

1977-1978

ADMINISTRATIVE REGULATIONS REVIEW COMMITTEE

LIST OF FILES (PAGE 1)

NOTEBOOK WITH ADMINISTRATIVE REGULATION REVIEW
COMMITTEE MEMOS

ADMIN.

REG.

REVIEW

1977

February 7, 1977

TO: Members of the Administrative Regulations
and Review Committee

FROM: Al Ose, Chairman
ARRC

The first meeting of the Administrative Regulations and Review
Committee will be held on Wednesday, February 9 at 4:30 pm in
room 647 of the Court Building.

A0/ds

ADM. REG.

REVIEW

Comm.

MEMOS

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

January 20, 1977

Dear Members of the Administrative Regulation Review Committee:

Enclosed you will find summary of and comment on various regulations filed with the Lieutenant Governor between September 1 and December 1 of 1976, i.e., Registers 59 and 60. Not all regulations filed in that period were reviewed due to limitations of time. Instead, Senator Kerttula suggested that I concentrate on regulations promulgated by the following departments and agencies:

Department of Administration - programs concerning the aged;
Department of Health and Social Services - programs concerning the aged;
Department of Natural Resources - division of lands;
Department of Labor;
Department of Revenue;
Department of Education - student scholarships and loans;
Office of the Governor - Police Standards Council.

In the enclosed summaries and comments I tried out various formats, in an effort to find the most effective and workable mode of presentation of the information. Please be patient with the changes in form. I would appreciate any comments you have regarding the desirability of various ways of presenting the information.

Due the volume of regulations which are filed, it seems unlikely that I would have time to review them all. Therefore, I propose that the committee set some priorities in terms of what regulations I should review.

Regulations adopted or amended in Register 59 and 60 which I have yet to review are found in the following chapters:

Department of Fish and Game - Chapter 81. Hunting; Office of the Governor - Chapter 20. State Commission for Human Rights;

Department of Education - Chapter 6. Government of Schools;

Department of Fish and Game - Chapter 34. King Crab Fishery;

Department of Labor - Chapter 85. Employment Security;
Chapter 2. Banking;

Department of Education - Chapter 18. Employment of Professional Personnel; Chapter 32. Community Schools; Chapter 33. Special Programs;

Department of Health and Social Services - Chapter 29. Uniform Alcoholism and Intoxication Treatment;

Department of Labor - Chapter 30. Public Contracts;

Department of Natural Resources - Chapter 16. Historic, Prehistoric, and Archaeological Resources;

Department of Labor - Chapter 35. Oil and Gas Leases, Local Hire;

Department of Commerce - Chapter 95. Purchasing and New Construction Bidding Procedure; Chapter 52. Operation of Public Utilities;

Department of Fish and Game - Chapter 81. Hunting (feeding of game); Chapter 81. Hunting (small game hunting); Chapter 90. General Provisions (definition of Alyeska pipeline corridor);

Office of the Governor - Part 1. Elections, Chapter 7. Anchorage-Northwest (District 7); Chapter 8. Anchorage-Northeast (District 8); Chapter 9. Anchorage-Spenard (District 9); Chapter 10. Anchorage-East (District 10); Chapter 7. Anchorage-Northwest (District 7); Chapter 11. Anchorage-South (District 11); Chapter 12. Anchorage-West (District 12); Chapter 1. Ketchikan (District 1); Chapter 2. Wrangell-Petersburg (District 2); Chapter 3. Sitka (District 3); Chapter 13. Kenai-Cook Inlet (District 13); Chapter 18. Wade Hampton (District 18); Chapter 20. Fairbanks (District 20);

Department of Education - Chapter 5. Local Education;

Department of Fish and Game - Chapter 81. Hunting (Marine Mammals);

Department of Community and Regional Affairs - Chapter 30. State Aid to Local Governments;

Department of Natural Resources - Chapter 26. Alaska Royalty Oil and Gas Development Advisory Board;

Department of Commerce - Part 9. Alaska State Housing Authority. Chapter 96. Acquisition of Real Property and Improvements; Chapter 97. Disposition of Real Property; Chapter 98, Public Housing;

Of course, I am also available to review any regulations which are brought to the attention of committee members by constituents or the notice of proposed adoption, amendment, or repeal of regulations furnished each legislator pursuant to AS 44.62.190.

I hope the committee can provide me with some guidance concerning what it wishes me to do.

JG:smh

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 17, 1977

SUBJECT: Review of Regulations adopted by the Alaska Public
Offices Commission in Register 58, July 1976,
implementing and clarifying AS 15.13 and AS 39.50.

TO Administrative Regulation Review Committee

FROM: Jim McKenzie and Joe Guthrie

Format. This memorandum first summarizes the salient points of a regulation or series of regulations and then comments on possible inconsistencies between the regulation and legislative guidelines. If no comment appears, it is because no inconsistency was found in the regulation just summarized. Regulations of a "housekeeping" nature are not summarized. All italics are mine unless otherwise indicated. "Commission" means the Alaska Public Office Commission.

I. 6AAC 29.010 - 29.090. These regulations implement AS 39.50, the conflict of interest laws pertaining to public officials and candidates. The commission is charged with the duty of administering AS 39.50 under AS 39.50.050. That section also directs the commission to adopt regulations implementing and interpreting AS 39.50. Additional authority to adopt regulations is found under AS 15.13.030, defining the duties of the commission.

6AAC 29.010. Summary. Interprets AS 39.50.030(b)(1), which requires public officials and candidates to report the source of all income over \$100. The regulation provides that the reporting official is not required to list individual customers of a retail business which is conducted on a cash basis, though the business itself must be reported as a source of income. This amends an earlier regulation which required that not only the business be conducted on a cash basis in order to be exempted from the requirement to list individual customers, but also that the business be of a type which typically does not keep records of customers.

6AAC 29.020. Summary. Requires that reports of interests in real property include the nature of the interest held, the location of the property, and the current use of the property.

Comment. AS 39.50.030(b)(4) requires only that the identity and nature of each interest in real property be reported. "Identity"

would certainly include the location of the property, but it is questionable if "identity and nature of the interest" includes the current use of property. The statute might bear this interpretation, however, given the broad statement of purpose in AS 39.50.010(a)(1):

"To discourage public officials from acting upon a private or business interest in the performance of a public duty"

and in AS 39.50.010(b)(2):

"the public has a right to know the financial and business interests of persons who seek or hold public office."

6AAC 29.030. Summary. Interprets the statutory obligation to report information for members of an official's family "to the extent that it is ascertainable" to require an affirmative good faith effort to obtain the information as well as reporting all required information actually known.

6AAC 29.040. Summary. Requires all loans or indebtedness of \$500 or more made during the preceding calendar year to be reported.

6AAC 29.050. Summary. Exempts credit card obligations and retail charge accounts from reporting requirements.

Comment. No intent to distinguish between consumer credit and other loans is discernible in the statutes.

6AAC 29.060. Summary. Makes a public statement by an individual that he will seek public office equivalent to a declaration of candidacy for purposes of having to report financial and business interests.

Comment: This rule seems at variance with the statutory directive in AS 39.50.020, "Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office." A public statement by a write-in candidate is not a "filing" of any sort. The commission is, in effect, amending the statute to cover a situation which may have been inadvertently neglected.

6AAC 29.070 and 29.080. Summary, Defines "income" in AS 39.50 to include gross income under Section 61 of the Internal Revenue Code. Defines "controlling interest" in a corporation to mean ownership of more than 50% of the outstanding shares at any time during the year for which a report is being filed. Adopts the rules of constructive ownership in Section 318 of the Internal Revenue Code to determine ownership of a corporation's shares.

6AAC 29.090. Summary. Makes "municipalities" "instrumentalities of the state" for purposes of AS 39.50.

Comment: AS 39.50.200(5) defines "instrumentality of the state" as a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the University of Alaska and the Alaska State Housing Authority. If the term had been intended to include local agencies or governments, it seems there would have been some reference to them in the definition or examples given. It appears that the regulation is an unauthorized amendment of the statutory definition.

The term "instrumentality of the state" is used only once in AS 39.50. AS 39.50.030(b) provides:

"Each statement filed by a public official or candidate under this chapter shall include:...

7(a) a list of all contracts and offers to contract with the state, or an instrumentality of the state, during the preceding calendar year, held, bid, or offered by him...."

The regulation would probably be a legitimate definition of "instrumentality of the state" if it were not for the rather precise definition in AS 39.50.200(5).

II. 6AAC 29.310 - 29.920. These regulations implement AS 15.13, the laws governing the conduct of state and municipal election campaigns. The commission is authorized to adopt regulations necessary to implement and clarify the provisions of AS 15.13 in AS 15.13.030(10).

6AAC 29.310. Summary. Requires reports to be postmarked by the due date.

6AAC 29.320. Summary. Requires candidates and groups who must report contributions and expenditures to maintain records of all contributions received and expenditures made for a period of four years, to be available for inspection by the commission. Creates an exception to the above regulation for fund-raising events having 25 or more participants in which the price of a ticket does not exceed ten dollars. Directs that reporting of fund-raising events exempted under this regulation must include the number of contributing participants, the date and place of the event, a description of the fund-raising activities, and the cost of the event.

Comment: Such a regulation appears authorized both by the commission's general power to implement AS 15.13 and by AS 15.-

13.030(8), which empowers the commission to investigate reports, statements, and actions required by AS 15.13. The regulation does not appear to change statutory requirements of what must be reported, as distinguished from what must be recorded. One could argue, however, that the commission has no explicit authority to require records to be kept in any greater detail than what must be reported, but this would limit its ability to investigate the accuracy of reports.

6AAC 29.330. Summary. Requires commercial air transportation to be reported at actual cost. Sets mileage rates for reporting non-commercial air transport and transportation by motor vehicle. Exempts personal living expenses of the candidate and campaign workers from reporting requirements.

Comment: It is unclear if this regulation means to exempt the costs of campaign workers' living expenses paid by the candidate. If this is meant, it would seem to be an unauthorized amendment of the requirement in AS 15.13.040(a) that each candidate report all his expenditures. Clarification might be requested.

6AAC 29.340. Summary. Specifies what must be included in a report of an expenditure to an advertising agency.

6AAC 29.350. Summary. Defines "contribution" for purposes of AS 15.13 to include donated services where the services performed are the same kind of service for which the donor has received more than 25% of his income in any one of the three preceding calendar years. Directs that contributed professional services be valued at what the donor receives for that kind of services.

Comment: AS 15.13.130(2) provides in part that "contribution" includes services for which charge is ordinarily made, but does not include "services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or ballot proposition or question, but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage."

The regulation might conflict with the statute in that it appears to define "contribution" in such a way as to include some donated services not ordinarily considered to be professional, and to exclude some donated services which ordinarily are considered to be professional. An example of the former would be a person ordinarily employed as a telephone receptionist who answers phones at campaign headquarters for free. This person would be making a contribution under the regulation. The statute would seem to exempt such services because, although they are services "for which charge is ordinarily made," they come under the ex-

clusion for "services provided without compensation by individuals volunteering a portion or all of their time" and are not re-included as "professional services volunteered by individuals for which they ordinarily would be paid a fee or wage." This conflict is resolved if "professional services" is read to mean "whatever one does for a living, no matter how unskilled," but "professional services" usually denotes some level of skill not possessed by the population at large.

An example of the second possible conflict relates to the 25% figure. A licensed attorney might have earned very little income at the practice of law over a three year period. He might be principally employed in some other capacity. Assume that this attorney represents a candidate in litigation involving his candidacy for free. Under the statute this would be a contribution because it is a professional service volunteered by an individual for which he ordinarily would be paid a fee or wage. Such a service would not be a contribution under the regulation, however, because it is not the kind of service for which the donor has received more than 25% of his income in any of the three preceding years.

Another example of the second possible conflict is a person just starting out in a profession who donates professional services to a candidate. A newly admitted member of the bar might not have received any income for legal services in any of the "preceding three calendar years" but might be earning all of his income for legal services in the current calendar year. The statute would make the donation of legal services by such an individual a contribution. The regulation apparently would not.

The second possible conflict is resolved if the regulation is read as saying only which services will be included in the term "contribution" and as not addressing the question of what will not be considered. It seems likely, however, that a person reading the regulation would reasonably conclude that he would not be making a "contribution" so long as the service he was providing was of a kind for which he had not received more than 25% of his income in any of the preceding three years.

6AAC 29.360. Summary. Subsection (a) requires a municipality which seeks to influence the outcome of an election to report under AS 15.13 in the same manner as a group. Subsection (b) provides that all communications which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or are required by statute, charter, or ordinance. Subsection (c) requires the municipality to file with the commission a list of candidates and their

mailing addresses within seven days following the deadline for filing for municipal office.

Comment: Subsections (a) and (b) of this section implement a 1975 amendment to AS 15.13.010 which makes AS 15.13 applicable to "contributions, expenditures, and communications made by a...municipality... for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate." The 1975 amendment neglected to change other sections of AS 15.13 to refer to municipalities, and some of the information required to be reported under that chapter is by its nature inapplicable to municipalities. Subsection (a), therefore, appears to be necessary to make sense of the 1975 amendment. Subsection (b) gives an extremely broad definition of what communications by a municipality will be considered as attempting to influence an election, but such a definition appears to be within the commission's authority given the vagueness of the statute on this point.

Subsection (c) may not be within the commission's authority. Presumably, it does not apply to municipalities which are not seeking to influence the outcome of an election, although subsection (c) refers only to "the municipality." Subsection (a) however, begins "When a municipality seeks to influence the outcome of an election ..."; so one may infer that "the municipality" in subsection (c) means the municipality which is attempting to influence an election. It might be wise, however, to ask the commission for clarification on this point.

