, with an efficiency of not less than 99.97 percent when challenged with 0.3 micron diameter particles;

(6) "maintenance work" as applied to small-scale, short-duration maintenance work means any activity which disturbs asbestos in which the disturbance is incidental to the work being performed;

(7) "major fiber release episode" means any uncontrolled or unintentional disturbance of asbestos-containing building material (ACBM), resulting in a visible emission, which involves the falling or

dislodging of more than three square or linear feet of ACBM;

(8) "qualitative fit testing" means a method of assessing the adequacy of respirator fit by determining whether the individual wearing the respirator can detect the odor, taste, or irritation of a gas, vapor, or aerosol introduced into the vicinity of the wearer's head;

(9) "quantitative fit testing" means a method for numerically measuring any leakage of the seal between the respirator face-piece and the wearer's face;

(10) "surfactant" means a chemical wetting agent added to water to improve penetration. (Eff. 10/1/85, Register 96; am 11/7/93, Register 128; am 9/10/99, Register 151)

Authority: AS 18.31.020 AS 18.31.200

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.

Article 9 Painting Certification

Section

- 800. Certification required.
- 810. Training program approval required.
- 815. Application for training program approval.
- 820. Action on applications.
- 825. Duration of training program approval.
- 830. Department notification and monitoring of training programs.
- 835. Changes to an approved training program.
- 840. Minimum instructor qualifications.
- 845. Training course requirements.
- 850. Examinations.
- 855. Issuance of hazardous painting certificate.
- 860. Fee and duration of certificate.
- 865. Renewal of certificate; refresher course.
- 870. Revocation of certificate.
- 875. Withdrawal of training program approval.
- 880. Appeals.
- 885. Citations and penalties.
- 890. Definitions.

8 AAC 61.800. Certification required

A professional painter performing hazardous painting work must have a hazardous painting certificate issued under 8 AAC 61.855. The certificate must be in the person's possession when performing work subject to AS 18.63.010 - 18.63.100, and must be shown to a representative of the department upon request. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.010 AS 18.63.040
AS 18.63.060

8 AAC 61.810. Training program approval required

Before a person, association, union, corporation or other entity may operate a program to train persons under AS 18.63.040 , the person, association, union, corporation or other entity must submit to the department an application, as described in 8 AAC 61.815, and obtain approval of the program from the department. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

8 AAC 61.815. Application for training program approval

An application for approval of a painter certification training program must be submitted to the department on an application form supplied by the department, and must include

(1) the applicant's name, address, and telephone number;

(2) a detailed description of the contents of the training course which verifies inclusion of the subjects and procedures described in 8 AAC 61.845;

(3) a copy of all written materials to be used;

(4) a description and a copy of all audio-visual materials to be used in the training course;

(5) a copy of the written examination to be administered to trainees to test their skills and knowledge, and a copy of the answers to the examination;

(6) a description of the practical examination that will be administered to trainees to determine the adequacy of their skills;

(7) a description of the scoring methodology to be used in grading the written examination and in grading the practical examination;

(8) a copy of the informational materials that will be provided to trainees under 8 AAC 61.845(e) ;

(9) the name of the course instructor, and a description of the instructor's qualifications which verifies that the instructor meets the minimum instructor qualifications in 8 AAC 61.840. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

8 AAC 61.820. Action on applications

(a) The department will, within 30 days after receipt, approve an application filed under 8 AAC 61.810 which meets the requirements of 8 AAC 61.815.

(b) If an application for training program approval does not meet the requirements of 8 AAC 61.815, the department will assist the applicant in meeting the requirements. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

8 AAC 61.825. Duration of training program approval

(a) The department's approval of a training program is valid for one year after the date of approval unless the department withdraws approval of the program under 8 AAC 61.875.

(b) The department will renew its approval of a training program for a period of one year if the applicant submits

(1) a new application that meets the requirements of 8 AAC 61.815;

(2) a description of the changes made to the current approved program and the reasons for the changes; or

(3) an affidavit stating that no changes in the program have occurred. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

8 AAC 61.830. Department notification and monitoring of training programs

(a) The operator of a training program approved under 8 AAC 61.800 - 8 AAC 61.890 shall notify the department at least three working days before a training course is scheduled to begin. The notification must set out the date, time, and address where the training will be conducted.

(b) A representative of the department will, in the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved under 8 AAC 61.810.

(c) The training instructor shall within 10 working days after completion of each training class, send a report to the department which lists the trainees who passed the course. This report must also include a brief evaluation of the course. This report may be used by the training program operator to request changes to the program under 8 AAC 61.835. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

8 AAC 61.835. Changes to an approved training program

(a) A significant change to an approved training program, such as a change in instructor or a major revision to the curriculum, must be approved by the department.

(b) If a change in state or federal occupational safety and health painting regulations occurs, the department will notify the operator of an approved training program of the change. The training program operator then must incorporate the change into the next scheduled training course.

(c) A training program shall include state-of-the-art information; a training program operator shall update the training program accordingly. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

8 AAC 61.840. Minimum instructor qualifications

(a) An instructor of a training course approved under 8 AAC 61.800 - 8 AAC 61.890 must be a person who

(1) has at least five years' experience in applying paints, including at least one year of experience in applying hazardous paints;

(2) has provided instruction for at least five years in the abatement of health hazards, including instruction in engineering controls and personal protective equipment;

(3) is an industrial hygienist with at least five years' experience or is certified by the American Board of Industrial Hygiene; or

(4) has at least five years of experience as a safety professional.

(b) Nothing in this section prevents a person who does not meet the requirements of this section from assisting a qualified instructor in conducting a training course, except that the qualified instructor must be

present at all times during the training course.

(c) The department will, in its discretion, require proof that an instructor meets the minimum qualifications in (a) of this section.

