

Byron Mallott
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Tally Teal
Department of Labor & Workforce Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 465.4081 

DATE: May 22, 2018

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

Department of Labor and Workforce Development regulations re: addition of beryllium as a substance subject to occupational safety and health (OSH) standards, and correction of outdated citations in OSH regulations (8 AAC 61.1010(b); 8 AAC 61.1020(b)(8); 8 AAC 61.1030; 8 AAC 61.1110(g)(1); 8 AAC 62.020(a)(9))

Attorney General File:	2018200115
Regulation Filed:	5/22/2018
Effective Date:	6/21/2018
Print:	226, July 2018

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

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


The attached 3 pages of regulations, dealing with Occupational Safety and Health, adding Beryllium as an OSH standard and correcting outdated citations, are adopted and certified to be a correct copy of the regulation changes that the Department of Labor and Workforce Development adopts under the authority of AS 05.52.010 and AS 18.60.020 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

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

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 5/16/18



Heidi Drygas, Commissioner
Department of Labor and Workforce Development

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on May 22, 2018, at 8:55 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: June 21, 2018

Register: 226, July 2018

Register 226, July 2018 LABOR AND WORKFORCE DEV.

8 AAC 61.1010(b) is amended to read:

(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 1910.1024 – 1910.1450 [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. (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; am

11/29/2017, Register 224; am 6/21/2018, Register 226)

Authority: AS 18.60.020 AS 18.60.030 AS 18.60.075

8 AAC 61.1020(b)(8) is amended to read:

(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. 1910.7 [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.

(Eff. 12/6/95, Register 136; am 6/21/2018, Register 226)

Authority: AS 18.60.020 AS 18.60.030 AS 18.60.075

The introductory language of 8 AAC 61.1030 is amended to read:

8 AAC 61.1030. Additional respiratory protection standards. In addition to the requirements set out in 29 C.F.R. 1910.134(i)(5) [29 C.F.R. 1910.134(d)(2)(ii)], as amended, the employer shall either:

(Eff. 12/6/95, Register 136; am 6/21/2018, Register 226)

Authority: AS 18.60.020 AS 18.60.030 AS 18.60.075

Pubisher: Bold, underline, italicize, and super-script the trade-mark ("®") symbols.

8 AAC 61.1110(g)(1) is amended to read:

(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 2018 [1995-1996] edition of

TLVs and BEIs, [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);

(Eff. 12/6/95, Register 136; am 11/29/2017, Register 224; am 6/21/2018, Register 226)

Authority: AS 18.60.020 AS 18.60.030 AS 18.60.075

8 AAC 62.020(a)(9) is amended to read:

(9) whether the applicant is under indictment for or has been convicted of a crime as described in 18 U.S.C. 842(i)(1) or 8 AAC 62.030(6) [8 AAC 62.030(a)(6)];

Register 226, July 2018 LABOR AND WORKFORCE DEV.

(Eff. 1/2/71, Register 36; am 5/26/79, Register 70; am 9/27/2008, Register 187; am 2/23/2011, Register 197; am 6/21/2018, Register 226)

Authority: AS 08.52.010 AS 08.52.030 AS 08.52.035

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: May 18, 2018

File No.: 2018200115

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Department of Labor and Workforce
Development regulations re: addition
of beryllium as a substance subject to
occupational safety and health (OSH)
standards, and correction of outdated
citations in OSH regulations (8 AAC
61.1010(b); 8 AAC 61.1020(b)(8);
8 AAC 61.1030; 8 AAC
61.1110(g)(1); 8 AAC 62.020(a)(9))

We have reviewed the attached regulations from the Department of Labor and Workforce Development against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated May 18, 2018 from the Regulations Attorney. The regulations add beryllium as an occupational safety and health standard and update outdated citations to federal regulations and publications.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The March 14, 2018 public notice and the May 16, 2018 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: 2018200115

May 18, 2018
Page 2

We have made some technical corrections to the regulations, in accordance with AS 44.62.125 and as shown on the attached copy.