If subsection (c) is intended to apply to all municipalities, it would appear to be an unauthorized extension of the commission's powers under AS 15.13. That chapter does not impose any reporting requirements on municipalities which are not seeking to influence the outcome of an election or ballot proposition. One could argue that requiring municipalities to file a list of candidates and their mailing addresses comes within the commission's power to compel the production of books and records in an investigation, AS 15.13.045(b). An unusually broad meaning would have to be given to "investigation," however, to include the routine filing of election information by municipalities.

If subsection (c) is meant to apply only to municipalities intending to influence an election, the commission is on somewhat firmer ground. These municipalities are required to file reports under AS 15.13. Since the statute does not specify what information a municipality must report, the commission has a duty to adopt regulations clarifying the matter. This it did in subsection (a) by directing that municipalities attempting to influence an election report in the same manner as a group. It then re-

phrased some particular items of information which groups must report so that these items would be applicable to municipalities. The information sought and the deadline imposed by subsection (c), however, has no statutory counterpart. It is not a mere translation of a "group" requirement to a "municipal" requirement. It appears to be an entirely new obligation that the commission lacks the authority to impose.

6AAC 29.370. Summary. Creates an exception to the requirement in AS 15.13.090 that campaign communications must be clearly identified by the words "paid for by" followed by the name of the candidate, group, or individual paying for the advertising. Permits small objects such as pens and buttons to omit such information provided that the advertisement is identified in a regular expenditure report to the commission.

Comment: While such an exception as this regulation creates might be desirable, it appears to be an unauthorized amendment to the plain meaning of AS 15.13.090.

6AAC 29.380. Summary. "EARLY CAMPAIGNING. A person shall comply with AS 15.13.100 by notification to the commission of his candidacy for a particular office if the filing period has not opened."

Comment: AS 15.13.100 provides:

"No political campaign expenditure may be made or incurred by a person in an election or by a person or group with his knowledge and on his behalf before the date upon which he or she files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures shall be charged against the spending limitation which applies to the office for which he subsequently files, and shall be included in the first report required under this chapter after filing for office."

The regulation appears to establish procedure for administering AS 15.13.100 by providing that the early campaigner notify the commission before the filing date so that the commission can monitor the candidate's expenditures for travel, opinion surveys and polls.

6AAC 29.450. Summary. Prescribes what information must be contained in a complaint; requires that complaints be in writing and signed by the complainant; and requires that the complainant's signature be notarized.

Comment: The requirement of notarizing the complainant's signature appears to subject the complainant to prosecution for perjury for

any knowing misrepresentations in the complaint. As 15.13.045 does give the commission power to administer oaths. However, the power is granted in a section dealing with the commission's investigatory powers. A complaint is ordinarily filed before an investigation is commenced, and there seems to be no statutory authority for requiring that it be made under oath. Such a requirement seems particularly inapt when one considers that a violation of AS 15.13, including submitting a false report, is a misdemeanor, punishable by imprisonment for no more than one year, or a fine of no more than \$5,000, AS 15.13.120. Perjury committed outside a court of justice is punishable by imprisonment for from one to five years, AS 11.30.020(c).

6AAC 29.460. Summary. Provides for a preliminary investigation if the commission determines that there is cause to credit the allegations in a complaint and for preliminary investigations on the commission's own motion. Requires the executive director to present results of preliminary investigations to the commission for findings.

6AAC 29.910. Summary. Provides that copies of any report required to be filed with the commission may be obtained at cost.

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Register 58, July 1976

GOVERNOR'S OFFICE

6 AAC 29.010

6 AAC 29.030

PART 1A. ALASKA PUBLIC OFFICES COMMISSION

CHAPTER 29. FINANCIAL AND CAMPAIGN DISCLOSURE

Article 1. Financial Disclosure

Section

- 10. Reporting sources of income for retail businesses
- 20. Reporting interests in real property
- 30. Reporting financial data of family members
- 40. Reporting loans and indebtedness
- 50. Retail charge accounts
- 60. Write-in candidates
- 70. Income
- 80. Controlling interest in corporation
- 90. Municipalities as instrumentalities of the state

6 AAC 29.010. REPORTING SOURCES OF INCOME FOR RETAIL BUSINESSES. For purposes of reporting sources of income over \$100 in accordance with AS 39.50.030(b)(1), the reporting official is not required to list individual customers of a retail business which is conducted on a cash basis. However, the business itself must be reported as a source of income. (Eff. 8/20/75, Reg. 55; am 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(b)(1)

6 AAC 29.020. REPORTING INTERESTS IN REAL PROPERTY. The reporting of interests in real property shall include a description of the nature of interest held in the property, the location of the property, and the current use of the property. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(b)(4)

6 AAC 29.030. REPORTING FINANCIAL DATA OF FAMILY MEMBERS. For purposes of AS 39.50.030(a), reporting of information for members of the official's family "to the extent that it is ascertainable" means an affirmative good faith effort to obtain the information and also requires reporting of all required information actually known. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(a)

Register 58, July 1976

GOVERNOR'S OFFICE

6 AAC 29.040

6 AAC 29.090

6 AAC 29.040. LOANS AND INDEBTEDNESS. AS 39.50.030(b) (6) includes all loans or indebtedness of \$500 or more made during the preceding calendar year. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(b) (6)

6 AAC 29.050. RETAIL CHARGE ACCOUNTS. For purposes of reporting liabilities under AS 39.50.030(a) and 030(b) (6), the reporting official is not required to report retail charge accounts, revolving charge accounts or credit card obligations. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(a)
AS 39.50.030(b) (6)

6 AAC 29.060. WRITE-IN CANDIDATES. A public statement by an individual that he will seek elective municipal office constitutes a declaration of candidacy under AS 39.50.020. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.020

6 AAC 29.070. INCOME. In this chapter and in AS 39.50, "income" includes gross income under §61 of the Internal Revenue Code (26 U. S. C. §61) in effect on May 16, 1976. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(b) (1)

6 AAC 29.080. CONTROLLING INTEREST IN A CORPORATION. In AS 39.50.200(8), "controlling interest" in a corporation means ownership of more than 50 percent of the outstanding shares of a corporation at any time during the year for which a report is being filed. In this section, the rules of constructive ownership in §318 of the Internal Revenue Code (26 U. S. C. §318) in effect on May 16, 1976 will be used to determine ownership of a corporation's shares. (Eff. 5/16/76, Reg. 58)

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Authority: AS 15.13.030(10)
AS 39.50.200(8)

6 AAC 29.090. MUNICIPALITIES AS INSTRUMENTALITIES OF THE STATE. In AS 39.50.200(5), "instrumentality of the state" includes municipalities. (Eff. 5/16/76, Reg. 58)

Chapter 29. Financial and Campaign Disclosure

Article

2. Campaign Disclosure General Provisions
3. Complaints, Investigations, Accusations, and Hearings

Article 2. Campaign Disclosure General Provisions

Section

310. Filing
320. Record keeping requirements for candidates and groups
330. Contributions and expenditures for air travel
340. Expenditures to advertising agencies
350. Contribution of professional services
360. Municipalities
370. Identification of communications in certain instances
380. Early campaigning

6 AAC 29.310. FILING. All reports required to be filed under provisions of AS 15.13 shall be postmarked no later than the date due. All forms will be available at the central office, district offices, and appropriate municipalities. (Eff. 5/16/76, Reg. 58)

Authority AS 15.13.030(10)
AS 15.13.020(j) and (k)
AS 15.13.110(a)

6 AAC 29.320. RECORD KEEPING REQUIREMENTS FOR CANDIDATES AND GROUPS.
(a) Every candidate and group required to report contributions or expenditures under the provisions of AS 15.13 shall maintain detailed records of all contributions received and expenditures made.

(b) The requirement of (a) of this section does not apply to fund raising events which meet the following criteria:

- (1) there are 25 or more contributing participants;
- (2) the price of a ticket for the event does not exceed \$10.

(c) Each sale of three or more tickets for fund raising events exempted under (b) of this section must be recorded as required by (a) of this section.

(d) Reporting of fund raising events exempted under (b) of this section must include the number of contributing participants, the date and place of the event, a description of the fund raising activity, and the costs of the event.

(e) Each record required under this section shall be maintained by the candidate and may not be destroyed for a period of four years from the date of the contribution. They shall be available for inspection by the commission upon request of the commission. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.040

6 AAC 29.330. CONTRIBUTIONS AND EXPENDITURES FOR AIR TRAVEL. (a) Contributions and expenditures for air transportation shall be reported at the actual cost of the commercial fare or charter, or at the rate of 15¢ per mile per passenger if commercial air transportation is not utilized.

(b) Contributions and expenditures for travel by motor vehicle shall be reported at 10¢ per mile.

(c) Personal living expenses of the candidate and campaign workers are not considered either as contributions or expenditures and need not be reported. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.040

6 AAC 29.340. EXPENDITURES TO ADVERTISING AGENCIES. Whenever a required report includes an expenditure to an advertising agency, the report shall be accompanied by a statement detailing all services rendered, including the identity of each business from which advertisements were purchased or placed and the costs of the advertisement purchased. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.040(f)

6 AAC 29.350. CONTRIBUTION OF PROFESSIONAL SERVICES. (a) A contribution as defined by AS 15.13.130(2) includes donated services where the services performed are the same kind of service for which the donor has received more than 25% of his income in any one of the preceding three calendar years.

(b) Contributed professional services shall be valued under AS 15.13-130(2)(A) at the amount which the donor receives for the kind of services contributed. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.130(2)

6 AAC 29.360. MUNICIPALITIES. (a) When a municipality seeks to influence the outcome of an election, it shall report in the same manner as a group. For the purpose of complying with AS 15.13.040(b)(1)'s requirement to list the name and address of each officer and director, the municipality shall list the name and address of its mayor and of its council or assembly members. For the purpose of complying with AS 15.13.040(b)(1)'s requirement to list the name and address of its campaign treasurer, the municipality shall list the name and address of its finance director, controller, treasurer, or equivalent officer. For the source of contributions [AS 15.13.070(h)], the municipality shall list the particular fund from which the appropriation is made.

(b) All communications which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or unless they are required by statute, charter, or ordinance.

(c) The municipality shall file with the commission a list of candidates and their mailing addresses within seven days following the deadline for filing for municipal office. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.010
AS 15.13.030(10)
AS 15.13.060
AS 15.13.090

6 AAC 29.370. IDENTIFICATION OF COMMUNICATIONS IN CERTAIN INSTANCES. If the size of an object utilized for a campaign advertisement is such that it is impractical to print the identification of the candidate, group, or person paying for the advertisement on the object, the advertisement shall instead be identified in a regular expenditure report to the commission. Objects considered too small for full identification include pencils, pens, and buttons. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.090

6 AAC 29.380. EARLY CAMPAIGNING. A person shall comply with AS 15.-13.100 by notification to the commission of his candidacy for a particular office if the filing period has not opened. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.100

Article 3. Campaign Disclosure Complaints and Investigations

Section

- 450. Complaints
- 460. Preliminary investigation

6 AAC 29.450. COMPLAINTS. (a) A complaint filed with the commission shall be in writing and shall contain the following:

- (1) the full name and mailing address of the person making the complaint;
- (2) the name of the person or group alleged to be in violation;
- (3) allegations of specific facts which, if true, would constitute a violation of AS 15.13 or of a provision of secs. 310-460 of this chapter;
- (4) the basis of complainant's knowledge of the alleged facts.

(b) The complaint shall be signed by the complainant and the signature shall be verified by a notary public, municipal clerk, court clerk, postmaster, or any person authorized to administer oaths. Notarial service

will be provided by the commission without cost. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.045
AS 15.13.120(d)

6 AAC 29.460. PRELIMINARY INVESTIGATION. (a) If the commission determines that there is cause to credit the allegations in the complaint, a preliminary investigation will be conducted.

(b) The commission may, on its own motion, order a preliminary investigation of a possible violation of AS 15.13 or of a provision of secs. 310-460 of this chapter.

(c) The executive director of the commission will present the results of the preliminary investigation to the commission for a finding. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.045(a)
AS 15.13.120(d)

Article 4. General Provisions

Section

- 910. Availability of reports filed with the commission
- 920. Definitions

6 AAC 29.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION. Copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.040(f)
AS 15.13.110(c)
AS 39.50.020(b)
AS 39.50.050(c)

6 AAC 29.920. DEFINITIONS. In this chapter, "commission" means the Alaska Public Offices Commission. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.020(a)
AS 15.13.030(10)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 18, 1977

Dear Member of the Regulation Review Committee:

The Alaska Police Standards Council in the Office of the Governor has amended 6 AAC 70.020, 6 AAC 70.040, and 6 AAC 70.080. These regulations concern certification of police officers.

6 AAC 70.020 is amended so as to permit a police department to employ a person who has not acquired a basic certificate longer than the twelve months otherwise allowed, if the chief of the department states in writing that there is an exceptional lack of personnel.

6 AAC 70.040 is amended by creating standards for the award of intermediate and advanced certificates of police proficiency. Certificates are awarded for experience, education, and training and various combinations of points being sufficient for an award. The value of these intermediate and advanced certificates is not apparent from the regulations or the statutes, but they do not appear to be particularly out of conformity with legislative intent, either.

6 AAC 70.080 adds "sex" to those factors which may not serve as bases for discrimination in the construction or application of 6 AAC 70.

GOVERNOR'S OFFICE

PART 4. ALASKA POLICE STANDARDS COUNCIL

Register 59, October, 19766 AAC 70.020
6 AAC 70.040
~~6 AAC 70.080~~

6 AAC 70.020 is amended by adding a new provision as (b) (3) and renumbering existing (b) (3) as (b) (4).

(3) upon written application of the chief of police due to an exceptional lack of personnel, the council grants an extension of the probationary period for a police officer who cannot meet the requirements of the Act. An extension based on exceptional lack of personnel may not exceed six months at a time. Additional extensions may be granted upon request and proper documentation.
(Eff. 8/10/73, Register 47, am 9/17/76, Register 59)

Authority: AS 18.65.220
AS 18.65.240

6 AAC 70.040 is amended as follows: BASIC, INTERMEDIATE AND ADVANCED CERTIFICATES. (a) The council will issue basic, intermediate and advanced certificates to police officers meeting prescribed standards of training, education and experience.