(d) In this section,

(1) "industrial hygienist" means a person who has a bachelor of science degree in an environmental or health-related science with training in chemistry and toxicology, and specific training and experience in occupational health hazards, their recognition, abatement, and control;

(2) "safety professional" means a person who, by virtue of specialized knowledge and skill, has achieved professional status in the safety field. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

8 AAC 61.845. Training course requirements

(a) A training course conducted under 8 AAC 61.800 - 8 AAC 61.890 must be conducted in Alaska, must be given using language and nomenclature commonly used by painters, and must provide 16 hours of instruction and testing, including instruction on the following:

(1) an explanation of AS 18.63.010 - 18.63.100 and 8 AAC 61.800 - 8 AAC 61.890, regarding hazardous paint certification, emphasizing the responsibilities of a certificate holder;

(2) an introduction to the terms commonly used in the painting industry and to some of the current technology used in applying paints, including

(A) definitions of paint components such as pigments, vehicles, binders, thinners, solvents, and paint additives;

(B) discussion of methods used to apply paints, such as by brush, roller, air and airless spray equipment, electrostatic equipment, and dip and flow coating; and

(C) discussion of types of paint drying and curing methods, such as solvent evaporation, air and moisture curing, and catalytic action, heat conversion, and chemical crosslinking;

(3) training on how to interpret container labels and the material safety data sheets (MSDSs) that are available for hazardous materials, including an explanation of

(A) the warning signal words "caution," "warning," and "danger" printed on container labels;

(B) the format of an MSDS and the common terms and physical data concepts that are listed on a typical MSDS for a paint product;

(C) how to use the information on the container label and the MSDS to determine proper handling, storage, and clean-up of the product;

(4) training on how to use other reference materials, such as the NIOSH *Pocket Guide to Chemical Hazards*; the ACGIH *TLVs for Chemical Substances in the Work Environment*, the Alliance of American Insurers' *Handbook of Industrial Solvents* and *Handbook of Hazardous Materials*; and the National Paint and Coating Association's *Hazardous Materials Identification System*;

(5) instruction on determining the hazardous chemicals found in commercially available products and the potential risk and symptoms of overexposure for each, by reviewing container labels, MSDSs, and the NIOSH (National Institute of Occupational Safety and Health) *Pocket Guide to Chemical Hazards*;

(6) a general discussion of the medical aspects of exposure to painting and coating processes with emphasis on solvent-induced neurotoxicity;

(7) an explanation of the impact that drugs and alcohol might have on the toxic effects of solvents and paints and their impact on the rate of removal of toxic substances from the body;

(8) information on the medical tests that are available to detect illnesses that might be caused by exposure to paints;

(9) training on the types of hazard controls that should be used when applying paints, including

(A) substitution of less hazardous paints;

(B) engineering controls;

(C) administrative controls; and

(D) personal protective equipment (PPE);

(10) training on prevention of fire and explosion hazards from sparks or ignition sources when using solvent-based paints;

(11) training on clean-up procedures including safe methods for cleaning skin, hair, and clothing, and methods for cleaning up spills of hazardous materials.

(b) Each trainee must be provided with the following practical training:

(1) methods of ventilation that can be used to minimize or eliminate exposure to hazardous and toxic chemicals of the painter, other workers, and the public; this training should include

(A) methods that can be used to assure adequate airflow in a work area, including adequate exhaust; the relationship between the ventilation source and the work being performed; adequate ventilation of the worker's breathing zone; and adequate supply of make-up air;

(B) use of general dilution ventilation and local exhaust ventilation;

(C) methods of ventilation of temporary work sites, including

(i) setting up a proper push/pull ventilation system;

(ii) using doorway supply fans and proper painting sequence, depending on the location of the fan;

(iii) selecting the proper air flow directions for various room sizes and shapes;

(iv) identifying and correcting improper fan set-ups; and

(v) using jobsite warning signs and public notification;

(D) methods of ventilation of permanent work sites and how to properly use and maintain spray booths and spray rooms;

(E) methods of ventilation and safety procedures for confined-space entry, including

(i) methods of testing for toxic gases and the level of oxygen present in a confined space;

(ii) isolation methods such as locking out of electrical service, and blanking, blinding, and misalignment of pneumatic and hydraulic lines;

(iii) methods that can be used to remove residual toxic substances from inside the confined space whenever possible before beginning work;

(iv) standby rescue and emergency procedures; and

(v) establishing communications protocols and buddy systems;

(F) potential for overexposure in exterior painting, and the criteria needed to determine if there is adequate natural ventilation; and

(G) the requirements of Alaska occupational safety and health regulations in this chapter for air monitoring for chemical exposures;

(2) training in the proper use of respiratory protective equipment, including

(A) proper selection of respirators, including dust, half-mask and full-face, air purifying, and supplied air respirators;

(B) use of the NIOSH *Pocket Guide*, container labels and MSDSs, to determine the proper respirators to be used for specific hazardous materials;

(C) the use of air purifying respirators, including qualitative fit tests for half masks and full-face respirators;

(D) conducting a self-administered qualitative fit test that can be done in the field, including positive and negative pressure checks;

(E) selecting proper cartridges and filters, and methods that can be used to predict the life of the cartridges and filters;

(F) using an air-supplied system, including the risk of oil and carbon monoxide contamination; the need for filters and carbon monoxide and emergency shut-off alarms; and the need for an emergency contingency plan;

(G) recognizing inappropriate or damaged respiratory protective equipment; and

(H) disassembling, cleaning, maintaining, and donning an air purifying respirator;

(3) wearing an air purifying respirator for at least one hour during the practical training portion of the course;

(4) training in the proper use and selection of personal protective clothing and eye protection, including

(A) using the ACGIH *Guidelines for the Selection of Chemical Protective Clothing* or safety equipment manufacturers' or distributors' catalogues and reference materials to determine the proper gloves, chemical protective clothing, and eye protection that should be used for specific hazardous paints;

(B) using barrier creams on exposed skin to protect the skin and to facilitate clean-up of exposed parts of the body without the need to use solvents.

(c) Each trainee must become familiar with

(1) Alaska occupational safety and health standards regulations, sub ch. 1, para. 0105(c)(4), sec. 0403, and sec. 0501; subch. 4, sec. 0101 and 0103; and subch. 5, sec. 250, as adopted by reference in 8 AAC 61.010;

(2) the requirements of subch. 15, Hazard Communications Code, Alaska occupational safety and health standards, as adopted by reference in 8 AAC 61.010; and

(3) the U.S. Environmental Protection Agency's certification requirements for persons who apply and handle wood preservative chemicals.

(d) The operator of a training program may require that a trainee have medical approval before being provided with hands-on training in the use of a self-contained breathing apparatus.

(e) The operator of a training program shall provide the following materials to each trainee, to be kept by the trainee for future reference:

(1) A copy of the Alaska occupational safety and health regulations listed in (c)(1) and (c)(2) of this section;

(2) a copy of 8 AAC 61.800 - 8 AAC 61.890;

(3) an example of an MSDS for a typical paint containing hazardous materials;

(4) a brochure, available from the department, on the health effects of paints and coatings;

(5) a list of substances that should not be spray-applied;

(6) a list of substances that are known to absorb through the skin. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

Editor's note: The NIOSH *Pocket Guide to Chemical Hazards*, adopted by reference in 8 AAC 61.845(a) (5), may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

A good reference material on how the requirements referred to in 8 AAC 61.845(c) (1) and (c)(2) affect the painting industry is contained in the Painting and Decorating Contractors of America publication entitled, *Painting and Coating, Industry Hazard Communication Employee Handbook*, which may be obtained from that organization, at 3913 Old Lee Highway, Suite 33B, Fairfax, Virginia 22030.

