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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Austin Theric, Department of Labor and Workforce Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: September 28, 2023

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

Department of Labor and Workforce Development regulations re: Union testing for members re: mechanical inspections (8 AAC 61 & 90)

Attorney General File:	2022200611
Regulation Filed:	9/28/2023
Effective Date:	10/28/2023
Print:	248, January 2024

cc with enclosures: Colleen Bailey, Department of Law
Scott Damerow, Department of Labor and Workforce Development
Judy Herndon, LexisNexis



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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Juneau, Alaska 99811
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September 26, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *8 AAC 61 & 90: Dept. of Labor & Workforce Development - Union testing
for members re: mechanical inspection*
Our file: 2022200611

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Labor and Workforce Development against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Labor and Workforce Development after the close of the public comment period.

The regulations primarily concern changes to the requirements for examination and application for a certificate of fitness as a plumber or electrician. The proposed changes allow for a licensee to keep an electronic copy of a certificate of fitness on their person while at work in that trade, provide alternative testing options for applicants seeking certification by examination, create a union examination option, and make other conforming changes and updates under 8 AAC 90 accordingly.

The December 30, 2022 public notice and the June 15, 2023 adoption order state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: Rebecca C. Polizzotto
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2023.09.26
11:19:29 -08'00'

RCP/bws

CC w/enclosure: Theric Austin
Department of Labor and Workforce Development

Scott Damerow, Mechanical Inspection Manager
Department of Labor and Workforce Development

Brad Sharp, Assistant Attorney General
Department of Law

Ned Brasington, Assistant Attorney General
Department of Law

Rachel Witty, Assistant Attorney General
Department of Law

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

The attached two pages of regulations, dealing with changes on Alaska-based unions to test their members as a substitute for testing through the department, are adopted and certified to be a correct copy of the regulation changes that the Department of Labor and Workforce Development adopts under the authorities of AS 18.31.020, AS 18.31.200, AS 18.62.010, AS 18.62.020, AS 18.62.050, AS 18.62.060, AS 18.62.070 AS 23.05.060, and AS 25.27.244 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.

In considering public comment, the Department of Labor and Workforce Development paid special attention to the cost to private persons of the regulatory action being taken.¹

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: June 15, 2023


Catherine Munoz, Acting Commissioner

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on September 28, 2023, at 1:57 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for 
Nancy Dahlstrom, Lieutenant Governor

Effective: October 28, 2023.

Register: 24th, January 2024.

¹ For Department of Environmental Conservation regulations related to control, prevention, and abatement of air, water, or land or subsurface land pollution, the Department of Law recommends the addition of the following sentence: "The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action as required by AS 46.03.024."

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

Chapter 61. Occupational Safety and Health.

8 AAC 61.720(g) is repealed:

(g) Repealed 10 / 28 / 2023.

(Eff. 10/1/85, Register 96; am 11/7/93, Register 128; am 9/10/99, Register 151; am 9/27/2008, Register 187; am 10 / 28 / 2023, Register 248)

Authority: AS 18.31.020 AS 18.31.200

8 AAC 61.740(b)(3) is repealed:

(3) repealed 10 / 28 / 2023.

(Eff. 10/1/85, Register 96; am 11/7/93, Register 128; am 9/10/99, Register 151; am 9/27/2008, Register 187; am 10 / 28 / 2023, Register 248)

Authority: AS 18.31.020 AS 18.31.200

((Publisher: please remove the connector “and” that follows 8 AAC 61.740(b)(2)(D) and change the semicolon that follows 8 AAC 61.740(b)(2)(D) to a period.)))

Chapter 90. Plumbers and Electricians.

8 AAC 90.105(a) is amended to read:

(a) An individual engaged in the performance of work subject to the standards established in AS 18.60.580 and AS 18.60.705 shall have an appropriate certificate of fitness or a trainee certificate of fitness, except that an individual who has been certified by the Department of Environmental Conservation under AS 46.30 and 18 AAC 74 to install septic systems may also install associated septic sewer piping from within two feet of a serviced structure to the septic

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system without a plumber restricted PU certificate of fitness. A print or digital copy of the [THE] certificate must be in the individual's possession and available for inspection by the department when performing work in the trade.