(1) To be eligible for the award of a certificate, each applicant shall:

(A) be a full time paid police officer and a member of a law enforcement unit located within the State of Alaska;

(B) attest that he subscribes to the Law Enforcement Code of Ethics;

(C) meet the minimum standards prescribed by section 10 of this chapter;

(D) meet the additional requirements for the level of certification sought.

(2) In addition to the requirements set forth in subsection (a) (1), each applicant for a basic certificate shall:

(A) have completed a probationary period of not less than 12 months with his present department, and

(B) have successfully completed the required basic training, or the equivalent as determined by the council.

Register 59, October 1976

6 AAC 70.040

(3) In addition to the requirements set forth in subsection (a) (1), each applicant for an intermediate certification shall:

(A) possess or be eligible to possess a basic certificate, and

(B) have acquired the following combination of education and training points in conjunction with the prescribed years of law enforcement experience:

Minimum Training Points, Including APSC Basic Course (Equivalent Hours)	15 (300)	23 (460)	30 (600)	38 (760)	45 (900)	APSC Basic Course	APSC Basic Course
Minimum Education Points, in college Credit Hours	15	23	30	38	45	AA or AS Degree	BA or BS Degree
Years of Law Enforce- ment Experience	8	7	6	5	4	4	2

(4) In addition to the requirements set forth in subsection (a) (1), each applicant for an advanced certificate shall:

(A) possess or be eligible to possess a basic certificate and

(B) have acquired the following combination of education and training points in conjunction with the prescribed years of law enforcement experience:

Minimum Training Points, Including APSC Basic Course (Equivalent Hours)	30 (600)	35 (700)	40 (800)	45 (900)	APSC Basic Course	APSC Basic Course	Basic Course
Minimum Education Points, in college Credit Hours	30	35	40	45	AA or AS Degree	BA or BS Degree	Masters Degree

Years of Law Enforcement	12	11	10	9	9	6	4
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(C) or, in lieu of the requirements in (a) (4) (B), the council may issue an advanced certificate, upon application, to each applicant who has acquired 12 combined education and training points and 20 years of law enforcement experience, or 30 combined education and training points and 15 years experience; provided that the last 5 years of law enforcement experience shall have been in a supervisory position or above. A supervisory position is one occupied by a police officer with supervisory or command responsibilities where he directly supervises or commands full-time employees of a law enforcement unit.

(5) Education points are awarded on the following basis:

(A) One quarter term unit of college credit shall equal one education point.

(B) One semester term unit of college credit shall equal one and one-half education points.

(6) Twenty classroom hours of police approved training shall equal one training point.

(A) Advanced, supervisory, middle management, executive, or specialized courses certified by the council will be approved towards training points.

(B) For the purpose of certification above the basic level, the council may approve in-service training which is recorded and documented by the trainee's department. These records must confirm successful completion and must include the subject, classroom hours, time and date.

(7) When college credit is awarded for law enforcement related subjects, it may be counted for either training points or education points.

(8) Education and training must be supported by copies of transcripts, certificates, diplomas, or other verifying documents attached to the application.

(9) The acceptability of law enforcement experience shall be determined by the council. Law enforcement experience acquired in a police agency whose standards are lower than those required by the provisions of sections (10) and (40) may be rejected.

(b) All applications for the award of the basic, intermediate or advanced certificate shall be completed on the prescribed council form entitled "Application for Award of Certificate".

Register 59, October 1976

6 AAC 70.040
6 AAC 70.080

(c) The council may revoke the certification of a person, under the Administrative Procedures Act (AS 44.62) upon a finding that the holder falsified information required for eligibility for a certificate or upon a finding that the holder has been discharged for cause from employment as a law enforcement officer by a police agency in this state or any other jurisdiction.

(d) A basic, intermediate or advanced certificate lapses if the holder is not employed as a law enforcement officer with a police agency in this state, or any other jurisdiction, for a period of 12 consecutive months.

(e) The holder of a basic, intermediate or advanced certificate shall return his certificate to the council upon the revocation of his certificate.

(f) A police officer may have a lapsed certificate reinstated upon the satisfactory completion of a probationary period of 12 months employment as a police officer with a participating police department and upon the successful completion of any supplemental and remedial training and education which the council determines is necessary for him to meet current standards of police officers in the state.

(Eff. 8/10/73, Register 47, am⁹/17/76, Register 59)

Authority: AS 18.65.220
AS 18.65.240

6 AAC 70.080 is amended as follows; DISCRIMINATION PROHIBITED.
No regulation in this chapter may be construed or applied in such a manner as to permit the disqualification of or unlawful discrimination against an applicant for a certificate, or for employment as a police officer based on the applicant's race, color, creed, sex, ethnic origin, religious or political affiliation, or religious or political beliefs.

(Eff. 8/10/73, Register 47, am⁹/17/76, Register 59)

Authority: AS 18.65.220
AS 18.65.240

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

November 5, 1976

Dear Members of the Regulation Review Committee:

The following is a summary of the attached regulations, with indications of possible lack of conformity with legislative intent where necessary.

The Department of Administration has adopted, or made amendments to those regulations listed below. Possible deviations from legislative intent are indicated with an asterick to the left of the entry, and in such cases the regulation is discussed with reference to the statute being interpreted or implemented. The department held no public hearings before adopting these regulations. Notice of proposed regulations appeared in newspapers in Anchorage, Juneau, and Fairbanks.

2AAC 15.020 This regulation was amended so as to delete material which essentially restated the substance of AS 37.05.230(2).

2AAC 15.030 Amendment changed reference to "division of supply" to "division of general services and supply."

2AAC 15.040 Regulation was amended so as to correct deficences in form. No substantive change was effected.

2AAC 15.050 Amendment changed reference to the "division of supply" to the "division general services and supply;" also effectuated other changes in form.

2AAC 15.070. Amendment to this regulation amounted to a rewriting. No substitutive changes were effected.

2AAC 15.120. Amendment amounted to rewriting. No substantive changes effected. .

ARCO

Attachment "A"

Register 59 October 1976 ADMINISTRATION

2 AAC 15.020
2 AAC 15.030
2 AAC 15.040

CHAPTER 15. PURCHASING

Section

- 10. (Repealed)
- 20. Sealed bids
- 30. Bid list
- 40. Rejection of bids
- 50. Late bids
- 60. Awards
- 70. Tie bids
- 80. (Repealed)
- 90. Bid award
- 100. Aggrieved bidder
- 110. (Repealed)
- 120. Definitions

2 AAC 15.010. COMPETITIVE BIDS. Repealed (Eff. 9/24/76, Reg. 59)

2 AAC 15.020. SEALED BIDS. (a) When sealed bids are invited, all invitations for bid will contain information as to where the necessary bid forms or additional information may be obtained.

(b) Sealed bids will be opened in public at the hour stated in the notice. (Eff. 9/24/76, Reg. 59)

12/4/72, Reg. 44; am

Authority: AS 37.05.020
AS 37.05.230(2)

2 AAC 15.030. BID LIST. (a) Bid lists are maintained by the division of general services and supply according to commodity classifications. The list is continually updated and all vendors are encouraged to make application to have their names included. Bid circulation is usually restricted to vendors within the state if the required goods or services are available through them and adequate competition exists.

(b) This bid list will periodically be purged to remove the names of vendors who continually ignore acknowledgement of the Invitation to Bid. Three successive failures to acknowledge will be reason for removal. (Eff. 9/24/76, Reg. 59)

12/4/72; Reg. 44; am

Authority: AS 37.05.020

2 AAC 15.040. REJECTION OF BIDS. (a) A bid will be rejected when

(1) the bid contains a material alteration or erasure which is not initialed by the signer of the bid;

(2) the bidder qualifies or changes the terms or conditions of the invitation to bid; or

(3) the bid is considered late under Sec. 50 of this chapter, having been received after the time for opening.

(b) A bid will, in the discretion of the department, be rejected when

- (1) the bidder is in arrears on taxes due the state;
- (2) the bidder has failed to perform on a previous contract with the state; :
- (3) the bid is not signed; or .
- (4) the bidder fails to furnish bid or surety bonds, plans, specifications, samples, etc., when such was specifically called for in the Invitation to Bid. (Eff. ^{9/26/76} 12/14/72, Reg. 59)

12/14/72, Reg. 44; am'd

Authority: AS 37.05.020
AS 37.05.240

2 AAC 15.050. LATE BIDS. (a) It is the responsibility of the bidder to insure that his bid is in the proper office of the division of general services and supply before the scheduled bid opening time.

(b) Bids received after the scheduled opening time are defined as late bids. A postmark, indicating the mailing was in advance of the bid opening time has no bearing except as is provided for in (c) of this section.

(c) A bidder who is concerned that his bid will not be received timely may reserve the right to have his bid read if

(1) in advance of the scheduled opening time, he gives telegraphic or other form of written notice to the office opening the bid that his bid is in the mail;

(2) the envelope containing his bid bears a postmark no later than the morning of the day of opening. (Eff. ^{9/26/76} 12/14/72, Reg. 59)

Reg. 44; am 9/26/76

Authority: AS 37.05.020
AS 37.05.230

2 AAC 15.070. TIE BIDS. (a) When two or more bidders are tied, each of whom fully meets the bid conditions, awards shall be made as follows, and in the order listed:

(1) tie bids involving Alaska firms with non-Alaska firms, after taking into consideration the five percent Alaska bidders' preference, shall be made to the Alaska firm;

(2) tie bids involving Alaska produced or manufactured products shall be resolved in favor of the local commodity.

(b) If there is no other basis for choosing which bidder should be awarded a contract, lots may be drawn. When feasible, the drawing will be in the presence of the bidders involved. (Eff. 9/26/76, Reg. 59)

12/4/72, Reg. 44; am

Authority: AS 36.15.010
AS 36.20.010
AS 37.05.020
AS 37.05.230

2 AAC 15.080 ALASKA BIDDER PREFERENCE, AS 37.05.230
A Repealed. (Eff. 9/26/76, Reg. 59)

2 AAC 15.120. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "commissioner" means the Commissioner of Administration;

(2) "department" means the Department of Administration;

(3) "purchasing agent" means the Department of Administration. (Eff. 9/26/76, Reg. 59)

12/4/72, Reg. 44; am

Authority: AS 37.05.020
AS 37.05.220

2 AAC 15.110 RECORDS. Repealed. (Eff. 9/26/76, Reg. 59)

Commerce

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

November 5, 1976

Dear Member of the Regulation Review Committee:

The Department of Commerce has adopted ~~or made amendments~~ to those regulations listed below. Possible deviations from legislative intent are indicated with an asterisk to the left of the entry, and in such cases the regulation is discussed with reference to the statute being interpreted or implemented. The department held no public hearing before adopting these regulations. Notice of proposed adoption or amendment of these regulations was published in newspapers in Anchorage, Fairbanks, Juneau, Ketchikan, and in the Tundra Times.

3AAC 80.010 Specifies information which must be supplied by persons applying for loans under the Commercial Fishing Loan Act (AS 16.10.300-16.10.370).

*3AAC 80.020 Adds to the requirements for eligibility for loans under the Commercial Fishing Loan Act. These additional requirements appear to implement the policy stated in that Act, except 3AAC 80.020(b) which states that no more than 50 per cent of the loan proceeds may be used to re-finance existing debts. There might be some question as to whether this is in conformity with legislative intent although there is no clear evidence of intent with regard to this question in the statutes.

*3AAC 80.030 Among other things, this regulation requires that a loan not bear a service charge payable to a trustee for the State of Alaska in excess of one half of one per cent per year. There might be some question as to whether this is in conformity with legislative intent, although there is no clear evidence of intent with regard to this question in the statutes.

* 3AAC 80.040 Subsection (a) of this regulation establishes the criteria used in determining the duration of a loan. Subsection (b) of this regulation states that the applicant for a loan shall bear the cost of processing a loan. This presents a question as to whether Subsection (b) is in conformity with legislative intent, although there is no indication in the statutes to what the legislature may have intended.

3AAC 80.050 Adds as a condition of any loan that borrowers be required to furnish financial information on an annual basis and that they submit to audits.

3AAC 80.060 This regulation makes approval by a loan committee prerequisite to receipt of a loan.

3AAC 80.070 This regulation creates a loan committee and specifies those state executives who shall serve on the committee.

3AAC 80.080 This regulation requires successful applicants for loans to execute those instruments which the department specifies.

3AAC 80.090 This regulation provides that before loan funds may be dispensed, the security interest required by AS 16.10.320 must be perfected, i.e., recorded; and in the case of documented vessels, this regulation specifies the coast guard document which must be supplied to the department to perfect a security interest. This regulation also states that the department must be satisfied that the borrower has complied with provisions pertaining to marine insurance requirements and any other provisions which might be included in the loan documents.

3AAC 80.100 This regulation defines the following terms used in 3AAC 80: acceptable collateral, borrower, commercial fisherman, commercial fishing, commissioner, current, department, division, documented vessel, person, resident.