SCW

cc w/enc: (via email)

Hon. Heidi Drygas, Commissioner
Department of Labor and Workforce Development

Natalie "Tally" Teal, Special Assistant and Regulations Contact
Department of Labor and Workforce Development

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

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

April Simpson
Office of the Lieutenant Governor

Elizabeth M. Bakalar, Assistant Attorney General
Labor and State Affairs Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: May 18, 2018

FILE NO.: 2018200115

TELEPHONE NO.: (907) 465-3600

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

SUBJECT: Specific delegation of authority regarding regulations review on Department of Labor and Workforce Development regulations re: addition of beryllium as a substance subject to occupational safety and health (OSH) standards, and correction of outdated citations in OSH regulations (8 AAC 61.1010(b); 8 AAC 61.1020(b)(8); 8 AAC 61.1030; 8 AAC 61.1110(g)(1); 8 AAC 62.020(a)(9))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

April Simpson
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General and
Assistant Regulations Attorney
Legislation/Regulations Section

NOTICE OF PROPOSED CHANGES ON OCCUPATIONAL SAFETY AND HEALTH
STANDARDS IN THE REGULATIONS OF THE DEPARTMENT OF LABOR AND
WORKFORCE DEVELOPMENT

BRIEF DESCRIPTION

The Department of Labor and Workforce Development, Division of Labor Standards and Safety, Occupational Safety and Health proposes to change its regulations to add beryllium as an OSH standard and correct outdated citations.

The Department of Labor and Workforce Development proposes to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with Occupational Safety and Health Standards, including the following:

1. 8 AAC 61.1010(b) will be amended to add 29 CFR 1910.1024 (beryllium) as an OSH standard.
2. 8 AAC 61.1020(b)(8) will be amended to correct “29 CFR 19” to “29 CFR 1910.7,” which defines nationally recognized testing laboratory.
3. 8 AAC 61.1030 will be amended to correct an outdated CFR citation referring to respiratory protection.
4. 8 AAC 61.1110(g)(1) will be amended to refer to the “2018 edition” of TLVs and BEIs, and to change the title of the document to conform to its current title.
5. 8 AAC 62.020(a)(9) will be amended to correct a citation from “8 AAC 62.030(a)(6)” to “8 AAC 62.030(6)” because there is no paragraph (a) in that section.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Becky Weimer, Department of Labor and Workforce Development, Labor Standards and Safety, P.O. Box 111149, Juneau, AK 99811-1149. Additionally, you may submit comments by facsimile at (907) 465-6012 and by electronic mail at dol.lss.regulations@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 3:30 p.m. on April 16, 2018.

You may submit written questions relevant to the proposed action to Becky Weimer by e-mail at dol.lss.regulations@alaska.gov or by mail to the Department of Labor and Workforce Development, Labor Standards and Safety, P.O. Box 111149, Juneau, AK 99811-1149. The questions must be received at least 10 days before the end of the public comment period. The Department will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Becky Weimer at (907) 465-6002 not later than April 6, 2018 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System or by contacting Becky Weimer, Department of Labor and Workforce Development, Labor Standards and Safety, P.O. Box 111149, Juneau, AK 99811-1149 or dol.lss.regulations@alaska.gov or (907) 465-6002.

After the public comment period ends, the Department of Labor and Workforce Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 08.52.010; AS 18.60.020

Statutes being implemented, interpreted, or made specific: AS 08.52.010; AS 08.52.030; AS 08.52.035; AS 18.60.020; AS 18.60.030; AS 18.60.075

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

Date: 3/7/18



Greg Cashen, Acting Commissioner
Department of Labor and Workforce Development

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))¹

1. Adopting agency: Department of Labor and Workforce Development, Division of Labor Standards and Safety, Occupational Safety and Health
2. General subject of regulation: Occupational Safety and Health (OSH) Standards
3. Citation of regulation (may be grouped): 8 AAC 61.1010(b), 8 AAC 61.1020(b)(8), 8 AAC 61.1030, 8 AAC 61.1110(g)(1) and 8 AAC 62.020(a)(9)
4. Department of Law file number, if any: 2018200115

5. Reason for the proposed action:

- Compliance with federal law or action (identify):
- Compliance with new or changed state statute
- Compliance with federal or state court decision (identify): _____
- Development of program standards
- Other (identify): _____

6. Appropriation/Allocation: _____

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

A private person: \$0 _____

Another state agency: \$0 _____

A municipality: \$0 _____

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2019	Subsequent Years
Operating Cost	\$0	\$0
Capital Cost	\$0	\$0
1002 Federal receipts	\$0	\$0
1003 General fund match	\$0	\$0
1004 General fund	\$0	\$0
1005 General fund/ program	\$0	\$0
Other (identify)	\$0	\$0