8 AAC 61.850. Examinations

(a) An examination shall be given to each trainee to test the trainee's knowledge and skill in the subjects and procedures covered by a training course.

(b) The examination under this section shall include a written examination that tests a trainee's knowledge of the material covered in the training course, including

(1) the requirements of 8 AAC 61.800 - 8 AAC 61.890, including the requirement that the required certificate must be in the worker's possession when performing or supervising hazardous

painting work; the fines that may be assessed and citations that may be issued for violations of the applicable statutes or regulations; and renewal requirements;

(2) determining potential workplace hazards of several paint products, using container labels, MSDSs, and the NIOSH *Pocket Guide to Chemical Hazards*; a trainee should be able to determine the following information from these reference materials:

(A) emergency telephone numbers to be called in case of an overexposure;

(B) the hazardous ingredients of the product;

(C) the exposure limits of the product;

(D) the health hazards, the symptoms of overexposure, and the parts of the body that can be affected;

(E) the first aid and medical response recommended if an emergency should occur;

(F) the fire and explosion hazards;

(G) the proper personal protective equipment needed when working with the product.

(3) recognizing the signs and symptoms of acute and chronic solvent neurotoxicity; the trainee should understand the unreliability of using odor threshold in determining exposure levels, the permanent neurobehavioral effects of solvent neurotoxicity, and the risk of overexposure from skin contact;

(4) the types of controls that may be used to control hazardous exposures; the trainee should be able to provide examples of each type of control and the priority in which they should be implemented;

(5) recognizing potential sources of ignition for solvent vapors;

(6) setting up ventilation systems, by using floor plans for various sizes and shapes of rooms, to identify the steps to follow for adequate airflow; demonstrating a push/pull system of ventilation; and demonstrating the proper work sequence; and

(7) recognizing the airflow and maintenance requirements for spray booths and rooms, and the proper placement of work in the booth or room to reduce exposure.

(c) The examination under this section shall include a practical examination that tests a trainee's skill in the following techniques and procedures:

(1) recognizing inappropriate or damaged respiratory equipment;

(2) following basic field fit testing, donning, disassembly, cleaning, maintenance, and storage procedures for respiratory equipment;

(3) setting up ventilation fans in test rooms and determining work sequence for solvent-based paints.

(d) An oral examination by the course instructor may, with the department's approval, be substituted for the written test required in (b) of this section. In addition to covering the other subjects set out in (b) of this section, an oral examination must test the applicant's ability to read and understand

the labeling information on a paint can, and to read and understand an MSDS of a paint containing hazardous materials.

(e) The minimum passing score on the examination required by (a) of this section is 70 percent. The trainee's score on the practical examination required under (c) of this section carries a weight of 40 percent.

(f) Trainees may not be provided with copies of the written and practical examinations except for the purpose of taking the examinations. All examination materials must be returned to the instructor after the examination. Each examination paper must be numbered, and the name of the student being tested must be on the examination paper. Only the instructor may grade the examinations. Trainees may be verbally given answers to the examination questions after all examinations have been returned to the instructor. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.010 AS 18.63.040
AS 18.63.060

8 AAC 61.855. Issuance of hazardous painting certificate

(a) A hazardous painting certificate will be issued by the department to a person who completes a training course conducted under 8 AAC 61.800 - 8 AAC 61.890, passes the examination described in 8 AAC 61.845 and 8 AAC 61.850(a) , and pays the certificate fee required by 8 AAC 61.860. The department will issue a certificate within 10 working days after receiving a completed application.

(b) A person must provide proof that he or she completed the training course not more than 30 days before sending the application for a certificate to the department. Proof of completion must be on the application form provided by the

department to the operator of the training program. The completed application form must indicate the applicant's name, address, physical description, and his or her score on the examination required under 8 AAC 61.850(a).

(c) A person may submit an application for a certificate by mail, or in person at one of the occupational safety and health section offices of the department.

(d) A certificate issued under this section will be on a form provided by the department and will include the certificate's expiration date, the certificate holder's name and physical description, and space for the certificate holder's signature and photograph. The certificate is non-transferable, and is not valid until signed by the certificate holder and that person's photograph is attached. However, the physical description of the certificate holder is sufficient if photographing facilities are not available in the community in which the certificate holder resides.

(e) If a certificate holder loses the certificate, the holder must contact the Anchorage office of the mechanical inspection section of the department to obtain a duplicate certificate. (Eff. 5/14/89, Register 110; am 6/14/2006, Register 178)
Authority: AS 18.63.020 AS 18.63.060

8 AAC 61.860. Fee and duration of certificate

(a) An applicant shall pay a fee of \$100 to the department for a hazardous painting certificate and \$25 for a duplicate certificate.

(b) A certificate is valid for three years after the date of issuance. (Eff. 5/14/89, Register 110; am 6/14/2006, Register 178)
Authority: AS 18.63.020 AS 18.63.030
AS18.63.060

8 AAC 61.865. Renewal of certificate; refresher course

(a) A hazardous painting certificate issued under 8 AAC 61.855 will be renewed by the department if the certificate holder attends, and successfully completes, at least an 8-hour refresher course conducted by a training program approved under 8 AAC 61.800 - 8 AAC 61.890. The refresher course must include instruction in the following:

(1) changes in state or federal regulations pertaining to painting practices and procedures;

(2) changes in the state of the art of painting practices, procedures, personal protection, and engineering controls;

(3) new hazardous paints and hazardous paint contents that have become available since the certificate holder received his or her current certificate, and the techniques for applying these new paints; and

(4) review of the training requirements set out in 8 AAC 61.845 for wearing air-supplied respirators, compressed air systems, confined space entry, and medical implications from working with paints.

(b) A certificate renewed under this section is valid for three years after the date of issuance.

(c) The certificate holder need not take the refresher course from the same training program that provided previous training or refresher courses.

(d) The fee for renewal of a certificate is \$100. (Eff. 5/14/89, Register 110)

Authority: AS 18.63.020 AS 18.63.040

AS 18.63.060

8 AAC 61.870. Revocation of certificate

(a) The department will, in its discretion, revoke a certificate issued under 8 AAC 61.855 if a certificate holder

(1) provides, to an employer or to the department, false information relative to his or her hazardous painting certification;

(2) has a mental or physical impairment that the department determines might interfere with the certificate holder's safe performance of painting; or

(3) knowingly or recklessly disregards safe work practices while performing painting work.