TITLE 3. COMMERCE AND ~~ECONOMIC DEVELOPMENT~~

PART 7. DIVISION OF BUSINESS LOANS

Chapter

80. Commercial Fishing Loans (~~3 AAC 80.010 - 3 AAC 80.100~~)

Section

- 10. Applications for loans
- 20. Loan eligibility and borrower qualifications
- 30. Amount, interest rates and maturity of loans
- 40. Terms of loan
- 50. Supervision of loans
- 60. Approval of loans
- 70. Loan committee
- 80. Execution of instruments
- 90. Disbursement of loan funds
- 100. Definition of terms

3 AAC 80.010. APPLICATIONS FOR LOANS. (a) Commercial fishing loan applications shall be submitted on an appropriate form prescribed by the commissioner and be accompanied by

- (1) a letter of intent stating the amount requested, a description of how the proposed loan funds will be used, and the plan of repayment of the loan including the setting up of reserves, if any;
- (2) a personal resume including three personal references;
- (3) a business history of the applicant which shall include complete copies of state income tax returns for the preceding three years;
- (4) proof that the applicant has had a commercial fishing license for the last three years and has been engaged in commercial fishing during each of the same three years as evidenced by Alaska Department of Fish and Game records;
- (5) proof that the applicant has been a state resident for the last five years;
- (6) current financial statements consisting of a balance sheet and profit-and-loss statement;
- (7) a schedule of acceptable collateral, which should include collateral now owned and other collateral which is to be acquired with the loan proceeds, stating date of acquisition, cost, location, market value and existing liens;
- (8) proof of unencumbered title to the collateral and in the case of a documented vessel, a Certificate of Ownership for the vessel on Coast Guard Form 1330, dated not more than 20 days prior to the date of application;
- (9) a current marine survey if a vessel is used for collateral including pictures of the vessel and

(10) a pro forma financial statement showing the projected income and expenses for the following year.

(b) Exhibits, whenever applicable, shall accompany the application to show the

- (1) potential growth of the business;
- (2) potential employment;
- (3) potential increase in income;
- (4) potential decrease in operating expenses; and
- (5) potential improvement in operational safety.

(c) Applications shall be submitted to the Division of Business Loans, Department of Commerce and Economic Development, Pouch D, Juneau, Alaska, 99811. (Eff. 9/15/76, Register 59)

Authority: AS 16.10.310

3 AAC 80.020. LOAN ELIGIBILITY AND BORROWER QUALIFICATIONS. (a) In addition to the requirements of AS 16.10.300 - AS 16.10.370 as amended a loan will not be made unless

(1) the borrower can provide acceptable collateral and an acceptable repayment schedule;

(2) the purpose of the loan is to repair or improve existing vessels or gear, purchase additional gear, construct and purchase vessels, purchase fishing gear or entry permits or construction of hatchery facilities; and

(3) the borrower has extended to the commissioner or his representative the right to conduct a marine survey of a vessel or vessel construction project which is described by the borrower in an application or supporting documents.

(b) No more than 50 percent of the loan proceeds may be used to re-finance existing debts.

(c) A loan will not be made if the proposed use of funds

(1) is of a speculative nature; and

(2) are intended to purchase a commercial fishing vessel, gear or permit that will not be put to use in the commercial fishing industry in the near future. (Eff. 9/16/76, Register 59)

Authority: AS 16.10.310
AS 16.10.320

3 AAC 80.030. AMOUNT, INTEREST RATES AND MATURITY OF LOANS. A loan will not exceed \$100,000.00, bear interest at a rate in excess of seven percent a year if not in default, or mature later than 15 years from the date

of the loan. A loan will not bear a service charge payable to a trustee for the State of Alaska in excess of one half of one percent a year. (Eff. 9/26/76, Register 59)

Authority: AS 16.10.310
AS 16.10.320

3 AAC 80.040. TERMS OF LOAN. (a) A term of a loan will be fixed in relation to the needs of the borrower and the collateral available to secure repayment of the loan.

(b) All expenses incurred by the department in closing a loan or processing a loan application shall be paid by the applicant, including but not limited to: the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, out of state travel and other direct costs. (Eff. 9/26/76, Register 59)

Authority: AS 16.10.310

3 AAC 80.050. SUPERVISION OF LOANS. As a condition of any loan and so long as there is an outstanding loan balance the department may require that a borrower furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. A borrower shall also submit to an audit or audits to determine whether the provisions of the loan have been complied with, and that a borrower permit periodic inspection of any collateral securing repayment of the loan. (Eff. 9/26/76, Register 59)

Authority: AS 16.10.310

3 AAC 80.060. APPROVAL OF LOANS. A loan will not be granted without the approval of a majority of the loan committee established under section 070 of this chapter. (Eff. 9/26/76, Register 59)

Authority: AS 16.10.310

3 AAC 80.070. LOAN COMMITTEE. (a) A loan committee will consist of the commissioner, the deputy commissioner of commerce and economic development and the director of the division of business loans.

(b) The chairman of the loan committee is the commissioner or in his absence the deputy commissioner of commerce and economic development.

(c) In the absence of any loan committee member, the chairman may appoint an alternate member from among the directors of the following divisions

- (1) the division of insurance;
- (2) the division of banking, securities, small loans, land sales and corporations;
- (3) the division of occupational licensing;
- (4) the division of veterans' affairs; and

(5) the division of economic enterprise.

(d) An action may not be taken at a loan committee meeting unless the chairman or his designee and two members or alternate members are present. (Eff. 9/13/76, Register 59)

Authority: AS 16.10.310

3 AAC 80.080. EXECUTION OF INSTRUMENTS. If a loan is approved by the loan committee, the borrower shall execute the promissory notes, chattel mortgages, security agreements, financing statements, preferred mortgages, assignments, affidavits, insurance pay orders and ~~such~~ other instruments as the department may in its discretion require. (Eff. 9/13/76, Register 59)

Authority: AS 16.10.310

3 AAC 80.090. DISBURSEMENT OF LOAN FUNDS. Loan funds will not be disbursed to the borrower until

(1) a security interest in the collateral has been perfected except that in the case of a mortgage on a documented vessel this requirement shall be satisfied by the establishment of the mortgage as a preferred mortgage pursuant to the provisions of the Ship Mortgage Act, 1920 (46 USC secs. 911 - 984) as evidenced by the delivery to the department of a satisfactory Certificate of Ownership for the vessel on Coast Guard Form 1330, dated after the date on which the mortgage is recorded;

(2) the commissioner or his authorized representative is satisfied that the borrower has complied with the marine insurance requirements contained in any instrument signed by the borrower; and

(3) all other provisions of the loan documents and this chapter have been complied with by the borrower. (Eff. 9/13/76, Register 59)

Authority: AS 16.10.310
AS 16.10.320

3 AAC 80.100. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter and in the forms and instructions of the commissioner

(1) "acceptable collateral" means adequate security approved by the commissioner to secure repayment of a loan in the event of default and includes, but is not limited to, a mortgage or other security instrument on real property, buildings, machinery and equipment, fixtures, or commercial fishing vessels together with gear and appurtenances;

(2) "borrower" means a commercial fisherman executing an application for a loan;

(3) "commercial fisherman" means a person engaged in commercial fishing;

(4) "commercial fishing" means the taking, planting or cul-

tivating of fish, shellfish, crabs or other fishery resources with the intent of disposing of those resources for profit, by sale, barter, trade, or in commercial channels;

(5) "commissioner" means the commissioner of commerce and economic development;

(6) "current" means a date not exceeding three months from the date an application is received by the department;

(7) "department" means department of commerce and economic development;

(8) "division" means the division of business loans of the department of commerce and economic development;

(9) "documented vessel" means a vessel registered or enrolled or licensed under the laws of the United States, whether permanently or temporarily;

(10) "person" means any individual and does not mean an association, partnership or corporation; and

(11) "resident" means a person who continuously for the last five years has maintained a permanent place of residence within the State of Alaska. (Eff. 9/12/76, Register 59)

Authority: AS 16.10.310

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

November 5, 1976

Dear Members of the Regulation Review Committee:

The Department of Commerce has adopted, or made amendments to those regulations listed below. Possible deviations from legislative intent are indicated with an asterisk to the left of the entry, and in such cases the regulation is discussed with reference to the statute being implemented and interpreted by the regulation. The department held public hearings before adopting these regulations in Anchorage on June 27 and June 29, 1975. Notice of proposed regulations appeared in newspapers in Cordova, Ketchikan, Nome, Anchorage, Fairbanks, and Juneau:

3AAC 64.010. This regulation has been amended to incorporate the substance of the former 3AAC 64.010-3AAC 64.060, 3AAC 64.080-3AAC 64.100, and 3AAC 64.140, which have been repealed. In addition, the following substantive changes and additions have been made: (1) Prior to amendment, 3AAC 64.040 stated that the duration of a lease between permit holders may be less than 30 days only if the period of time does not amount to more than 14 days within one 60 day period. This has been changed by 3AAC 64.010, which excludes permit holders from application of the 30 day limitation; (2) 3AAC 64.010(4)(A) clarifies the substance of former 3AAC 64.030(4), by stating that the lessee of equipment shall be considered the owner of the equipment for purposes of sub-leasing. 3AAC 64.010(a)(4)(B) limits the application of 3AAC 64.010(4)(A), supra, to that period when the vehicles are operated by or for an authorized carrier of household goods engaged in the transportation of household goods.

(3) 3AAC 64.010(a)(7) Modifies the requirements of former 3AAC 64.090, by allowing the carrier to carry in the vehicle a certificate with specified information, instead of a copy of the lease.

(5) 3AAC 64.010(b) Adds a requirement that a carrier or its employee or agent give the owner a receipt upon taking and relinquishing possession of a vehicle.

(6) 3AAC 64.010(c) Adds a requirement that a carrier make a safety inspection of a vehicle before taking possession of it, and further requires a carrier to certify the results of the inspection on a form prescribed by the commissioner and kept by the carrier.

(7) 3AAC 64.010(d) Adds to the requirements formerly imposed by 3AAC 64.100, by requiring the sign identifying the lessee of a leased vehicle to be of a specific composition and to bear a serial number. This section further requires the carrier to remove the sign from the vehicle upon relinquishing possession of it.

(8) 3AAC 64.010 Adds a requirement that the carrier establish that a person other than a regular employee who is assigned to drive a vehicle is familiar with, and that his employment as a driver will not result in, violation of any provision of the motor carrier safety regulations contained in chapter 62 of 3AAC.

(9) 3AAC 64.010 *New requirements relating to* Specifies information and documents which must be carried with the vehicle or left in its terminal.

New requirements which
3AAC 64.015. ~~This regulation~~ relates to the interchange of vehicles between carriers. It requires commission approval before interchange of vehicles unless enumerated conditions are complied with. The conditions relate to: (1) the elements of the agreement between the carriers who are parties to the interchange; (2) the operating authority of carriers which are participating in the interchange; (3) requirements as to bills of lading, apportionment, and collection of revenues; (4) requirements as to safety inspection at the interchange point; (5) requirements as to devices for identifying the carrier operating the vehicle; (6) a requirement that the vehicle operated in the interchange carry a copy of the interchange agreement or a certificate containing specified information.

3 AAC 64.010. LEASING REQUIREMENTS. (1) Common or contract carriers may lease vehicles, but may not lease any vehicle to any person other than another common or contract carrier and, ^{except for} other than vehicles exchanged between authorized motor carriers in interchange service as provided in sec. 15 of this chapter, authorized carriers may perform transportation with vehicles which they do not own only under the following conditions, set out in this section.

(1) ~~Lease Requirements.~~ The lease for the use of a vehicle ^{(1) must be made between the carrier and the owner of the vehicle;}

(2) ~~(A)~~ must be in writing and signed by the carrier and the owner of the vehicle, or their regular employees or agents authorized to act for them in the execution of leases;

(3) ~~(B)~~ must specify the period of time for which it applies, which may not be less than 30 days; however, this subparagraph does not apply to vehicle lease agreements between permit holders;

(4) ~~(A)~~ must provide that the lessee have exclusive possession, control, use and complete responsibility for the vehicle and its operation for the duration of the lease, except that,

(A) ~~(i)~~ provision may be made in the lease for considering the lessee as the owner for the purpose of subleasing under this section to other authorized carriers for the duration of the lease;

(B) ~~(ii)~~ when entered into by carriers of household goods, for the transportation of household goods, as defined by the Interstate Commerce Commission, the provisions of (A) of this subparagraph need only apply during the period the vehicle is operated by or for the authorized carrier;

(5) ~~(A)~~ must specify the compensation to be paid by the lessee for the rental of the leased vehicle;

(6) ~~(A)~~ must specify the time and date upon which the possession and control of the vehicle will be taken by the lessee, ^{on the circumstances under which} the lease begins, and ^{the time or the circumstances} under which the possession of the vehicle will be returned to the lessor; the duration of the lease shall coincide with the time of giving receipts for the vehicle as required by paragraph (2) of this section;

and the conditions in which the vehicle is to be returned

(7) ~~(A)~~ must be executed in quadruplicate; the original must be retained by the carrier in whose service the vehicle is to be operated, one copy must be filed with the commission within seven days

one copy shall be retained by the owner of the vehicle

of the effective date of the lease, and one copy must be carried on the vehicle specified in the lease during the entire period of the lease; ^{provided that} However, the carrier or its regular employee or agent may prepare a statement certifying that the vehicle is being operated under the terms of ^a written lease filed with the commission. ~~The certificate~~ ^{which certificate} must ^{contain} list the names of the lessor and lessee, ^{fully describe} the vehicle, the effective date and duration of the lease, any restrictions that are in the lease as to commodities to be transported and/or area of service and the location of the premises where the original copy of the lease is kept.

(b)(2) Receipts For Vehicle To Be Specific. When possession of the vehicle is taken by the carrier or its regular employee or agent authorized to act for it, the carrier, or that employee or agent ^{shall} give to the owner of the vehicle or the owner's employee or agent a receipt specifically identifying the vehicle and stating the date and the time of day possession of it is taken. ^{When the possession by the carrier ends,} the carrier or its employee or agent shall obtain from the owner of the vehicle, or its employee or agent authorized to act for it, ~~and stating the date and the time of day possession of the vehicle is taken by the owner of the vehicle or its employee or agent.~~ ^{a receipt specifically identifying the vehicle and stating}

(c)(3) Safety Inspection Of Vehicle By The Carrier. The carrier shall before ^{taking} possession of any vehicle, inspect it or have it inspected by a person who is competent and qualified to make the inspection and has been authorized by the carrier to make the inspection as a representative of the carrier, in order to insure that the vehicle complies with the Motor Carrier Safety Regulations, as set out in 3-AAC-62. ^{The} person making the inspection ^{shall} certify the results of his inspection on a report in the form authorized by the commission, and the report ^{shall} be retained and preserved by the authorized carrier. ^{If his inspection discloses that the vehicle does not comply with the requirements of the safety regulations,} possession of the vehicle may not be taken by the carrier. After the inspection has been made, the carrier or an officer or partner of the carrier, or a safety director or other supervisory employee responsible for safety compliance, ^{shall} certify on the inspection report that the person who made the inspection, whether an employee or person other than an employee, is competent and qualified to make the inspection and has been authorized to do so by the carrier as its representative. When a vehicle other than a power unit is leased, a form of report applicable to such a vehicle may be used.