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

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

10. The origin of the proposed action:

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

11. Date: 3-7-18 Prepared by: Becky Weimer
[signature]
Name (printed): Becky Weimer
Title (printed): Regulations Specialist II
Telephone: (907) 465-6002

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

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

As required by AS 44.62.190, notice of the proposed adoption of changes to Title 8 of the Alaska Administrative Code, dealing with the addition of Beryllium as an OSH Standard, and correcting outdated citations, has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

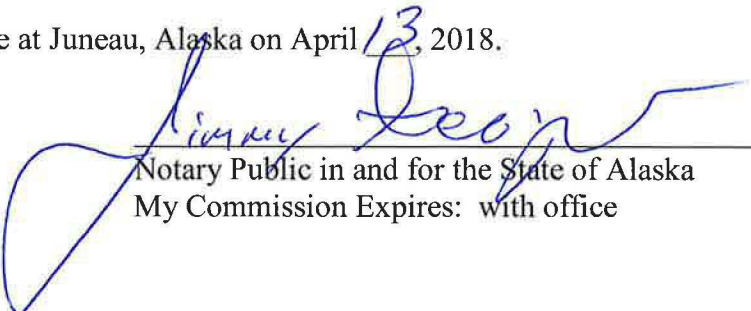
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 4-13-18

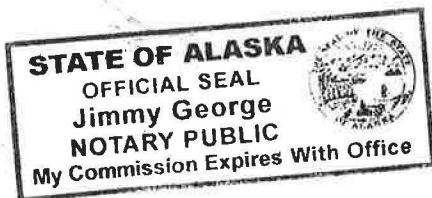


Becky Weimer, Regulations Specialist

Subscribed and sworn to before me at Juneau, Alaska on April 13, 2018.



Notary Public in and for the State of Alaska
My Commission Expires: with office




AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

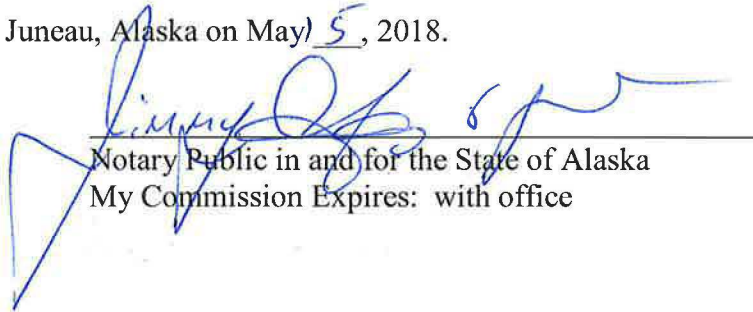
I, Becky Weimer, Regulations Specialist for the Department of Labor and Workforce Development, being duly sworn, state the following:

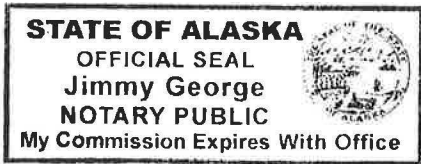
The Department of Labor and Workforce Development did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Labor and Workforce Development regulation on Occupational Safety and Health, Add Beryllium as an OSH standard and correct outdated citations.

Date: 5-15-18


Becky Weimer, Regulations Specialist

Subscribed and sworn to before me at Juneau, Alaska on May 5, 2018.


Notary Public in and for the State of Alaska
My Commission Expires: with office



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RECEIVED

MAR 21 2018

AFFIDAVIT OF PUBLICATION

Administrative
Services

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin
being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

March 14, 2018

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed



Subscribed and sworn to before me
this 14th day of March, 2018



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

2/23/2019

NOTICE OF PROPOSED CHANGES ON OCCUPATIONAL SAFETY AND HEALTH STANDARDS IN THE REGULATIONS OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

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Statutory authority: AS 08.52.010; AS 18.60.020

Statutes being implemented, interpreted, or made specific: AS 08.52.010; AS 08.52.030; AS 08.52.035; AS 18.60.020; AS 18.60.030; AS 18.60.075

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

Date: 3/7/18
Greg Cashen, Acting Commissioner
Department of Labor and Workforce Development

Published: March 14, 2018

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