(b) If the department revokes a certificate, the department will promptly notify the certificate holder in writing of the reason for the revocation and of the procedure under 8 AAC 61.880 for appealing the revocation.

(c) If the certificate holder does not appeal the revocation to the commissioner within the time set in 8 AAC 61.880, the revocation takes effect on the day following the last day for filing an appeal. If the certificate holder appeals the revocation to the commissioner within the time set in 8 AAC 61.880, the certificate remains valid until the commissioner rules on the appeal.

(d) A person whose certificate is revoked under this section shall surrender the certificate to the department. A person is ineligible to obtain a new certificate for a period of at least 90 days, but not exceeding one year, after the effective date of the revocation, as determined by the department. A certificate obtained by a

person during a period of ineligibility is not valid.

(e) In determining the period of ineligibility under (d) of this section, the department will consider the circumstances upon which the revocation is based.

(Eff. 5/14/89, Register 110)

Authority: AS 18.63.060

8 AAC 61.875. Withdrawal of training program approval

(a) The department will, in its discretion, withdraw its approval under 8 AAC 61.800 - 8 AAC 61.890 of a training program if the operator of the training program

(1) provides false information to the department;

(2) fails to provide training as specified in the approved training program;

(3) fails to adequately test a trainee as required by 8 AAC 61.850; or

(4) violates any other provision of 8 AAC 61.800 - 8 AAC 61.850.

(b) If the department withdraws approval of a training program, the department will promptly notify the operator of the program, in writing, of the reason for the withdrawal of approval and the procedure under 8 AAC 61.880 for appealing the withdrawal.

(c) A training program for which approval has been withdrawn under this section is ineligible for approval for a period of at least 90 days, but not exceeding one year after the effective date of the withdrawal, as determined by the department.

(d) In determining the period of ineligibility under (c) of this section, the

department will consider the severity of the violation upon which the withdrawal of program approval is based.

(e) After the period of ineligibility specified by the department under (c) of this section has expired, the operator of the training program may apply to the department for re-approval. The application must meet the requirements of 8 AAC 61.815 and must provide documentation that the deficiency for which the department withdrew approval has been corrected.

(Eff. 5/14/89, Register 110)

Authority: AS 18.63.040 AS 18.63.060

8 AAC 61.880. Appeals

(a) A revocation under 8 AAC 61.870, a withdrawal under 8 AAC 61.875, or a citation and penalty under 8 AAC 61.885 is final unless the person affected files an appeal with the commissioner within 30 calendar days after receipt of the notice of revocation, notice of withdrawal, or citation and penalty. The appeal must be in writing and must include

(1) a specification of objections to the department's findings, and a concise summary of facts in support of each objection; and

(2) a description of the relief sought.

(b) The commissioner's decision will be based upon the department record, and will state the facts relied upon by the commissioner in deciding the matter.

(c) The commissioner will, in his or her discretion, hold a hearing on the appeal to supplement the department record if clarification or additional facts are necessary for a proper resolution of the appeal.

(d) A copy of the commissioner's decision will be sent to the appellant by certified mail within 10 days after receipt of the appeal if a hearing is not held, or within 10 days after the date of the hearing if a hearing is held. The decision will include a statement of the appellant's right to further appeal. (Eff. 5/14/89, Register 110; am 8/8/90, Register 115)

Authority: AS 18.63.060

8 AAC 61.885. Citations and penalties

(a) As provided in AS 18.63.050 (2) and 18.63.070, the department will issue a citation, with a penalty, to a person who employs or contracts with a professional painter to perform hazardous painting if the professional painter does not have a certificate issued under 8 AAC 61.800 - 8 AAC 61.890. The department will also impose a civil penalty on a person who provides a falsified hazardous painting certificate to an employer or makes a false statement to an employer or the department regarding the person's certification. The department will consider the severity of the violation in determining the amount of a penalty under this subsection.

(b) The department will issue a citation with penalty, as provided in AS 18.63.050 (3) and 18.63.070, to a professional painter who uses a falsified hazardous painting certificate to obtain employment for which certification is required under AS 18.63 and 8 AAC 61.800 - 8 AAC 61.890.

(c) For purposes of (a) of this section, a separate citation will be issued for each professional painter who is not certified as required by AS 18.63 and 8 AAC 61.800 - 8 AAC 61.890. Each citation will, in the department's discretion, include a separate penalty. (Eff. 5/14/89, Register 110; am 8/8/90, Register 115)

Authority: AS 18.63.010 AS 18.63.050

AS 18.63.070

8 AAC 61.890. Definitions

(a) In 8 AAC 61.800 - 8 AAC 61.890,

(1) "commissioner" means the commissioner of the Department of Labor and Workforce Development or the commissioner's designee;

(2) "department" means the Department of Labor and Workforce Development;

(3) "hazardous paints" means paints that contain or are combined with a toxic or hazardous substance, as defined in AS 18.60.105, and that are used in vaporized, liquid, or particulate form to create a coating that will adhere to a surface to protect or preserve the surface; "hazardous paints" do not include water-based paints that do not contain emulsion epoxies or isocyanates.

(b) As defined in AS 18.63.100, "professional painter"

(1) includes

(A) a person who is performing painting work subject to the contractor registration requirements of AS 08.18;

(B) a person who is employed as a painter; and

(C) a person who spends more than 48 hours in any 30-day period performing painting work;

(2) does not include

(A) a person who performs painting on an incidental basis; and

(B) a person who is a corporate officer or employee of a contractor engaged in the business of painting, but who does not supervise painting operations or handle and apply paints.

(c) As used in 8 AAC 61.800 - 8 AAC 61.890 and in AS 18.63, "perform" and "performing" include direct supervision.

(Eff. 5/14/89, Register 110)

Authority: AS 18.63.010 AS 18.63.040
AS 18.63.060

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.

Article 10 General Provisions

Relocated

Editor's note: As of Register 136, Jan. 1996, 8 AAC 61.930 - 8 AAC 61.960 were relocated by the regulations attorney to 8 AAC 61.1930 - 8 AAC 61.1960.