(d)(4) Identification Of Vehicle As That Of The Authorized Carrier. The authorized carrier acquiring the use of a motor vehicle under this section ^{shall} properly and correctly identify the vehicle during the period of the lease in accordance with the requirements of sec. 500 of this chapter. If a removable device is used to identify the acquiring authorized carrier as

the operating carrier, the device shall be on durable material such as wood, plastic, or metal, and bear a serial number in the acquiring carrier's own series so as to keep proper record of each of the identification devices ⁱⁿ use.

~~(A) Identification To Be Removed When Lease Terminated~~ - The carrier operating a vehicle leased under this chapter must remove its identification before relinquishing possession of the vehicle.

(5)(e) Driver Of Vehicle To Be In Compliance With Safety Regulations. Before any person other than a regular employee of the carrier is assigned to drive a vehicle, the carrier shall make certain that the driver is familiar with, and that his employment as a driver will not result in, violation of any provision of the Motor Carrier Safety Regulations ^{in contained in} chapter 62 of this title.

(6)(f) Record Of Vehicle To Be Maintained; Shipping Documents To Identify The Authorized Carrier. A carrier utilizing a vehicle operated under this section for periods of less than 30 days must prepare and keep a manifest or other documents covering each trip for which the vehicle is used in its service containing the name and address of the owner of the vehicle, the point of origin, the time and date of departure, the point of final destination, and the carrier's serial number of the identification device affixed to the vehicle. During the time that a vehicle subject to this chapter is operated, there must be carried with the vehicle bills of lading, waybills, freight bills, manifests, or other papers identifying the lading, and containing the foregoing information, which clearly indicates that the transportation of the property carried is under the responsibility of the lessee, carrier. These papers shall be preserved by the authorized carrier. This section also applies to vehicles leased for periods of 30 days or more unless the required information is kept at a terminal or office as a part of the records of the carrier.

(Eff. 7/29/64, Reg. 15; am. 9/26/76, Reg. 57) (Ed. note. The provisions of this section were formerly contained in

3 AAC 64.010 - 3 AAC 64.060,
3 AAC 64.080 - 3 AAC 64.100,
3 AAC 64.140)

Authority: AS 42.07.141
AS 42.10.010
AS 42.10.070
AS 42.10.080

3 AAC 64.015. INTERCHANGE OF VEHICLES. (c) Carriers holding permits issued by the commission may, upon prior approval by the commission, interchange any vehicle by lease with one or more other permitted carriers, or one of these carriers may receive from another carrier any of the vehicles in connection with through movement of traffic, under the following conditions set forth in (b) of this section. *(b) of this section. holding permits issued by the commission agreement*

(b) (1) Interchange Agreement To Be Specific. The lease providing for interchange must specifically describe the vehicle to be interchanged, the specific points of interchange, the use to be made of the vehicle and the consideration for such use, and shall be signed by the parties to the lease or their regular employees or agents authorized to act for them in the execution of such leases.

(c) (2) Operating Authority Of Carriers Participating In Interchange. The permits issued under secs. 160-250 of this chapter and held by the carriers participating in the interchange arrangement will authorize the transportation of the commodities proposed to be transported in the through movement and service from and to the point where the physical interchange occurs.

(d) (3) Through Bills Of Lading Required. The traffic transported in interchange service must move on through bills of lading issued by the originating carrier, and the rates charged and revenues collected must be accounted for in the same manner as if there had been no interchange of vehicles. Charges for the use of the vehicles must be kept separate and distinct from divisions of the joint rates or the proportions of them accruing to the carriers by the application of local or proportional rates.

(e) (4) Safety Inspection Of Vehicle. The carrier acquiring the use of a vehicle in interchange shall inspect the vehicle, or have it inspected in the manner provided in sec. 10(3) of this section. A vehicle which does not meet the requirements of sec. 10(3) may not be operated in the respective services of the interchange carriers until the defects have been corrected. Where carriers interchanging vehicles for a through movement of traffic are commonly controlled and jointly maintain and administer a uniform safety program, no safety inspection at the point of interchange is required, so long as the vehicle interchanged has been inspected immediately before the start of the movement in which the interchange occurs and is found to meet the requirements of sec. 10(3) of this section. *you did that*

(f) (5) Identification Of Vehicle As That Of The Operating Carrier. Authorized carriers operating power units in interchange service shall identify those vehicles in accordance with the commission's requirements in sec. 500 of this chapter. Any removable device used to identify the operating carrier must be on durable material such as wood, plastic, or metal, and must bear a serial number in the operating carrier's own series and the carrier must keep a proper record of each identification

device in use.

(A) Identification To Be Removed When The Vehicle Is Returned To The Originating Carrier. The carrier operating a vehicle in interchange service under this section must remove its identification before relinquishing possession of the vehicle.

Copies of the Interchange Agreement or a Certificate thereof shall be in the possession of the carriers.

(3)(6) Authorized carriers operating vehicles in interchange service under this section shall carry with each vehicle so operated, except trailers and semi-trailers, a copy of the interchange agreement while the vehicle is being operated by the carrier, fully describing the vehicle, showing the specific point of interchange, the date and time of the assumption of responsibility for the vehicle, and the use to be made of the vehicle while the vehicle is being operated in interchange service. The carriers or their regular employees or agents may prepare a statement certifying that the vehicle is being operated under the terms of a written "interchange of equipment agreement" filed with the commission. The certificate must be signed by an authorized representative of each carrier that will participate in the interline service and shall fully describe the motor vehicle, the name or names of the driver or drivers, the date and time of the assumption of responsibility for the vehicle and the specific interchange point. Such a statement, if issued, may be carried in the vehicle in lieu of a copy of the interchange agreement.

(4)(7) Connecting Carriers Considered As Owners. An authorized carrier receiving a vehicle in connection with a through movement under this section is considered the owner of the vehicle for the purpose of leasing the vehicle to other authorized carriers in furtherance of the movement to the destination or of the return of the vehicle after the movement is completed. (Eff. 9/28/76 Reg. 59)

Authority: AS 42.07.141
AS 42.10.010
AS 42.10.080

- 3 AAC 64.020. Repealed (Eff. 9/28/76, Reg 59) 1976
 - 3 AAC 64.030. Repealed (Eff. 9/28/76, Reg 59) 1976
 - 3 AAC 64.040. Repealed (Eff. 9/28/76, Reg 59) 1976
 - 3 AAC 64.050. Repealed (Eff. 9/28/76, Reg 59) 1976
 - 3 AAC 64.060. Repealed (Eff. 9/28/76, Reg 59) 1976
 - ~~3 AAC 64.070. Repealed _____, 1976~~
 - 3 AAC 64.080. Repealed (Eff. 9/28/76, Reg 59) 1976
 - 3 AAC 64.090. Repealed (Eff. 9/28/76, Reg 59) 1976
 - 3 AAC 64.100. Repealed (Eff. 9/28/76, Reg 59) 1976.
- AS 42.10.070

3 AAC 64.140. Repealed (Eff. 9/26/76, Reg. 59) 1978

3 AAC 64.550 Definitions is amended by adding new paragraphs to read:

(14) "lease" means any agreement by which the owner of a vehicle transfer it to another person for a specified period or purpose and for a specified rent or other compensation ~~and~~ consideration

(15) "lessee" means a person entitled to possession of a vehicle under a lease, as defined in this section.

(Eff. 11/4/74, Reg. 52; am. 9/26/76, Reg. 59)

pursuant to

- Authority: AS 42.07.121
- AS 42.07.141
- AS 42.10.070
- AS 42.10.080
- AS 42.10.090
- AS 42.10.110

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

November 5, 1976

Dear Members of the Regulation Review Committee:

The Department of Commerce and Economic Development has amended the regulation discussed below. A possible deviation from legislative intent is indicated with an asterisk to the left of the entry, and in such cases the regulation is discussed with reference to the statute being interpreted or implemented. The department held a public hearing before adopting this amendment in Anchorage on February 18, 1976. Notice of proposed amendment was published in Anchorage, Fairbanks, Juneau, Cordova, Nome, and Bristol Bay newspapers and in the Tundra Times.

- * 3AAC 66.010 Amended by adding a new subsection which requires common carriers by bus to obtain a certificate from the Alaska Transportation Commission in order to operate within the boundaries of a municipality unless the carrier has obtained a permit granted by a municipality with requirements relating to the licensure of carriers by bus substantially similar to those of the state. This regulation appears to be out of conformity with legislative intent as expressed in 42.15.061(h), which states that no certificate may be required from the Alaska Transportation Commission in order to operate a bus within a municipality.

Register, 59, October 1976

COMMERCE

3 AAC 66.010

3 AAC 66.010. CERTIFICATES. (a) ^A ~~No~~ common carrier by bus may ¹⁰¹ transport passengers, their baggage or express in the State of Alaska without first obtaining a certificate from the commission.

(b) The certificate required by this section must be prominently displayed in the carrier's place of business at all times, and none of the activities described in (a) of this section may be conducted by the carrier unless the certificate is displayed in this manner.

(c) Common carriers by bus operating under a franchise or permit granted by a municipality are not required to obtain a certificate from the Alaska Transportation Commission for transportation of passengers, their baggage, or express when the transportation is from one point within the municipality to another point within the municipality only, or to municipal property outside the municipal limits only, when that municipality has adopted regulating ordinances requiring substantially the following:

(1) the certificating requirements of AS 42.15.061 (a), (b), (c), (d), (e), (f) and (g);

(2) the filing of rates and rate schedules as provided in ~~Article 3, AS 42.15~~ with the municipal regulating body; ^{AS 42.15.141 — 42.15.211}

(3) registration of evidence of public protection as provided in ~~Article 4, AS 42.15~~ to be filed with the municipal regulating body;

(4) the adherence to the provisions of ~~Articles 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100~~ AS 42.15.371, ~~381, 391, 401 and 411~~ with the municipal regulating body.)

(Eff. 12/28/69, Reg. 310; am. 9/19/76, Reg. 59)

- Authority: AS 42.07.121
- AS 42.15.011
- AS 42.15.021
- AS 42.15.061
- AS 42.15.421(5)
- AS 42.15.431

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

November 8, 1976

Dear Member of the Regulation Review Committee:

The Department of Commerce has adopted the regulations listed below. Possible deviations from legislative intent are indicated with an asterisk to the left of the entry, and in such cases the regulation is discussed with reference to the statute being interpreted or implemented. Notice of proposed adoption of these regulations was published in newspapers in Anchorage, Fairbanks, and Juneau. Public hearings on these regulations were held in Anchorage on March 17, 1976, Fairbanks on February 26, 1976, and Juneau on March 2, 1974.

3AAC 95.010 Enumerates when sealed and competitive bids are required for construction contract entered into by ASHA. Excludes from the provisions of 3AAC 95 coverage of professionals and persons employed by ASHA to perform functions of a general contractor. Subsection defines the following terms: turnkey, design - construct, and new construction.

3AAC 95.020 Specifies minimum requirements relating to publication of notices of soliciting bids. Requires ASHA to maintain bid lists of general and specialty contractors. Requires ASHA to solicit bids for at least 30 days before a bid may be accepted.

3AAC 95.030 It requires bidders to submit an affidavit with their bids declaring whether or not a board member or an employee of ASHA has a financial, business, or familial interest in or with the bidder. Successful bidders are required to file another affidavit reiterating the same information.

3AAC 95.040 Specifies the work to be performed by ASHA in preparation for soliciting bids, specifies information which must be contained in the invitation to bid, and specifies the information which must be supplied in a bid submitted to ASHA.

3AAC 95.050 Specifies times for submission of sealed bids, submission of revised bids, and withdrawal of sealed bids.

3AAC 95.060 Provides that bids received after a closing time are late bids and shall be returned to the bidder without being considered.

3AAC 95.070 Specifies grounds for rejection of bids.

3AAC 95.080 Enumerates criteria which are to be taken into consideration along with the amount of the bid in determining who is to be awarded contract.

3AAC 95.090 An Alaskan bidder will be awarded a bid if it is not more than 5% higher than the lowest non-resident bid, and establishes criteria for determining who is an Alaskan bidder. Does this correctly implement the legislative intent embodied in AS 18.55.460? It states that ASHA shall use Alaskan professional and contractor services as far as practicable.

3AAC 95.100 Provides for award bids when bidders are equal in light of the criteria established by 3AAC 95.040 and 3AAC 95.080.

3AAC 95.110 Provides that a successful bidder will made a tentative award, which shall become final within a specified period of time if other bidders do not petition for review of the award.

3AAC 95.120 Provides that ASHA shall enter into a contract with a successful bidder in 15 days and provides for a course of action if the successful bidder fails to enter into a contract with ASHA.

