



Notice of Proposed Changes to Regulations for Construction Contractors

Proposed Regulations - FAQ

March 2021

1. What do the regulations do?

- In 2015 new statutes were implemented that changed construction contractor bonding requirements. Some of the regulations being considered for adoption are to implement the new statutory requirements.
- As of 2015, a contractor known as a “handyman” must obtain a contractor license. New regulations reflect the statutory changes.
- Other regulation changes include; repeal of outdated regulations, updating wording of regulations to conform to current regulation standards, and clarification of regulations that the public may perceive as unclear.

2. Why are the new regulations being proposed?

The regulations for the construction contractor program have not been updated since 2004. The new regulations are being proposed to conform with current law, to clean up outdated regulations, and to clarify other regulations for the public which may be unclear. Many of the changes being made are for regulations that may not have been updated since inception in 1977, or the mid to late 1980's. These changes may include either repeal of outdated regulations or updating to current terminology.

12 AAC 21.010- Joint Venture Agreement.

What is changing in this section?

This section is proposed to be repealed because the division does not require the information listed in this section for a joint venture applicant. This section is no longer enforced since inception in 1977.

12 AAC 21.020. Application for registration as a construction contractor.

What is changing in this section?

This section is being repealed and readopted. The current regulation tells an applicant why the application is incomplete. The regulation should state what is required to be submitted to obtain the registration. The new regulations make it clearer for the applicant, including what documentation is required for the

registration, and who may complete and sign the application if the owner is not a sole proprietor or partnership.

12 AAC 21.040(a)-Change of name and address.

What is changing in this subsection regarding change of name and address?

This section is specifically for what is required when there is a change of “business” name of the contractor, or the address. This has been confusing to contractors, specifically what includes a change of name. This section is being updated to include the word “business” to the name of the contractor for clarification purposes.

The change also removes the \$5 fee duplicate license fee for an address or name change.

12 AAC 21.043(c)-Dissolution or cessation of business activities.

This is a proposed new subsection explaining the process for reactivating a license for a business that had previously notified the division they are no longer in business. This will allow a business to obtain a contractor license under the same name and owner without having to apply for a new license as long as the license has not lapsed for more than five years.

12 AAC 21.045. Changing sole proprietorships and partnerships.

The changes to this section are for clarification purposes only by adding the term “evidence of” for submitting documentation of workers’ compensation insurance.

12 AAC 21.050. Changing sole proprietorship or partnership to a corporation or other entity.

What are the changes in this section?

This section is being changed to allow for other entities other than corporations when applying for a change of the owner. Current regulations only allow for sole proprietors or partnerships to apply for a change of owner to a corporation. The changes will allow a sole proprietor or partnership to change to a limited liability company (LLC), a limited partnership (LP), limited liability partnership (LLP), or other entity as defined in the corporation’s statutes. In addition, it also adds new language that will require the contractor changing from a sole proprietor or partnership, to include only one entity, and the entity must be in good standing with the corporation section of the division. The contractor registration may have only one entity owner, meaning that two or more companies including LLCs, LPs, or LLPs, or other entities, may not apply for a single contractor registration.

12 AAC 21.070-Renewal; lapsed registration.

Why is this section being changed, and what are the changes?

This section is being updated to a registration “period” for renewal of a registration, as the current term used is “year”. The division issues registrations for a biennial (two year) period, not year. This will update the language to current requirements. The other change to this section is giving division staff authority to require proof of bonding at renewal if the current bond on file with the division is set to expire soon after the renewed registration is issued.

12 AAC 21.075. Changing a handyman, specialty or mechanical contractor registration.

Why is this new section being proposed?

This new section is being proposed because the “handyman” contractor registration was instituted in 2015, and regulations have not been adopted to conform with that change.

The current regulations do not allow for a change of a specialty contractor to a mechanical contractor, or a specialty to another specialty. This new proposed section will allow for a handyman, specialty contractor, or mechanical contractor to change the type of registration, and outlines the requirements for the change.

12 AAC 21.080. Changing from handyman, specialty, or mechanical contractor, to general contractor.

Why is this section being changed?

This section is specific to a specialty contractor or mechanical contractor, who wishes to “upgrade” to a general contractor registration. This change will add the “handyman” who wishes to change to a general contractor registration. It outlines the requirements for the change of the type of contractor registration.