Article 11 Occupational Safety and Health Standards

Section

- 1010. Standards.
- 1015. Additional standards for recording and reporting occupational injury and illness: annual summary.
- 1020. Additional explosive and blasting standards.
- 1030. Additional respiratory protection standards.
- 1040. Additional temporary labor camp standards.
- 1050. Additional permit-required confined space standards.
- 1060. Additional logging standards.
- 1070. Additional telecommunication standards.
- 1080. Additional electrical power generation, transmission, and distribution standards.
- 1090. Additional electrical safety-related work practices standards.
- 1100. Additional air contaminants standards.
- 1110. Additional hazard communication standards.
- 1145. Additional air contaminate standards for construction.
- 1150. Additional bolting, riveting, fitting-up, and plumbing-up standards.
- 1160. Additional power transmission and distribution standards.
- 1170. Additional overhead lines standards.
- 1180. Petroleum drilling and production standards.
- 1190. Petroleum refining, transportation, and handling standards.

8 AAC 61.1010. Standards

(a) Under AS 18.60.030 , 29 C.F.R. 1904.0 - 1904.38 and 1904.40 - 1904.46, as amended, are occupational safety and health standards in this state, as revised in this section and except as provided in 8 AAC 61.1015.

(b) Under AS 18.60.030 , 29 C.F.R. 1910.5(c) and (d), 1910.6, 1910.7, 1910.12, 1910.19 - 1910.1018, 1910.1020, and 1910.1025 - 1910.1450, as amended, are occupational safety and health standards in this state, as revised in this section and except as provided in 8 AAC 61.1020 - 8 AAC 61.1110.

(c) Under AS 18.60.030 , 29 C.F.R. 1926.10 - 1926.29 and 1926.31 - 1926.1152, as amended, are occupational safety and health standards in this state, as revised in this section and except as provided in 8 AAC 61.1145 - 8 AAC 61.1170.

(d) Under AS 18.60.030 , 29 C.F.R. 1928.21 - 1928.1027, as amended, are occupational safety and health standards in this state, as revised in this section.

(e) Unless the context in which a term is used clearly requires a different meaning, the following revisions are necessary to make requirements of the federal regulations listed in (a) - (d) of this section technically feasible in this state:

(1) all references to "Occupational Safety and Health Review Commission" are revised to read "Alaska Occupational Safety and Health Review Board";

(2) all references to "Assistant Secretary," "Director," and "OSHA Area Director" are revised to read "Director of Labor Standards and Safety";

(3) all references to "OSHA" are revised to read "Alaska Occupational Safety and Health (AKOSH)." (Eff. 12/6/95, Register 136; am 3/27/96, Register 137; am 10/4/97, Register 144; am 2/15/2001, Register 157; am 10/6/2002, Register 164)
 Authority: AS 18.60.020 AS 18.60.030
 AS 18.60.075

Editor's note: Interested parties may obtain copies of each of the federal regulations listed in 8 AAC 61.1010 from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402 or from United States Government bookstores at various locations, including the United States Government Bookstore, Room 194, Federal Building, 915 Second Avenue, Seattle, Washington 98174; phone: (206) 553-4270.

Copies of all federal regulations listed in 8 AAC 61.1010 are available for review at the regional offices of the Department of Labor and Workforce Development, division of labor standards and safety, located in Juneau, Anchorage, Fairbanks, Ketchikan, and Kenai.

As of Register 140, January 1997, the regulations attorney corrected a manifest error appearing in material that was at that time located in 8 AAC 61.1010(a) , and is now located in 8 AAC 61.1010(b) .

8 AAC 61.1015. Additional standards for recording and reporting occupational injury and illness: annual summary

Notwithstanding the posting requirements of 29 C.F.R. 1904.32, as amended, which is listed in 8 AAC 61.1010(a) as an occupational safety and health standard in this state, if an establishment is closed at the end of a calendar year because the establishment operates on a seasonal schedule, the annual summary required by

29 C.F.R. 1904.32 must be posted in a conspicuous place

(1) beginning no later than 15 days after the establishment opens for the next season; and

(2) remain posted for

(A) 90 consecutive calendar days; or

(B) if the establishment will be open for less than 90 consecutive days in that season, the entire length of time that the establishment is open in that season.

(Eff. 10/6/2002, Register 164)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1020. Additional explosive and blasting standards

(a) In addition to the requirements set out in 29 C.F.R. 1910.109 (e), as amended, an employer shall ensure the following:

(1) all employees doing excavation, tunnel, quarry, earth removal, or construction work, and who are emplacing explosives for detonation, installing primers, fuses, wires, or other means of detonation, or detonating explosives, are required to obtain a certificate of fitness for explosive handlers issued by the department, the standards and application procedures for certificate of fitness for explosive handlers are contained in 8 AAC 62.020 - 8 AAC 62.070;

(2) an employee handling explosive materials shall be supervised by a holder of a certificate of fitness for explosive handlers and shall be at least 18 years of age.

(b) Notwithstanding 29 C.F.R. 1910.109(e)(1)(v), if fewer than six hours of

daylight will occur in a 24-hour period, blasting operations may be performed at night if the employer ensures that the following additional safety requirements for employees are met:

(1) all affected employees must be notified before night-time blasting operations are begun; notification must be by verbal communication and by posting a notice in a place where notices to employees are usually posted by the employer;

(2) the department must be notified at least 72 hours before blasting work is begun, indicating the location where blasting will be done and the approximate length of time the blasting will be in progress; upon completion of the blasting operations, the department must be notified of completion;

(3) written procedures on how night blasting operations will be controlled must be made available upon request to the department when blasting is to be done within one-half mile of populated areas; these procedures must show the specific precautions that will be taken to ensure control of the site where blasting will be done and must place an emphasis on the protection of employees;

(4) the blaster must have a current state certificate of fitness for explosive handling and must be designated in writing by the employer for each night-blasting project; the blaster shall be responsible for all activities of employees within the blasting area and within 100 feet of the blasting area; the blaster shall control access by employees to this area;

(5) a minimum of four mobile flood light complexes must be used to illuminate the blasting area; each flood light complex must have its own generator plant, complete with four 1,000 watt flood lights, and must

be capable of illuminating the blasting area so that there will be no shadows or darkened areas; additional flood light complexes must be brought into use if the blaster considers them necessary for safe operations to protect employees;

(6) the employer shall control access to the entire site to ensure that an employee does not enter unsafe areas during the blast;

(7) the blaster must be protected from flying rock by either adequate shelter or by keeping a safe distance from the blast; all other employees shall leave the blast site and keep a sufficient distance away from flying rock due to the blast;

(8) after the blast, and before any employees or equipment enter the blast site, the flood light complexes must be repositioned to illuminate the site as specified by the blaster; the blaster shall examine the area for misfires, loose explosives, or other hazards; handheld battery-powered lamps, approved by a nationally recognized testing laboratory as defined in 29 C.F.R. 19 for use in hazardous locations, may be used to supplement the flood light complexes during this examination; an employee may not enter the area until the blaster gives clearance to do so.