Attachment "E"

Register 57 ^{COMED} 1976

COMMERCE

3 AAC 95.010

TITLE 3. COMMERCE

PART 9. ALASKA STATE HOUSING AUTHORITY

CHAPTER 95. PURCHASING AND NEW
CONSTRUCTION BIDDING
PROCEDUREARTICLE 1. NEW CONSTRUCTION BIDDING
PROCEDURESection

- 10. Contract By Sealed Competitive Bids
- 20. Solicitation of Bids
- 30. Conflict of Interest
- 40. Bid Procedure
- 50. Receipt of Bids
- 60. Late Bids
- 70. Rejection of Bids
- 80. Criteria For Awards
- 90. Alaska Bidder Preference
- 100. Tied Bids
- 110. Tentative and Final Awards
- 120. Contract

3 AAC 95.010. CONTRACT BY SEALED COMPETITIVE BIDS. (a)
A construction contract entered into by ASHA for the purpose of new construction in an amount greater than \$2,500 will be based upon competitive and sealed bids or proposals. In addition, all contracts for a "turnkey" and "design-construct" type development will be entered into by ASHA on the basis of a competitive and sealed bid or proposal. All contracts for the purchase or lease of new construction that has been constructed under a turnkey or design-construct concept shall be governed by this section.

(b) Contracts for professional or technical services shall be excluded from the provisions of secs. 10 - 320 of this chapter. Contracts for "construction management" or "construction manager" shall be excluded from the provisions of secs. 10 - 320 of this chapter. "Construction management" describes the function performed for ASHA by a person, company or partnership that is known as "contract manager" that eliminates the need for a general contractor in a construction project. The contract manager, utilizing contract documents, including designs and specifications, performs the tasks of contracting with contractors, supervising the work of the contractors, and generally insure completion of a project that is in compliance with the contract document. A contract manager shall be ~~deemed~~ ^{Accounted} to perform professional or technical services.

~~(c) The following terms and phrases shall mean:~~

(c) *In this chapter*

(1) "turnkey" describes a type of construction where a bidder designs and builds a facility upon real property that it owns and then (i) conveys the completed facility and real property to ASHA at a predetermined purchase price or (ii) leases to ASHA the completed facility at a predetermined lease cost. ASHA is not viewed as an "owner" during construction. Further, ASHA does not usually provide any interim construction financing.

(d) *In this chapter*

(2) "design-construct" describes a type of construction where a bidder designs and builds a facility on real property owned by ASHA. ASHA is viewed as the owner through construction and may have all of the concomitant rights and liabilities of an owner. ASHA may also furnish interim financing.

(e) *In this chapter*

(3) "new construction" describes construction of a previously unbuilt facility or building. Rehabilitation on an existing facility or building is not new construction, unless the total cost of such rehabilitation on a particular existing facility or building is in excess of \$250,000. The construction of a previously unbuilt facility or building that utilizes modular or pre-built units is new construction.

(d) This chapter ^{does} ~~shall~~ not apply to construction of public buildings for lease to the state. (Eff. 10/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(5)
AS 18.55.100(a)(9)
AS 18.55.420

3 AAC 95.020. SOLICITATION OF BIDS. (a) A bid will be solicited by publication in newspapers of general circulation in the state and by posting of the notice of the invitation. The invitation to bid will be published in a newspaper at least once a week for two consecutive weeks and will include publication in a newspaper published in Anchorage, Alaska. Notices will be posted, at least, in the main office of ASHA, Anchorage, Alaska, and at the offices of the Associated General Contractors, Anchorage, Alaska. In addition, notices will be posted in a public area in the municipality or community in which the construction will be located.

(b) Bids will, in ASHA's discretion, also be solicited by publication in trade journals or by sending notices by mail to prospective bidders. Bid lists of general contractors and specialty contractors will be maintained by ASHA and general contractors and specialty contractors, or others, are encouraged to make application to have their names included. The bid list shall periodically be updated to include new names and remove the names of contractors and specialty contractors who have ignored acknowledgement of the invitations to bid on at least two successive instances.

(c) Solicitations will be made for at least 30 days before the last day upon which a bid may be accepted by ASHA. (Eff. 1/1/76, Reg. 1.1)

Authority: AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.460

3 AAC 95.030. CONFLICT OF INTEREST. (a) In addition to other requirements imposed on a bidder by this chapter, a bidder, in submitting his bids, shall declare in an affidavit whether or not a board member or employee of ASHA has a financial, business or familial interest in or with the bidder.

(b) A successful bidder shall execute an affidavit stating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the contract or the proceeds of the contract. (Eff. 1/1/76, Reg. 1.1)

Authority: AS 18.55.080
AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.040. BID PROCEDURE. (a) Prior to the issuance of an invitation to bid, ASHA will compile:

- (1) the scope of work and services requested;
- (2) if applicable, a legal, and a metes and bounds description of the real estate upon which the construction will be performed;
- (3) an estimated maximum cost for the construction;
- (4) if applicable, an estimated total purchase price;

- (5) if applicable, the estimated cost of a lease;
 - (6) if applicable, the value that will be placed upon the real property at the time of conveyance to the contractor;
 - (7) a projected time for construction;
 - (8) an estimated completion date for the construction;
 - (9) an analysis of the source of funding for the project, if known; and
 - (10) requirements for payment and performance bonds, as well as the errors and omissions and insurance coverages.
- (b) An invitation to bid will contain:
- (1) the date of the invitation;
 - (2) the last date and time which a bid will be accepted;
 - (3) a description of the general scope of work and services required;
 - (4) the location of the construction project;
 - (5) a description of the construction project on which a bid is being requested;
 - (6) identification of the location where specifications and other relevant information on the bid can be obtained; and
 - (7) any other information or documentation, including a bid bond, as may be required by ASHA for that particular bid.

(c) A bid submitted to ASHA, pursuant to an invitation to bid, must, in addition to any other requirements imposed on that particular bid, contain:

- (1) the name of the bidder;
- (2) if the bidder is a corporation, the name of the state in which the corporation is incorporated;
- (3) a statement as to whether the corporation is registered as a corporation in the state;

(4) a statement as to whether the corporation has paid all fees, taxes and other monetary requirements due to the state;

(5) if the bidder is not a corporation, the exact identity of its business form;

(6) if the bidder is a partnership, the identity of all partners with addresses;

(7) a credit statement of the partnership, or in the case of a corporation, a credit statement of the corporation;

(8) in the event that the bidder is neither a corporation nor a partnership, the credit statement of the bidder;

(9) a clear and unequivocal statement of the bid in specific response to the invitation and any qualifying or modifying provisions must be explicitly set forth;

(10) a brief, but adequate statement as to the bidder's proposal for securing a requisite work force and supplies for the construction and those areas of construction in which the bidder intends to use subcontractors and sub-contracts;

(11) as to the "turnkey" or "design-construct" development, the bidder, in addition to all other requirements imposed on a bidder, shall also provide and itemize:

(A) the location of the real estate by legal, and a metes and bounds description;

(B) the ownership of the real estate;

(C) the price of the real estate;

(D) the price of the building construction;

(E) the price of the total completed project, including the real estate;

(F) rough sketches of the type and building plans;

(G) specifications of building materials;

(H) a statement as to zoning; and

(I) any other information that would be relevant under the invitation to bid.

(12) a statement that the bidder will comply with the payment and performance bonds requirements, as well as the errors and omissions and insurance coverages;

(13) an affirmative statement of compliance with Alaska and Federal Civil Rights Act and other equal opportunity provisions;

(14) a statement of similar work performed by the bidder for a period of five years before the bid; and

(15) any other information or documentation, including a bid bond, as may be required by ASHA for that particular bid. (Eff. 1/1/76, Reg. 1/1/76)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(9)
AS 18.55.420

3 AAC 95.050. RECEIPT OF BIDS. (a) All sealed bids must be received by ASHA on or before the date and time set forth in the invitation to bid. Upon receipt of a sealed bid, ASHA will date and time stamp the bid and place the respective bid in a file of bids until opening. At the time and place specified in the invitation to bid, all sealed bids will be opened in public. The opening of bids, however, will commence within five minutes of the closing time established for receiving bids. A bidder will not be permitted to alter a bid after the scheduled bid opening time. A tentative award or final award will not be made at the time of the bid opening.

(b) Revised bids may be submitted. However, revised bids must be received by ASHA at least 48 hours prior to the date and time set for the receipt of bids. Such revised bids shall be delivered in a sealed container. Additionally, if the modification or revision is not explicit and if in any sense it is subject to misinterpretation, the revised as well as the original bid are subject to rejection.

(c) Sealed bids may be withdrawn on written or telegraphic request dispatched by the bidder in time for delivery in the normal course of business to the time fixed for opening; provided, that written confirmation of any telegraphic withdrawal over the signature of the bidder is placed in the mail and postmarked prior to the time set for bid opening. Any bid guaranty of any bidder withdrawing its bid in accordance with the foregoing conditions will be promptly returned. (Eff. . / . / . . , Reg. . .)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(9)
AS 18.55.420

3 AAC 95.060. LATE BIDS. It is the responsibility of the bidder to insure that his bid is in the proper office of ASHA prior to the closing time established for receiving bids. Bids received after the scheduled closing time are late bids. Late bids will be returned, unopened, to the bidder. (Eff. . / . / . . , Reg. . .)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.070. REJECTION OF BIDS. ASHA will, in its discretion, reject a bid:

- (1) when a bidder has failed to comply with the invitation requirements;
- (2) when a bidder has failed to perform on a previous contract with ASHA;
- (3) when a bidder qualifies or changes the terms and conditions of the invitation to bid in such a manner that the bid is not responsive to the purpose sought by ASHA in issuing an invitation to bid;
- (4) when the bid contains faulty specifications or insufficient information that, in the opinion of ASHA, makes the bid non-responsive to the invitation to bid;
- (5) when the bid is considered late;
- (6) when the lowest responsible bid received is in excess of funds available for construction;
- (7) when the bid is not signed;

(8) when the bidder has unpaid taxes due to the state or the U.S. Government;

(9) when there is a conflict of interest with the bidder and a board member or employee of ASHA; or

(10) when ASHA determines that the bid is not in the best interest of ASHA. (Eff. 7/1/76, Reg. 51)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.080. CRITERIA FOR AWARDS. An award of contract will be made to the lowest responsible bidder taking into consideration:

- (1) conformity with specifications;
- (2) terms for performance of the construction;
- (3) compliance with conditions imposed in the invitation to bid;
- (4) past performance of the bidder in performing similar projects for ASHA or others during the preceding five years;
- (5) the price offered;
- (6) the reputation for responsibility of the bidder;
- (7) the academic or professional credentials of the bidder;
- (8) in addition to the above criteria, the bid on a "turnkey" or "design-construct" development shall also be considered on the following basis:
 - (A) the location of the site;
 - (B) the price of the site and ASHA's ability to finance, purchase or lease the project;
 - (C) the design of the construction;
 - (D) the price of the buildings or units;

- (E) the total price of the total project;
- (F) the aesthetics of the projects;
- (G) the practicality of the project.
- (Eff. 1/1/76, Reg. 5.)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.090. ALASKA BIDDER PREFERENCE. A bid will be awarded to an Alaska bidder if the bid is not more than five percent higher than the lowest non-resident bid. An Alaska bidder means a bidder who

- (1) holds a current Alaska business license;
- (2) submits a bid under the name appearing on the current Alaskan business license;
- (3) if a corporation, is registered to do business in the State of Alaska; and
- (4) has maintained a place of business in the state for a period of six months immediately preceding the date of the bid. (Eff. 1/1/76, Reg. 5.)

Authority: AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.460

3 AAC 95.100. TIED BIDS. If two or more bidders are tied, each of whom fully meets the bid conditions and the criteria established in Secs. 40 and 80 of this chapter, an award will be made as provided in this section. Tied bids involving Alaskan firms with non-Alaskan firms, after taking into consideration the five percent Alaska bidder preference, will be made first to the Alaska bidder. If a tie should still remain, the tie will be dissolved by a flip of a coin by the Executive Director of ASHA in the presence of the tied bidders or their designated agents or representatives. (Eff. 1/1/76, Reg. 5.)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.110. TENTATIVE AND FINAL AWARDS. (a) A tentative award will be made by ASHA within 20 days after opening the bids. Notice of the tentative award will be forwarded to each bidder by certified mail, return receipt requested, on the date the tentative award is made.

(b) If no bidder files a petition for a hearing within the appropriate time as set forth in Sec. 270 of this chapter, the award will become final. If a petition is filed within the appropriate time, but an aggrieved bidder does not appear and participate in the hearing, the petition shall not be considered and the tentative award will become final. If an aggrieved bidder fails to file a notice of appeal to the superior court from the decision of the hearing officer under Sec. 270 of this chapter within the appropriate time, the tentative award will become final. (Eff. 7/1/76, Reg. 5.1)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(5)
AS 18.55.100(a)(9)
AS 18.55.420

3 AAC 95.120. CONTRACT. (a) After the tentative award is made final, ASHA and the successful bidder will enter into a contract within 15 calendar days.

(b) Upon the failure or refusal of the successful bidder to enter into a contract with ASHA that complies with the requirements of the invitation to bid, ASHA will, in its discretion, cancel the award. ASHA will then:

(1) make the award to the next lowest responsible bidder if the next lowest bidder does not have any, direct or indirect, financial relationship with the original lowest bidder;

(2) reject all bids; or

(3) submit a new invitation to bid.

(Eff. 7/1/76, Reg. 5.1)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(5)
AS 18.55.100(a)(9)
AS 18.55.420

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

November 8, 1976

Dear Member of the Regulation Review Committee:

The Department of Commerce has adopted the regulations discussed below. The regulations are summarized in the most general terms, with only a few salient points mentioned. Following the summary of each article, regulations which might be out of conformity with legislative intent are described in greater particularity with reference to the statute(s) supposedly being interpreted or implemented. Notice of proposed adoption of these regulations was published in newspapers in Anchorage, Fairbanks, and Juneau. Public hearings on these regulations were held in Anchorage on March 17, 1976, Fairbanks on February 26, 1976, and Juneau on March 2, 1976.