(Eff. 9/13/80, Register 75; am 6/14/84, Register 90; am 9/27/2008, Register 187; am 2/23/2011, Register 197; am 10 / 28 / 2023, Register 248)

Authority: AS 18.62.010 AS 18.62.070 AS 23.05.060
AS 18.62.060

8 AAC 90.110 is amended to read:

8 AAC 90.110. Application for certificate of fitness. An individual may obtain an application for a certificate of fitness from the office of the division in Anchorage, either in person or by mail, or [AT ANY OFFICE OF THE DIVISION,] by visiting the Mechanical Inspection website [, OR BY WRITING TO THE DIRECTOR AT THE DIVISION'S OFFICE IN ANCHORAGE]. In addition to the requirements listed under this chapter, an applicant shall provide the applicant's social security number to the department. Upon request, the department will provide the applicant's social security number to the child support services agency established under AS 25.27.010 or the child support enforcement agency of another state for child support enforcement purposes authorized under law. (Eff. 9/13/80, Register 75; am 6/14/84, Register 90; am 12/25/98, Register 148; am 11/17/99, Register 152; am 4/16/2022, Register 242; am 10 / 28 / 2023, Register 248)

Authority: AS 18.62.020 AS 18.62.060 AS 25.27.244
AS 18.62.050

8 AAC 90.115 is repealed and readopted to read:

8 AAC 90.115. Plumber and electrician examination. (a) Except as provided under (b) and (e) of this section, an individual who holds the appropriate trainee certificate of fitness may request an appointment to take an examination for electrician journeyman, power lineman journeyman, residential wireman, plumber journeyman, plumber restricted PG, or plumber restricted PU at the offices of the division in Juneau, Anchorage, and Fairbanks.

(b) An applicant may request that an examination be made available at a location not specified under (a) of this section by submitting a written request to the office of the division in Anchorage. In response to the applicant's written request, the department may

(1) if able to reasonably provide the resources to administer the examination at the applicant's requested location, make the examination available at the applicant's requested location;

(2) refer the applicant to an approved third-party testing facility; the applicant shall be responsible for the expense of taking an examination at a third-party testing facility; for an applicant's examination from a third-party testing facility to be valid, the third-party testing facility must provide the applicant with its own examination and provide documentation to the department that the applicant received a passing score; or

(3) refer the applicant to an approved exam proctor; the applicant shall be responsible for the expense of taking an examination provided by an exam proctor; for an applicant's examination from an exam proctor to be valid, the exam proctor must provide the applicant's examination to the department for grading.

(c) The minimum passing score for an examination under this section is 70 percent.

(d) An applicant who fails to pass an examination administered by the department or

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conducted by proctor under this section is eligible to retake the examination 30 days after the date of the failed examination.

(e) A union based in the state may administer its own examination to an applicant under this section if an agreement on examination standards is in place between the union and the department. The union must provide documentation to the department that the applicant passed the examination with a score of not less than 70 percent by providing a sworn affidavit by a union official on a form provided by the department. (Eff. 12/25/98, Register 148; am 4/16/2022, Register 242; am 10 / 28 / 2023, Register 248)

Authority: AS 18.62.050 AS 18.62.070 AS 23.05.060
AS 18.62.060

8 AAC 90.130(b)(1) is amended to read:

(1) passes an examination that meets the requirements set out under 8 AAC

90.115 [GIVEN BY THE DEPARTMENT]; and

(Eff. 9/13/80, Register 75; am 12/25/98, Register 148; am 11/1/2000, Register 156; am 9/27/2008, Register 187; am 5/9/2018, Register 226; am 4/16/2022, Register 242; am 10 / 28 / 2023, Register 248)

Authority: AS 18.62.020 AS 18.62.050 AS 18.62.070
AS 18.62.030 AS 18.62.060

8 AAC 90.135(b)(1) is amended by adding a new subparagraph to read:

(C) passed an examination that meets the requirements set out under

8 AAC 90.115; or

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The introductory language of 8 AAC 90.135(b)(2) is amended to read:

(2) **submits** [PRESENTS] to the department, on a form provided by the department, a sworn affidavit from an official of **a** [AN ALASKA-BASED] union **based in the state** that demonstrates that the applicant meets the work experience requirements set out **under** [IN] (1) of this subsection [,] and **has passed** [PASSES] an examination **that meets the requirements set out under 8 AAC 90.115** [GIVEN BY THE DEPARTMENT]; the affidavit must specify

• • •

(Eff. 9/13/80, Register 75; am 12/25/98, Register 148; am 9/27/2008, Register 187; am

10 / 28 / 2023, Register 248)

Authority: AS 18.62.030 AS 18.62.060 AS 23.05.060
AS 18.62.050 AS 18.62.070

((Publisher: please remove the connector “and” that follows 8 AAC 90.135(b)(1)(A) and replace the connector “or” that follows 8 AAC 90.135(b)(1)(B) with “and”.)))

8 AAC 90.137(b)(1) is amended to read:

(1) submits documented proof of [LEGALLY OBTAINED] experience on a notarized form provided by the department, or by notarized statement on letterhead stationery from employers, that the applicant has worked for at least 1,000 hours installing water, sewer, or storm lines subject to the standards established in AS 18.60.705 and 8 AAC 63.010, and **has passed** [PASSES] an examination that **meets the requirements set out under 8 AAC 90.115** [GIVEN BY THE DEPARTMENT]; or

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The introductory language of 8 AAC 90.137(b)(2) is amended to read:

(2) **submits** [PRESENTS] to the department, on a form provided by the department, a sworn affidavit from an official of **a union based in the state** [AN ALASKA-BASED UNION] that demonstrates that the applicant meets the work experience requirements set out **under** [IN] (1) of this subsection, and **has passed** [PASSES] an examination **that meets the requirements set out under 8 AAC 90.115** [GIVEN BY THE DEPARTMENT]; the affidavit must specify

...