12 AAC 21.085. Changing from general contractor to handyman, specialty, or mechanical contractor.

Why is this section being changed?

This is similar to the previous section, only it is in regards to a general contractor that wishes to “downgrade” to a specialty contractor, mechanical contractor, or a “handyman” contractor. This section outlines the requirements for the change of the type of contractor registration.

12 AAC 21.090. Negotiable security in place of surety bond.

What are the changes to this section?

This section is being updated to conform with the statute changes that took effect in 2015. Specifically, the bonding requirements, and negotiable securities in lieu of a bond, have increased for the general contractor registration, mechanical contractor registration, and specialty contractor registration. In addition, the new statutes require a general contractor with residential endorsement performing exclusively residential work and a “handyman” contractor to have bonding or negotiable securities. The section regarding cash or negotiable security in place of a bond, is being updated to reflect the changes to the bond requirements in statute, and updating the return of the negotiable security to the contractor.

The bonding requirements effective in 2015:

- general contractor, \$25,000
- general contractor with residential endorsement performing exclusively residential work, \$20,000 (new in 2015)
- specialty contractor or mechanical contractor, \$10,000
- handyman contractor, \$5000 (new in 2015)

In addition to the new bonding requirements, the statutory reference for the negotiable securities changed. The updates to this section reflect that change.

12 AAC 21.110. Prohibitions

What are the changes to this section?

This section has been updated to clarify who must have a contractor registration to perform contracting services. This section also adds descriptions of business activities considered contracting, including advertising, and claiming to have the capacity to perform construction contracting services.

A new subsection has been added that will allow the division to refuse to issue a license that has the terms electrical, mechanical, plumbing, or heating in the name of the business, if the business does not have the appropriate electrical or mechanical administrator assigned to the license. The purpose of this new subsection is to ensure a contractor performing electrical or mechanical work has a licensed electrical or mechanical administrator as required by regulation. It also will prohibit a contractor who is not performing electrical or mechanical work requiring a licensed administrator, from misleading the public by appearing they perform work that would require an administrator.

12 AAC 21.120. Cash deposits instead of bond.

What are the changes to this section?

This section is being updated to clarify that cash deposits may be filed in place of a security bond or in addition to a security bond. This practice is currently accepted but it has not been adopted in regulations.

Subsection (b) is being repealed because it requires a letter from the bank or the contractor requesting the commissioner to release the certificate of deposit to the bank for reissue. This currently does not take place as banks do not send notification for the request.

12 AAC 21.130. Claims against cash deposits.

What are the changes to this section?

This section is being updated to clarify that the contractor may file a cash deposit in addition to a surety bond. It also updates a statute citation that was changed in 2015 when the new bonding requirements were made law.

Subsection (c) has been changed to add the business name of the contractor to a complaint against a contractor. This will allow program staff to find the correct contractor cash deposit when a final judgment is sought against the cash deposit.

12 AAC 21.140. Payment of claims against a cash deposit.

What are the changes to this section?

This section is being updated to current language standards. Examples are: using the term “submit” in place of “tender”; replacing gender descriptions with generic descriptions. The only substantial change would be adding an original final judgment claim made by a claimant, against a contractor, in addition to a certified copy.

12 AAC 21.160(b)- Violation of bonding and insurance requirements.

The only change to this section is adding the word “the” in front of Administrative Procedure Act to make it grammatically correct.

12 AAC 21.260(a)(1)- Communications contractor.

This section is changing the word “telephone” to “communications” in the communications contractor specialty regulations.

12 AAC 21.540. Water and sewer contractor.

The only change in this section is adding “installs septic tanks” to the description of a water and sewer specialty contractor.

12 AAC 21.600(a). Mechanical contractor.

What is the change in this section?

The change to this section is requiring the mechanical contractor to have a licensed mechanical administrator in the same category as the work that is or will be performed by the contractor.

12 AAC 21.660. Acceptable continuing competency activities.

What is the change in this section?

The changes to this section are updating the name of Alaska Building Science Network to Cold Climate Housing Research Center. It also removes a requirement for an agency listed in (b) of the section to submit additional information to the division to have a continuing competency course approved by the division.

12 AAC 21.663- Continuing competency activities for a residential endorsement holder.

What is the change in this section?