(c) In this section, "night" or "night time" means the hours from one-half hour after sunset to one-half hour before sunrise.

(Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1030. Additional respiratory protection standards

In addition to the requirements set out in 29 C.F.R. 1910.134(d)(2)(ii), as amended, the employer shall either:

(1) station a competent employee outside of the work area to monitor and attend the compressor and other equipment that supplies breathing air; this employee must be trained in supplied air systems and must receive instruction in the function and maintenance of the particular supplied air system that is being used at the work site; this employee must be able to demonstrate the ability to respond appropriately to a malfunction of the system; or

(2) employ a compressed air system that includes alarms for compressor failure and overheating; the system must be equipped with a carbon monoxide alarm; all compressed air systems must be equipped with in-line adsorbents and filters to deliver Grade D air; alarms must alert respirator wearers of problems either remotely or by being loud enough to be heard up to 300 feet away; the monitoring equipment, alarms, and filters must be checked before use to ensure they are working properly.

(Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1040. Additional temporary labor camp standards

(a) 29 C.F.R. 1910.142(b)(2), as amended, is revised to read: "Each room used for sleeping purposes shall contain at least 60 square feet of floor space for each occupant. At least a 7-foot ceiling shall be provided."

(b) Notwithstanding (a) of this section, in temporary labor camps that are occupied for a period of occupancy of no more than 60 consecutive days per year, sleeping rooms shall contain at least 50 square feet of floor space for each occupant. A period of occupancy begins with the first day of habitation in the camp and ends 60 days later regardless of intermittent periods of

closure or vacancy. At least 60 days must elapse between periods of occupancy in successive calendar years in order to utilize the 50-square-foot exception available under this subsection. (Eff. 12/6/95, Register 136; am 10/19/96, Register 140)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1050. Additional permit-required confined space standards

(a) 29 C.F.R. 1910.146(a), as amended, is revised to read: "This section contains requirements for practices and procedures to protect employees in general industry and construction industry from the hazards of entry into permit-required confined spaces."

(b) Notwithstanding 29 C.F.R. 1910.146, the employer shall ensure that double block and bleed systems are not used as a means of isolation when the ambient air temperature at the point of isolation or the temperature of the product in the line at the point of isolation is at or below 32 degrees Fahrenheit (0 degrees Celsius).

(c) The note provided in 29 C.F.R. 1910.146(d)(6) is revised to read:

NOTE: Attendants may not be assigned to monitor more than one permit space. Attendants may be stationed at any location outside the permit space to be monitored as long as the duties described in 29 C.F.R. 1910.146(c)(5)(i) can be effectively performed for each permit space that is monitored by the attendant. The attendant must be in direct and constant communication with the entrants.

(d) The following definition supplements those definitions found in 29 C.F.R. 1910.146(b): "calibrated direct-reading instrument" means a sampling instrument in

which analysis takes place within the instrument such that sampling information can be read directly from a dial or display that has been checked for accuracy against a standard of known specifications and adjusted, if necessary, according to specifications or recommendations of the manufacturer to indicate values as close as possible to the true value. (Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1060. Additional logging standards

The State of Alaska Occupational Safety and Health Additional Logging Standards dated July 31, 1995 are hereby adopted by reference to supplement 29 C.F.R. 1910.266, as amended. (See separate publication titled *Additional Logging Standards*.) (Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

Editor's note: Copies of all state-specific standards adopted by reference in 8 AAC 61.1060 may be obtained by contacting the Department of Labor, Division of Labor Standards and Safety, at the (1) Occupational Safety and Health office located at 3301 Eagle Street, Suite 305, Anchorage, Alaska; phone: (907) 269-4940; (2) Occupational Safety and Health office located at 1111 W. Eighth Street, Suite 304, Juneau, Alaska; phone: (907) 465-4855; or (3) Occupational Safety and Health office, 675 7th Avenue, Station J1, Fairbanks, Alaska 99701.

Copies of all standards adopted by reference in 8 AAC 61.1060 will be issued to each state depository in this state and to the regional offices of the Department of Labor, Division of Labor Standards and Safety, located in Juneau, Anchorage, Fairbanks,

Ketchikan, Sitka, and Kenai, and will be available for public inspection at these offices.

8 AAC 61.1070. Additional telecommunication standards

(a) Notwithstanding 29 C.F.R. 1910.268(b)(7), as amended, an employer may not allow an employee to approach or take any conductive object, without an insulating handle that meets the requirements of 29 C.F.R. 1910.269, closer to exposed energized parts of 5,000 volts or greater from phase-to-phase or phase-to-ground than shown in Tables R-6 - R-10 contained in 29 C.F.R. 1910.269, as amended.

(b) Notwithstanding 29 C.F.R. 1910.268(b)(7), as amended, an employer may not allow an employee to perform rubber glove work on energized lines of 5,000 volts or greater from phase-to-phase or phase-to-ground. (Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1080. Additional electrical power generation, transmission, and distribution standards

(a) Notwithstanding 29 C.F.R. 1910.269(l)(2), as amended, an employer may not allow an employee to approach or take any conductive object, without an approved insulating handle that meets the requirements of 29 C.F.R. 1910.269(j)(1), closer to exposed energized parts of 5,000 volts or greater from phase-to-phase or phase-to-ground than shown in Tables R-6 - R-10 in 29 C.F.R. 1910.269, as amended.

(b) Notwithstanding 29 C.F.R. 1910.269(l)(2) and (l)(3), as amended, an employer may not allow an employee to

perform rubber glove work on energized lines of 5,000 volts or greater from phase-to-phase or phase-to-ground.

(c) Notwithstanding 29 C.F.R. 1910.269(l)(2) and (q)(3), as amended, live-line bare-hand work on overhead lines by employees is prohibited. (Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1090. Additional electrical safety-related work practices standards

Notwithstanding 29 C.F.R. 1910.333(c)(3), as amended, an employer may not allow an employee to perform rubber glove work on energized lines of 5,000 volts or greater from phase-to-phase or phase-to-ground. (Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1100. Additional air contaminants standards

Table Z-1-A of this section are the standards to test limits for air contaminants in place of Table Z-1 contained in 29 C.F.R. 1910.1000, as amended. (Eff. 12/6/95, Register 136; am 10/4/97, Register 144; am 9/27/98, Register 147)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

Publisher's note: This section was corrected in Register 142, July 1997 to include formerly omitted footnote (g).

8 AAC 61.1110. Additional hazard communication standards

(a) In addition to the requirements set out in 29 C.F.R 1910.1200, as amended, an employer shall have a physical agent data

sheet for each physical agent present in the employer's workplace.