(Eff. 12/25/98, Register 148; am 9/27/2008, Register 187; am 2/23/2011, Register 197; am

10 / 28 / 2023, Register 248)

Authority: AS 18.62.030 AS 18.62.060 AS 23.05.060
AS 18.62.050 AS 18.62.070

8 AAC 90.160(b)(1) is amended to read:

(1) **has passed** [PASSES] an examination **that meets the requirements set out under 8 AAC 90.115** [GIVEN BY THE DEPARTMENT]; and

8 AAC 90.160(b)(2)(A) is amended to read:

(A) documented proof on a notarized form provided by the department, or by notarized statements on letterhead stationery from employers, that the applicant has a minimum of 8,000 hours of [LEGALLY OBTAINED] work experience [AS AN ELECTRICIAN PERFORMING WORK] subject to standards of the **National Electrical Code** [NATIONAL ELECTRICAL CODE] established in AS 18.60.580 and 8 AAC

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70.025; or

(Eff. 9/13/80, Register 75; am 12/25/98, Register 148; am 12/17/99, Register 152; am 9/25/2002, Register 163; am 9/27/2009, Register 187; am 5/9/2018, Register 226; am 10 / 28 / 2023, Register 248)

Authority: AS 18.62.020 AS 18.62.050 AS 18.62.070
AS 18.62.030 AS 18.62.060

8 AAC 90.162(b)(1) is amended to read:

(1) passes an examination that meets the requirements set out under 8 AAC 90.115 [GIVEN BY THE DEPARTMENT]; and

8 AAC 90.162(b)(2)(A) is amended to read:

(A) documented proof on a notarized form provided by the department, or notarized statements on letterhead stationery from employers, that the applicant has a minimum of 8,000 hours of [LEGALLY OBTAINED] work experience [AS A POWER LINEMAN PERFORMING WORK] subject to the *National Electrical Safety Code* established in AS 18.60.580 and 8 AAC 70.025; or

(Eff. 12/25/98, Register 148; am 9/25/2002, Register 163; am 9/27/2008, Register 187; am 5/9/2018, Register 226; am 4/16/2022, Register 242; am 10 / 28 / 2023, Register 248)

Authority: AS 18.62.020 AS 18.62.050 AS 18.62.070
AS 18.62.030 AS 18.62.060

8 AAC 90.164(b)(1) is amended to read:

(1) submits documented proof on a notarized form provided by the department, or notarized statements on letterhead stationery from employers, that the applicant has a minimum of 4,000 hours of [LEGALLY OBTAINED] work experience as a residential wireman, and **has passed** [PASSES] an examination **that meets the requirements set out under 8 AAC 90.115** [GIVEN BY THE DEPARTMENT]; or

The introductory language of 8 AAC 90.164(b)(2) is amended to read:

(2) **submits** [PRESENTS] to the department, on a form provided by the department, a sworn affidavit from an official of **a union based in the state** [AN ALASKA-BASED UNION] that demonstrates that the applicant meets the work requirements set out in (1) of this subsection[,] and **has passed** [PASSES] an examination **that meets the requirements set out under 8 AAC 90.115** [GIVEN BY THE DEPARTMENT]; the affidavit must specify (Eff. 12/25/98, Register 148; am 9/27/2008, Register 187; am 4/16/2022, Register 242; am 10 / 28 / 2023, Register 248)

...

Authority:	AS 18.62.030	AS 18.62.060	AS 23.05.060
	AS 18.62.050	AS 18.62.070	

8 AAC 90.185(c) is amended to read:

(c) A person whose certificate of fitness has been cancelled may, beginning 90 days after the certification was cancelled, apply for and, at the discretion of the director, obtain a new certificate after passing an examination **that meets the requirements set out under 8 AAC**

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90.115 [GIVEN BY THE DEPARTMENT] and payment of the applicable fees required by AS 18.62.030. (Eff. 9/13/80, Register 75; am 6/14/84, Register 90; am 12/25/98, Register 148; am 10 / 28 / 2023, Register 248)

Authority: AS 18.62.030 AS 18.62.060 AS 23.05.060
AS 18.62.040 AS 18.62.070

8 AAC 90.900(11) is amended to read:

(11) “examination” means a series of prepared questions administered [BY THE DEPARTMENT] in writing, [OR] orally, or both;
(Eff. 9/13/80, Register 75; am 6/14/84, Register 90; am 12/25/98, Register 148; am 9/27/2008, Register 187; am 3/6/2016, Register 217; am 4/16/2022, Register 242; am 10 / 28 / 2023, Register 248)

Authority: AS 18.62.060 AS 23.05.060