3AAC 95.130 - 3 AAC 95.260 related to ASHA's procedures in the purchase of supplies, materials, equipment, contractual services, and leases of space. Salient points of these regulations are the following:

*When the value of a purchase exceeds 300 dollars, competitive bids are required to be solicited. (3AAC 95.130)

*De-centralized purchasing is authorized. (3AAC 95.140)

*Competitive bidding may be dispensed with in an emergency (3AAC 95.150)

*When the value of a purchase is between \$300 and \$2,500, ASHA is required to solicit three bids by telephone. (3AAC 95.170)

*When the value of a purchase exceeds \$2,500, sealed bids are required to be solicited. (3AAC 95.180)

*Late bids will not be considered (3AAC 95.200)

*Contracts will be awarded to the lowest responsible bidder. (3AAC 95.200(a)). Characteristics of lowest responsible bidder are defined to include factors other than having submitted the lowest bid. (3AAC 95.220(b)).

*Awards made to successful bidders are on a tentative basis, and become final on failure of other bidders to overturn the award. (3AAC 95.250)

*Administrative appeal is afforded aggrieved bidders (3AAC 95.270)

*The decision of the hearing officer is the final level of administrative review, i.e. exhausts administrative remedies (3AAC 95.270)

*Aggrieved bidder must post a \$750 bond to get a hearing and if bidder loses, that money will be spent to pay costs of hearing (3AAC 95.280)

One might argue that 3AAC 95.160, along with sections in other chapters of Title 3 which embody a similar approach (3AAC 96.30, 3AAC 96.90, 3AAC 97.70, 3AAC 97.190, 3AAC 97.040(c)(3), 3AAC 97.050(c)(3), 3AAC 95.030, 3AAC 96.040, (c)(3), 3AAC 96.050(c)(3), 3AAC 96.100(c)(3), 3AAC 96.110(c)(3), 3AAC 97.160(c)(3), and 3AAC 97.170(c)(3)), might be out of conformity with the legislative intent of AS 18.55.080, which reads as follows:

MEMBERS OR EMPLOYEES PROHIBITED FROM ACQUIRING INTEREST IN PROJECTS. No member or employee of the authority shall acquire an interest, direct or indirect, in a housing or public project, or in property or a contract for materials or services included or planned to be included in a project. If a member or employee owns or controls an interest, he shall immediately disclose the interest in writing to the authority. Failure to make disclosure constitutes disclosure in office.

The regulations cited above would require persons who are awarded ASHA contracts, or are retained as real estate appraisers or realtors by ASHA, or in certain instances even bid on ASHA contracts, to declare in an affidavit whether or not a board member or employee of ASHA has a financial, business, or familial interest in or with the bidder, appraiser, or realtor.

AS 18.55.080 provides that an ASHA board member or employee must immediately disclose any interest he might have in a contract for materials or services. Was this the sole method the legislature envisioned for implementing its intent that there be no conflicts of interest between ASHA and its suppliers? Or does the intent of this section encompass requiring suppliers to execute such affidavits?

Further, 3AAC 95.230, providing for a preference for Alaskan bidders, might be out of conformity with the legislative intent of AS 18.55.460, which reads as follows:

PREFERENCE FOR STATE PROFESSIONAL AND CONTRACTOR'S SERVICES. In planning, designing, and constructing projects under secs. 300-470 of this chapter, the authority shall use Alaskan professional and contractor services as far as practicable and shall encourage the use of local building materials.

3AAC 95.230 provides that a bid will be awarded to an Alaskan bidder if the bid is not more than five per cent more than the lowest non-Alaskan bid. This regulation defines an Alaska bidder as one who, among other things, has maintained a place of business in the state for a period of six months immediately preceding the bid. Is the provision for an award to an Alaskan whose bid is five percent higher a correct implementation of the intent of the legislature? What about the regulation's definition of who qualifies as an Alaskan under this regulation?

TITLE 3. COMMERCE

PART 9. ALASKA STATE HOUSING AUTHORITY

CHAPTER 95. PURCHASING AND NEW
CONSTRUCTION BIDDING
PROCEDURE

ARTICLE 2. PURCHASING

Section

- 130. Competitive Bids
- 140. Purchasing Centralized at ASHA
- 150. Emergency Purchases
- 160. Conflict of Interest
- 170. Purchases Greater than \$300
- 180. Purchases Greater than \$2,500
- 190. Receipt of Bids
- 200. Late Bids
- 210. Rejection of Bids
- 220. Selection of Successful Bidder
- 230. Alaska Bidder Preference
- 240. Tied Bids
- 250. Tentative and Final Awards
- 260. Contract

3 AAC 95.130. COMPETITIVE BIDS. (a) Competitive bids will be solicited by ASHA in the purchase of all supplies, materials, equipment, contractual services and leases of space when the dollar value exceeds \$300, unless:

- (1) there is no competition;
- (2) rates are fixed by law or ordinance; or
- (3) it is for professional services such as consultant engineers, architects, attorneys or appraisers.

(b) The Executive Director of ASHA shall have the discretion and make the decision as to the form, terms and conditions, and the extent of solicitation on any bid, provided that this discretion and decision is consistent with Secs. 130 - 260 of this chapter.

(c) The provisions of this chapter ~~shall~~^{will} not be followed if ASHA can purchase, in the opinion of the Executive Director of ASHA, the goods or services at a fair and competitive price through either a United States Department of Housing and Urban

Development Consolidated Supply program/contract or a State of Alaska Consolidated Supply program/contract. (Eff. 7/15/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(9)
AS 18.55.420

3 AAC 95.140. PURCHASING CENTRALIZED AT ASHA. (a) Purchasing under this chapter will be centralized and conducted from the main office of ASHA in Anchorage, Alaska, except as provided in (b) of this section.

(b) The Executive Director of ASHA will, in his discretion, delegate, in writing, to an employee not located at the main office of ASHA, the right to solicit and purchase specified supplies, materials, equipment and services. These goods or services will be solicited and purchased by the employee if, in the opinion of the Executive Director of ASHA, they can be more economically or efficiently purchased through the employee. An employee authorized to solicit and purchase goods and supplies will obtain competitive bids and then award the purchase to the lowest responsible bidder according to the procedures in this chapter. (Eff. 7/15/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.150. EMERGENCY PURCHASES. Under specific written approval from the Executive Director of ASHA, goods and services may be purchased or contracted without following the competitive bid procedures of this chapter, provided the purchase or contract is an emergency. An emergency shall be a situation where life, health and property are threatened with immediate injury, destruction, peril or substantial inconvenience. Upon making an emergency purchase, the facts constituting the emergency and the purchase will be set forth in writing. (Eff. 7/15/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.160. CONFLICT OF INTEREST. (a) On the purchase or contract for goods or services in an amount between \$300 and \$2,500, the successful bidder shall be required to execute an affidavit indicating whether or not a board member or employee of ASHA has a financial, business or familial interest in or with the bidder or the proceeds of the contract.

(b) On the purchase or contract for goods or services in an amount greater than \$2,500, the bidder in submitting his bid shall declare in an affidavit whether or not a board member or employee of ASHA has a financial, business or familial interest in or with the bidder.

(c) The successful bidder shall also execute an affidavit indicating whether or not a board member or employee of ASHA has or will have a financial, business or familial interest, direct or indirect, in the purchase or contract or the proceeds of the contract. (Eff. 7/23/76, Reg. 5.?)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.170. PURCHASES GREATER THAN \$300. (a) Telephonic bids will be solicited if the purchase, including construction, is estimated to be between \$300 and \$2,500. The telephonic solicitation will be directed to at least three suppliers or sellers of the services or goods. The solicitation will be directed to those suppliers, sellers or purveyors located within the area where the services or goods will be used. A written record shall be maintained by ASHA of all suppliers, sellers and purveyors that are telephonically contacted. The record shall indicate, by illustration and not limitation,:

- (1) the name of the supplier, seller or purveyor;
- (2) the name of the person to whom ASHA spoke with;
- (3) the date of the contract;
- (4) the date the bid must be received by ASHA;
- (5) the amount of the bid, if given by telephonic conversation; and
- (6) a summary of the telephonic conversation.

(b) Other than the specific conditions or terms set out in this section, a bid and award made under this section shall be governed by the terms and conditions of Secs. 130 - 260, 270 - 320 of this chapter, except that a bidder may submit its bid by telephonic conversation. (Eff. 7/23/76, Reg. 5.?)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.180. PURCHASES GREATER THAN \$2,500. (a) Sealed bids will be solicited if the purchase is estimated to exceed \$2,500. Bids will be solicited by publication in newspapers of general circulation in the state and by posting of the notice of solicitation in a prominent place.

(b) A solicitation for a bid will be published in a newspaper at least once a week for two consecutive weeks and will include publication in a newspaper that publishes in Anchorage, Alaska. Notice will be posted, at least, in the main office of ASHA, Anchorage, Alaska, or in a public area in the municipality where the goods or services are to be solicited.

(c) Bids will, in ASHA's discretion, also be solicited by publication in trade journals or by mailing of the invitation to bid to prospective bidders. Bid lists of general contractors, specialty contractors, suppliers, etc., shall be maintained by ASHA and general contractors, specialty contractors, suppliers, or others, are encouraged to make application to have their names included. The bid list shall periodically be updated to include new names and remove the names of contractors, specialty contractors, suppliers, or others, who have ignored acknowledgement of the invitations to bid on at least two successive occasions. Solicitations will be made for at least 20 days before the last day upon which a bid may be accepted by ASHA.

(d) The invitation to bid will contain:

- (1) the date of the invitation to bid;
- (2) the date that the contractual services, or items purchased are to be performed or delivered;
- (3) the destination point and the method of transportation;
- (4) the quantity of items to be purchased and the unit of measure of the items to be purchased;
- (5) the description of the type and quality of the item to be purchased, including standard specifications where it is feasible;
- (6) if additional bids are requested for alternative quantities or qualities of the same item, the solicitation will contain the word "alternate" and the specific alternative bids that are requested;
- (7) the time and place of the opening of the bids;

(8) identification of location where the necessary bid forms or additional information may be obtained; and

(9) any other information or documentation, including a bid bond, as may be required by ASHA for that particular bid.

(e) A bid submitted to ASHA, pursuant to an invitation to bid, must, in addition to any other requirements imposed on that particular bid, contain:

(1) the name of the bidder;

(2) if the bidder is a corporation, the name of the state in which the corporation is incorporated;

(3) a statement as to whether the corporation is registered as a corporation in the state;

(4) a statement as to whether the corporation has paid all fees, taxes and other monetary requirements due to the state;

(5) if the bidder is not a corporation, the exact identity of its business form;

(6) if the bidder is a partnership, the identity of all partners with addresses;

(7) a brief, but adequate statement as to the bidder's proposal for securing a requisite work force and supplies for the construction and those areas of construction in which the bidder intends to use subcontractors and sub-contracts; and

(8) a clear and unequivocal statement of the bid in specific response to the invitation to bid and any qualifying or modifying provisions must be explicitly set forth.

(f) In the discretion of ASHA, the bid shall also contain:

(1) a credit statement of the partnership, or in the case of a corporation, a credit statement of the corporation;

(2) in the event that the bidder is neither a corporation nor a partnership, the credit statement of the bidder. (Eff. 7/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(9)
AS 18.55.420

3 AAC 95.190. RECEIPT OF BIDS. (a) All sealed bids must be received by ASHA on or before the date and time set forth in the invitation to bid. Upon receipt of each sealed bid, ASHA will date and time stamp the bid and place the respective bid in a file of bids until opening. At the time and place specified in the invitation to bid, all sealed bids will be opened in public. The opening of bids, however, shall commence within five minutes of the closing time established for receiving bids. A bidder will not be permitted to alter a bid after the scheduled bid opening time. A tentative award or final award will not be made at the time of the bid opening.

(b) Revised bids may be submitted. However, revised bids must be received by ASHA at least 48 hours prior to the date and time set for the receipt of bids. Such revised bids shall be delivered in a sealed container. Additionally, if the modification or revision is not explicit and if in any sense it is subject to misinterpretation, the revised as well as the original bid are subject to rejection.

(c) Sealed bids may be withdrawn on written or telegraphic request dispatched by the bidder in time for delivery in the normal course of business to the time fixed for opening; provided, that written confirmation of any telegraphic withdrawal over the signature of the bidder is placed in the mail and postmarked prior to the time set for bid opening. Any bid guaranty of any bidder withdrawing its bid in accordance with the foregoing conditions will be promptly returned. (Eff. 7/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

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3 AAC 95.200

3 AAC 95.210

3 AAC 95.200. LATE BIDS. It is the responsibility of the bidder to insure that his bid is in the proper office of ASHA prior to the closing time established for receiving bids. Bids received after the scheduled closing time are late bids. Late bids will be returned, unopened, to the bidder. (Eff. 7/13/76, Reg. 59)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.210. REJECTION OF BIDS. ASHA will, in its discretion, reject bids:

(1) when a bidder has failed to comply with the invitation requirements;

(2) when a bidder has failed to perform on a previous contract with ASHA;

(3) when a bidder qualifies or changes the terms and conditions of the invitation to bid in such a manner that it is not responsive to the purpose sought by ASHA in issuing an invitation to bid;

(4) when the bid contains faulty specifications or insufficient information that, in the opinion of ASHA, makes the bid non-responsive to the invitation to bid;

(5) when the bid is late;

(6) when the lowest responsible bid received is in excess of funds available;

(7) when the bid is not signed;

(8) when the bidder has unpaid taxes due to the state or the U.S. Government;

(9) when there is a conflict of interest with the bidder and a board member or employee of ASHA; or

(10) when ASHA determines that the bid is not in the best interest of ASHA. (Eff. 7/13/76, Reg. 59)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

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3 AAC 95.220

3 AAC 95.230

3 AAC 95.220. SELECTION OF SUCCESSFUL BIDDER. (a) Purchases requiring competitive bids under Secs. 130 - 260 of this chapter will be awarded, if at all, to the lowest responsible bidder, taking into consideration:

- (1) conformity with the specifications;
- (2) terms of delivery;
- (3) compliance with conditions imposed in the invitation to bid;
- (4) responsibility of the bidder;
- (5) price offered; and
- (6) compliance with all requirements specified in Secs. 130 - 260 of this chapter.