Subsection (3) is being repealed because the regulation refers to continuing education before January 1, 2003. Therefore, it is no longer valid.

12 AAC 21.665(b)(1)- Continuing competency contact hours for residential endorsement holders.

What are the changes in this section?

Subparagraph (a)(4)(A) is being amended to remove the requirements of 12 AAC 21.660(c)(1) – (7).

Paragraph (b)(1) is being repealed because it refers to a licensing period that begins before January 1, 2003, therefore is no longer needed.

Paragraph (b)(2) and (3) are being updated to the correct term for the Alaska Home Energy Rating System. No substantial changes are being made.

Paragraph (b)(4) is a new paragraph that allows continuing competency for renewal of a residential endorsement by building a home using the Alaska Home Energy Rating System’s updated ratings. This would only be for homes built on or after the licensing period beginning January 1, 2021.

12 AAC 21.680. Residential contractor endorsement.

What are the changes to this section?

The only changes to this section are for grammar purposes, and changing the residential endorsement examination administrator to PSI Services, LLC, from Experior Assessments, LLC.

12 AAC 21.690. Assignment of residential endorsement.

What are the changes to this section?

The changes for this section define who must be the residential endorsement holder for a contractor registration owned by a corporation or limited liability company. For a company, the residential endorsement holder must be an authorized member of the corporation's board of directors, or an officer of the corporation. For a limited liability company, the residential endorsement holder must be either an employee or an authorized member of the limited liability company.

12 AAC 695.- Residential contractor endorsement renewal and reinstatement.

What are the changes to this section?

The change in subsection (a) is to clarify that a license lapsed under this section may be renewed if the license has lapsed more than 30 days, but less than two years. This means that a residential endorsement holder whose license has lapsed up to 30 days will not be required to submit copies of certificates of the continuing competency requirements.

This section is also updating the name of the administrator for the residential endorsement examination. The current administrator is PSI Services, LLC.

12 AAC 21.700- Handyman contractor - New section.

Why is the new section being proposed?

This new section is being proposed because of the new statutes that took effect in 2015. Before 2015, a person doing business as a handyman did not need a contractor registration. At that time, the handyman only needed a business license, and was not required to have a security bond, or liability insurance.

The new statutes instituted in 2015 added the bonding requirements as noted below:

AS 08.18.071(b)(4) – surety bond- contractor whose work on one project with an aggregate price \$10,000 or less, including all labor, materials, and other items, when the work is not part of a larger or major operation or otherwise divided into contracts of less than \$10,000 to evade a higher bonding requirement, shall be \$5000.

This means that as of the effective date of the new statute, anyone working as a handyman would now have to obtain a registration through the state, and obtain a \$5000 surety bond, and meet other requirements.

What are the requirements for the handyman registration?

The new section outlines who a handyman contractor is, and what they cannot do as a handyman, including:

- the handyman may only submit bids for or work on projects within the scope of a contractor defined in AS 08.18.171

- the handyman may only work on projects that have an aggregate price of \$10,000 or less, including labor, materials, and other items as described in AS 08.18.071(b)(4)
- the handyman may not perform or employ a person to perform work requiring an electrical or mechanical administrator licensed under AS 08.40
- the handyman may not perform or employ a person to perform work that requires a residential endorsement under AS 08.18.025

The handyman contractor will need to apply for a registration under the new 12 AAC 21.020 to perform any contracting work defined in AS 08.18.171(4).

12 AAC 21.990- Definitions.

What are the changes in this section?

This section is being repealed and readopted. There were two definitions that were removed, including “federal employer identification number” and “obsolete form”. Four definitions were added, including “contracting services”, “entity”, “partnership”, and “person”. For further information on the definitions noted in this section, see the regulation proposal.

When will the new regulations be effective?

After the public comment deadline, comments received are compiled and given to the Division Director for consideration. The Director may adopt the regulation as written/publicly noticed, may amend and adopt them, or choose to take no action, or may withdraw the proposed regulations in part or in its whole. After division action, the adopted regulations go to Department of Law (DOL) for final review/approval. DOL either approves or disapproves regulations. Once approved by DOL, it goes to the lieutenant governor for filing. Regulation takes effect on the 30th day after they have been filed by the lieutenant governor.

Do you have a question that is not answered here? Please email RegulationsAndPublicComment@alaska.gov so it can be added.