(b) Each physical agent data sheet must be in English and must contain at least the following information:

- (1) the name of the physical agent;
- (2) a description of the physical agent;
- (3) the health hazards of the physical agent, including signs and symptoms of exposure, and any medical conditions that are generally recognized as being aggravated by exposure to the physical agent;
- (4) the permissible exposure limit established by these regulations or American Conference of Governmental Industrial Hygienists threshold limit value;
- (5) whether the physical agent is a or a potential carcinogen;
- (6) any generally applicable precautions or safety procedures;
- (7) any generally applicable control measures, such as appropriate engineering controls, work practices, or personal protective equipment;
- (8) appropriate emergency or first aid procedures related to exposure to the physical agent;
- (9) the date of preparation of the physical agent data sheet or the date of the last change to the sheet;
- (10) the name, address, and telephone number of the person responsible for the preparation and distribution of the physical agent data sheet.

(c) Physical agent data sheets may be kept in any form, including in a manual of operating procedures, and may be designed to cover groups of physical agents in a work area where it may be more appropriate to address the hazards of an entire process rather than of individual physical agents. The physical agent data sheets must be readily accessible during each work shift to employees at their work areas.

(d) Upon an employee's request, an employer must provide a copy of the most recent physical agent data sheet or equivalent written information for a physical agent to which the employee may be exposed. If the copy or information requested by the employer under this subsection is not made available, the employer shall take measures to assure that employees are not exposed to the physical agent to which the copy or information pertains until the copy or information is made available to the employee. This subsection does not alter, deny, or abrogate any legal right an employee may have to refuse to work under hazardous circumstances.

(e) Upon request of the employee, the designated representative of the employee, or the commissioner, the employer must readily make available to the representative or the department physical agent data sheets in the same manner that records must be made available under AS 18.60.067.

(f) An employer must comply with the following posting, information, and training requirements:

- (1) a poster that contains the provisions of AS 18.60.065 - 18.60.068 must be displayed at the work site; a poster meeting this requirement is available from the department, but an employer may use any poster that meets this requirement;

(2) material safety data sheets, physical agent data sheets, or equivalent information for each toxic or hazardous substance and physical agent to which an employee may be exposed in the work place must be posted;

(3) instead of posting the information required under (2) of this subsection, an employer may post a list of the chemical name and product name of each toxic or hazardous substance and physical agent to which an employee may be exposed in the workplace, together with an identification of a location, in or near the workplace and accessible to employees, where an employee may inspect the material safety data sheets, physical agent data sheets, or equivalent information at any time during the work shift;

(4) an employer must provide employees with information and training on physical agents in their work area at the time of their initial assignment and whenever a new physical agent is introduced into their work area.

(g) In this section,

(1) "physical agent" means heat stress, cold stress, hand-arm (segmental) vibration, ionizing radiation, lasers, noise, radio frequency and microwave radiation, or ultraviolet radiation which exceeds the threshold established in the 1995-1996 edition of *Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices in the Work Environment* published by the American Conference of Governmental Industrial Hygienists (ACGIH);

(2) "physical agent data sheet" means written or printed material concerning a physical agent that is prepared in accordance with (b) of this section.

(Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

Editor's note: Physical agent data sheets are prepared by the Alaska Department of Labor and Workforce Development and are available at no cost to the employer. An employer may develop its own data sheets or use data sheets prepared by an entity other than the department as long as they contain the information outlined in 8 AAC 61.1110(b).

A copy of the edition published by the American Conference of Governmental Industrial Hygienists (ACGIH) adopted in 8 AAC 61.1110(g) (1) may be obtained by contacting ACGIH, Technical Affairs Office, 6500 Glenway Ave., Bldg. D-7, Cincinnati, Ohio 45211-4438; phone: (513) 742-2020; Fax: (513) 661-7195. A copy may also be reviewed at the offices of the Department of Labor and Workforce Development, Division of Labor Standards and Safety, in Juneau and Anchorage.

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 61.1145. Additional air contaminate standards for construction

Notwithstanding 29 C.F.R. 1926.55, as amended, Table Z-1-A of 8 AAC 61.1100 sets out the standards to test limits for air contaminants for construction in place of Appendix A contained in 29 C.F.R. 1926.55(a), as amended. (Eff. 2/15/2001, Register 157)

Authority: AS 18.60.020 AS 18.60.030

AS 18.60.075

8 AAC 61.1150. Additional bolting, riveting, fitting-up, and plumbing-up standards

(a) In addition to the requirements set out in 29 C.F.R. 1926.752, as amended, when connecting beams,

(1) the employer shall have one employee giving signals and shall make sure other employees are kept a safe distance from the beams being connected;

(2) one end of the beam shall be bolted before an employee begins the process to connect the other end;

(3) a beam shall be connected with a minimum of two bolts at each end;

(4) a beam may not be cut free until the minimum number of bolts have been installed; a connection of a beam by a wrench or drift pin does not meet the requirements of this paragraph;

(5) when setting columns and before detaching lifting falls, the employer shall ensure that either the anchor bolts are fully tightened or temporary guys are affixed; and

(6) an employer shall ensure that, if feasible, an employee straddle the beam rather than walk along the top of the beam.

(b) An employer may not allow an employee to install a prefabricated beam with studs protruding from the top flange of the beam.

(c) If traffic surface of a beam is rendered hazardous by the installation of studs after the beam is installed, the employer shall require that the surface be made safe by the erection of a wooden deck

over the studs. The employer shall require that the wooden deck be secured to the beam in a manner as to overlap the beam by two inches on both sides of the beam.

(d) In this section,

(1) "beam" means a structural steel member;

(2) "stud" means all protruding metal attachments to a beam, including spirals and shear connectors applied to a beam;

(3) "traffic surface" means that portion of a beam that an employee uses as a walkway. (Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1160. Additional power transmission and distribution standards

(a) Notwithstanding 29 C.F.R. 1926.950(c)(1), as amended, an employer may not allow an employee to perform rubber glove work on energized lines of 5,000 volts or greater from phase-to-phase or phase-to-ground.

(b) Notwithstanding 29 C.F.R. 1926.950(c)(1), as amended, an employer may not allow an employee to approach or take any conductive object, without an insulating handle that meets the requirements of 29 C.F.R. 1910.269(j)(1), closer to exposed energized parts of 5,000 volts or greater than shown in Tables R-6 - R-10 contained in 29 C.F.R. 1910.269, as amended, or Table V-1 contained in 29 C.F.R. 1926.950, as amended. (Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1170. Additional overhead lines standards

Notwithstanding 29 C.F.R. 1926.955(a)(5) (i) and (e), as amended, the employer may not allow the use of live-line bare-hand work on overhead lines.

(Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

8 AAC 61.1180. Petroleum drilling and production standards

The State of Alaska Occupational Safety and Health Petroleum Drilling and Production Standards dated October 20, 1995 are adopted by reference. (See separate publication titled *Petroleum Drilling and Production Standards*.)

(Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

Editor's note: Copies of all state-specific standards adopted by reference in 8 AAC 61.1180 may be obtained by contacting the Department of Labor and Workforce Development, Division of Labor Standards and Safety, at the (1) Occupational Safety and Health office located at 3301 Eagle Street, Suite 305, Anchorage, Alaska; phone: (907) 269-4940; (2) Occupational Safety and Health office located at 1111 W. Eighth Street, Suite 304, Juneau, Alaska; phone: (907) 465-4855; or (3) Occupational Safety and Health office, 675 7th Avenue, Station J1, Fairbanks, Alaska 99701.

Copies of all standards adopted by reference in 8 AAC 61.1180 will be issued to each state depository in this state and to the regional offices of the Department of Labor and Workforce Development, Division of Labor Standards and Safety, located in Juneau, Anchorage, Fairbanks, Ketchikan,

Sitka, and Kenai, and will be available for public inspection at these offices.

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 61.1190. Petroleum refining, transportation, and handling standards

The State of Alaska Occupational Safety and Health Petroleum Refining, Transportation and Handling Standards dated July 31, 1995 are adopted by reference. (See separate publication titled *Petroleum Refining, Transportation, and Handling Standards*.)

(Eff. 12/6/95, Register 136)

Authority: AS 18.60.020 AS 18.60.030
AS 18.60.075

Editor's note: Copies of all state-specific standards adopted by reference in 8 AAC 61.1190 may be obtained by contacting the Department of Labor and Workforce Development, Division of Labor Standards and Safety, at the (1) Occupational Safety and Health office located at 3301 Eagle Street, Suite 305, Anchorage, Alaska; phone: (907) 269-4940; (2) Occupational Safety and Health office located at 1111 W. Eighth Street, Suite 304, Juneau, Alaska; phone: (907) 465-4855; or (3) Occupational Safety and Health office, 675 7th Avenue, Station J1, Fairbanks, Alaska 99701.

Copies of all standards adopted by reference in 8 AAC 61.1190 will be issued to each state depository in this state and to the regional offices of the Department of Labor and Workforce Development, Division of Labor Standards and Safety, located in Juneau, Anchorage, Fairbanks, Ketchikan,

Sitka, and Kenai, and will be available for public inspection at these offices.

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Article 12 **General Provisions**

Section

1930. Place of employment.

1940. Establishment.

1950. Posting of notice of AS 18.60.010 - 18.60.105.

1960. Definitions.

Editor's note: Before Register 136, January 1996, the text of 8 AAC 61.1930 - 8 AAC 61.1960 was shown at 8 AAC 61.930 - 8 AAC 61.960. The history notes reflect the history of the sections before their relocation by the regulations attorney.

8 AAC 61.1930. Place of employment

"Place of employment" is any place such as, but not limited to, a factory, plant, business, construction site, or other area, workplace or environment where work is performed by an employee of an employer. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020

8 AAC 61.1940. Establishment

For the purposes of this chapter, an "establishment" is a single location where business is conducted or where services or

industrial operations are performed. However

(1) where distinctly separate activities are performed at a single physical location, each activity will be treated as a separate establishment; and

(2) where public employees are employed, each specific governmental function performed at a single location, or that location which is the lowest level where attendance or payroll records are kept for a group of employees who perform the same governmental function or who are in the same specific organizational unit, even though the activities are carried on at more than a single physical location, will be treated as a separate establishment.

(Eff. 1/10/75, Register 53; am 1/26/78, Register 65)

Authority: AS 18.60.020 AS 18.60.030

8 AAC 61.1950. Posting of notice of AS 18.60.010 - 18.60.105

Each employer shall post and keep posted a notice or notices, to be furnished by the department, informing employees of the protections and obligations provided for in AS 18.60.010 - 18.60.105. The notice or notices must be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to insure that the notices are not altered, defaced, or covered by other material. (Eff. 1/10/75, Register 53)

Authority: AS 18.60.020

8 AAC 61.1960. Definitions

Unless the context indicates otherwise, in this chapter

(1) "board" means the Occupational Safety and Health Review Board;

(2) "commissioner" means the Commissioner of Labor and Workforce Development;

(3) "department" means the Alaska Department of Labor and Workforce Development;

(4) "director" means the director of the division of labor standards and safety, Department of Labor and Workforce Development;

(5) "division" means the division of labor standards and safety, Department of Labor and Workforce Development.

(Eff. 1/10/75, Register 53; am 10/2/83, Register 87)

Authority: AS 18.60.020

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.

Occupational Safety and Health Standards Index

Asbestos Abatement	42
Appeals	53
Certification	42, 49-52
Citations/Penalties	53
Course Requirements	43-44, 46-48, 50, 52
Definitions	55-56
Exam	48
Instructor Qualifications	45-46
Training	42-43, 45, 52, 54
Confined Space Standards	72
Consultative Services	38, 39
Discrimination	39-41
Employee Safety Education Programs	4
Explosive/blasting Standards	70-71
Hazard Communication Standards	73-75
Hazardous Painting	56
Appeals	66-67
Certification	56, 64, 65-66
Citations/Penalties	67
Course Requirements	59-62
Definitions	67-68
Exam	62-64
Training	57, 58, 59-62, 66
Importation of toxic & hazardous substances	4
Inspections	8-9, 15
Abatement	23
Citations	10, 19, 20
Consultation	18
Definitions	14-15
Enforcement Procedures	10-11
Exemptions	39
Imminent Danger	12-13, 19
Informal Conference	25
Judicial Review	13
Notice of Inspection	16-17
Notice of Contest	24
Objections	16
Penalties	20-22
Legal Counsel	4
Occupational Safety & Health Review Board	3, 25-26
Hearings	30-31
Pleadings	27
Prehearing Conference	27-28
Rules of Procedure	27
Settlements	28-29
Withdrawal of Citation	28
Posting Information in the Workplace	5, 78

Occupational Safety and Health Standards Index

Reporting Injuries and Illness	3-4, 69-70
Respiratory Protection Standards	71
Temporary Labor Camp Standards	71-72
Variance	6
Applications	36-37
Hearings	37-38
Modification or Revocation	35-36
Permanent Variance	34-36
Temporary Variance	7-8, 33-34