(b) The lowest responsible bidder is the bidder who submits the lowest price and who has the financial ability, integrity, trustworthiness, skill, judgment, experience, and the necessary facilities and equipment to satisfactorily complete the contract. (Eff. 7/1/76, Reg. 59)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(9)
AS 18.55.420

3 AAC 95.230. ALASKA BIDDER PREFERENCE. A bid will be awarded to an Alaska bidder if the bid is not more than five percent higher than the lowest non-resident bid. An Alaska bidder is defined as one who:

- (1) holds a current Alaska business license;
- (2) submits a bid under the name appearing on the current Alaskan business license;
- (3) if a corporation, is registered to do business in the state; and
- (4) has maintained a place of business in the state for a period of six months immediately preceding the date of the bid. (Eff. 7/1/76, Reg. 59)

Authority: AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.460

3 AAC 95.240. TIED BIDS. If two or more bidders are tied, each of whom fully meets the bid conditions and the criteria established in Sec. 220 of this chapter, an award will be made as provided in this section. Tied bids involving Alaska resident bidders with non-resident bidders, after taking into consideration the five percent Alaska bidder preference, will be made first to the Alaska bidder. If a tie should still remain, the tie will be dissolved by a flip of a coin by the Executive Director of ASHA in the presence of the tied bidders or their designated agents or representatives. (Eff. 1/1/76, Reg. 1/1/76)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 95.250. TENTATIVE AND FINAL AWARDS. (a) A tentative award will be made by ASHA within ten days after opening the bids. Notice of the tentative award will be forwarded to each bidder by certified mail, return receipt requested, on the date the tentative award is made.

(b) If no bidder files a petition for a hearing within the appropriate time as set out in Sec. 270 of this chapter, the award shall become final. If a petition is filed within the appropriate time, but an aggrieved bidder does not appear and participate in the hearing, the petition shall not be considered and the tentative award will become final. If an aggrieved bidder fails to file a notice of appeal to the superior court from the decision of the hearing officer under Sec. 290 of this chapter within the appropriate time, the tentative award will become final. (Eff. 1/1/76, Reg. 1/1/76)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(5)
AS 18.55.100(a)(9)
AS 18.55.420

3 AAC 95.260. CONTRACT. (a) After the tentative award is made final, ASHA and the successful bidder will enter into a contract within ten days.

(b) Upon the failure or refusal of the successful bidder to enter into a contract with ASHA that complies with the requirements of the invitation to bid, ASHA will, in its discretion, cancel the award. ASHA will then:

(1) make the award to the next lowest responsible bidder that does not have any, direct or indirect, financial relationship with the original lowest bidder;

(2) reject all bids; or

(3) submit a new invitation to bid.

(Eff. 1/1/76, Reg. 100)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(5)
AS 18.55.100(a)(9)
AS 18.55.420

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1977

Dear Member of the Regulation Review Committee:

The Board of Pharmacy has adopted regulations relating to the compounding and dispensing of drugs in hospital pharmacies and drug rooms. The salient points of these regulations will be summarized below and possible deviations from legislative intent noted and discussed.

Summary

12 AAC 52.100 - 12 AAC 52.140 develop a procedure whereby "non-controlled legend drugs," meaning drugs bearing on the label the legend "TO BE DISPENSED ONLY ON OR BY THE PRESCRIPTION OF A PHYSICIAN," may be prepared and packaged in advance by the pharmacist, and then dispensed by emergency room personnel on the hospital's staff on the written or telephonic instructions of a physician.

Comment

The authority for these regulations is apparently AS 08.80.390(a), which reads as follows:

"A hospital, clinic, nursing home, infirmary or related facility which dispenses drugs for outpatient treatment shall have a licensed pharmacist in charge of the dispensary, except that prescriptions may be compounded and dispensed by or under the supervision of the prescribing physician." (Underlining supplied)

The aforementioned is apparently an exception to the general rule established by AS 08.80.340, which reads:

"No person except a licensed physician or a licensed intern pharmacist under the direct supervision of a licensed pharmacist may compound and dispense the prescription of a physician. However, this section does not limit the authority of a licensed medical doctor to compound and dispense medicinal preparations."

TO: Regulation Review Committee
January 19, 1977
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In short, the Board of Pharmacy is interpreting the language of AS 08.80.390(a), "under the supervision of the prescribing physician," to mean that written or telephonic instructions are sufficient to constitute supervision, and that the physician need not be physically present, at least where the drugs have been compounded and packaged beforehand by a licensed pharmacist. Is this what the Legislature intended?

ARCC

Attachment "H"

Register 60, Jan, 1976 ~~Continued~~ 12 AAC 52.100
~~Economic Development~~ 12 AAC 52.120

ARTICLE 12. PROFESSIONAL AND VOCATIONAL REGULATIONS

CHAPTER 52. BOARD OF PHARMACY

ARTICLE 2. HOSPITAL PHARMACIES

Section

- 100. Preparation of list of non-controlled legend drugs.
- 110. Prepackaging non-controlled legend drugs.
- 120. Labeling prepackaged non-controlled legend drugs.
- 130. Supervision of prescribing physician; procedure for delivery to patient of prepackaged, non-controlled legend drugs.
- 140. Pharmacist in charge of hospital pharmacy, or hospital drug room.

12 AAC 52.100. PREPARATION OF LIST OF NON-CONTROLLED LEGEND DRUGS. The licensed pharmacist or licensed consultant pharmacist in charge of the hospital pharmacy or drug room, in consultation with the hospital's medical staff, shall prepare a list of non-controlled legend drugs which may be delivered to our patients receiving emergency treatment when a licensed pharmacist is not on duty and the prescribing physician is not present. (Eff. 12/17/76, Reg. 63)

Authority: AS 08.80.030 (4) (8) and
AS 08.80.390

12 AAC 52.110. PREPACKAGING NON-CONTROLLED LEGEND DRUGS. Licensed pharmacists may prepackage non-controlled legend drugs identified on the list prepared under sec. 100 of this chapter. There shall be no more than six doses of the drug in each prepackaged container. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030 (4) (8) and
AS 08.80.390

12 AAC 52.120. LABELING PREPACKAGED NON-CONTROLLED LEGEND DRUGS. (a) Drugs prepackaged under sec. 110 of this chapter shall be labeled by the pharmacist at the time of packaging.

(b) The prescription label or unit dose package label must contain:

- (1) a blank space for the name of the patient;
- (2) a blank space for the name of the prescribing physician;
- (3) the name of the drug;
- (4) the strength of the drug;
- (5) the expiration date of the drug, if applicable;
- (6) the lot number of the drug;
- (7) the date of prepackaging;
- (8) a blank space for the date of delivery to patient;
- (9) a prescription number;
- (10) initials of the pharmacist who prepackaged the drug;

Register 60, Jan 1977 ~~Continued~~ 12 AAC 52.120
~~Economic Development~~ 12 AAC 52.140

PROFESSIONAL AND VOCATIONAL REGULATIONS

- (11) the name and address of the hospital;
- (12) directions to the patient or, if not predetermined, a blank space for special instructions of the prescribing physician; and
- (13) a blank space for the name or initials of the person delivering the drug. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030^{and}(4), (8);
AS 08.80.390

12 AAC 52.130. SUPERVISION OF PRESCRIBING PHYSICIAN; PROCEDURE FOR THE DELIVERY TO PATIENT OF PREPACKAGED, NON-CONTROLLED LEGEND DRUGS. (a) If a licensed pharmacist is not on duty, emergency room personnel may deliver non-controlled legend drugs, prepackaged in accordance with sec. 100-120 of this chapter, to a person receiving emergency out-patient treatment on receiving an order from a licensed physician. The physician's order may be by written or telephonic communication. No more than one prepackaged container of the same drug may be delivered to a person receiving emergency out-patient treatment, unless more than one package is required to sustain the patient until the first available pharmacist is on duty in the community.

(b) ~~When~~ When delivering drugs under this section, the person ~~so doing~~ shall

(1) complete the label affixed to the container with all required information except that the name and strength of the drug may be deleted on order of the prescribing physician; and

(2) prepare a record of delivery which shall include all of the information listed in sec. 120 of this chapter.

(c) The record prepared under (b) ^{of this section} (2) shall be given to the pharmacist in charge of the hospital pharmacy at the beginning of the pharmacist's next duty day.

(d) ~~Nothing in this section shall be construed so as to~~ ^{This section does not} authorize other than emergency room personnel on the hospital's staff to deliver non-controlled legend drugs to out-patients receiving emergency treatment.

(e) ~~Nothing in this section shall be construed so as to~~ ^{This section does not} authorize the delivering of controlled legend drugs by any person not authorized by law to dispense controlled legend drugs. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030^{and}(4), (8);
AS 08.80.390

12 AAC 52.140. PHARMACIST IN CHARGE OF HOSPITAL PHARMACY.

(a) The pharmacist in charge of the hospital pharmacy shall within a reasonable time record all drugs delivered to out-

PROFESSIONAL AND VOCATIONAL REGULATIONS

patients under sec. 130 of this chapter in the pharmacy record book maintained for the recording of all medication delivered from the emergency room under this chapter.

(b) The entry ~~so~~ ^{under (a) of this section must} made, ~~shall~~ include logging the prescription number and all information required by the record of delivery prepared under sec. 130 (b) (2) of this chapter and ~~shall~~ ^{must} be shown as a completed prescription. HND

(c) The pharmacist in charge of the hospital pharmacy shall determine what constitutes an adequate supply of pre-packaged, non-controlled legend drugs for use under the provisions of this article. (Eff. 12/17/76, Reg. 60)

Authority: AS 08.80.030 (4) ^{and} (8)
AS 08.80.390

ARTICLE 3. GENERAL PROVISIONS

12 AAC 52.900. DEFINITIONS. In this chapter unless the context otherwise requires

(3) "completed prescription" means the prescribed drug has been delivered to the patient, on a physician's order, that all blank spaces on the label have been filled in, and a record of ~~so~~ ^{doing} has been given to the pharmacist so he may file the prescription as required by law;

(4) "deliver to patient" means completing the blank spaces on the label of the prepackaged drug and actually handing the package to the patient, or the patient's representative;

(5) "dose" means the amount of medication that is to be given at one specific time, as determined by the physician;

(6) "emergency room personnel" means those employees of the hospital who are designated by the administrator of the hospital, or by the personnel committee of the hospital, to be employed in the emergency room of the hospital for the purpose of administering emergency treatment to patients;

(7) "non-controlled legend drug" means any drug that bears ~~the legend on the label~~ ^(the legend on the label) "TO BE DISPENSED ONLY ON OR BY THE PRESCRIPTION OF A PHYSICIAN", but not drugs that have been classified as CONTROLLED SUBSTANCES under the Federal Controlled Substances Act of 1970 ^(21 USC § 801 et seq.);

(8) "pharmacy record book" means a book kept for the sole purpose of logging all information pertinent to the delivery of non-controlled legend drugs under sec. 100-140 of this chapter;

(9) "physician's order" means an order given to the emergency room personnel by a physician licensed to practice in Alaska or recognized by the hospital as a physician who may practice medicine in the hospital;

(10) "prepackage" means placing in a container that meets federal and state qualifications as a legal container, not more than six doses of a non-controlled legend drug and affixing a label to the container that includes all of the in-

Publisher:
Paragraphs
(1) and (2)
remain
unchanged.

HND

PROFESSIONAL AND VOCATIONAL REGULATIONS

formation required under section 120 of this chapter;
(11) "present" means physically present in the
emergency room of the hospital with the patient. (Eff.
12/17/76, Reg. 60)

Authority: AS 08.80.030 (4)
AS 08.80.390



Education

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1977

Dear Member of the Regulation Review Committee:

The Department of Education has amended or adopted the regulations discussed below. The salient points of the amendments and newly adopted sections will be discussed, and possible deviations from Legislative intent commented upon in the light of statutes being interpreted or implemented.

Summary

4 AAC 06.090 was amended to incorporate by reference the latest version of "A Manual for Alaska School Boards." Notice of adoption of this regulation appeared in the 'Anchorage Daily Times', 'Anchorage Daily News', 'Fairbanks Daily News-Miner', 'Kenai Peninsula', 'Cheechako News', 'Kodiak Mirror', 'Sitka Sentinel', and 'Southeast Alaska Empire'.

Summary

4 AAC 06.130 was adopted to carry out the provisions of ch. 188 SLA 1976, which requires the Board of Education to establish by regulation guidelines for a health education program. Accordingly, a document entitled "Framework for Health Education in Alaskan Schools" has been produced, and is incorporated by reference under this regulation. Notice of adoption of this regulation appeared in the 'Ketchikan Daily News', 'Nome Nugget', 'Sitka Sentinel', and 'Southeast Alaska Empire'.

Summary

4 AAC 34.010 - 4 AAC 34.090 is a new chapter in title 34, relating to bilingual-bicultural education. It implements section 45, ch. 124, SLA 1975. These sections fairly carry out the directive of AS 14.30.410(b), which requires the department to adopt regulations for the determination of entitlement and the distribution of bilingual-bicultural funds to city and borough school districts. 4 AAC 34.030 enumerates, in accordance with AS 14.30.400, those elements

which must appear in the plan submitted by the school district; also, 4 AAC 34.040 sets out priorities for determination of how funds shall be awarded. The notice of adoption of this regulation appeared in the 'Fairbanks Daily News-Miner', 'Ketchikan Daily News', and 'Tundra Times', and public hearings were held in Bethel on May 24, 1976, Fairbanks on May 25, 1976, Ketchikan on May 27, 1976, and Barrow on May 31, 1976.

Comment

The provision of 4 AAC 34.020(b) that grant awards may not be made for a period longer than one year would appear to be with in the grant of authority contained in AS 14.30.410(b).

Register 60, ^{January} 1977

EDUCATION

4 AAC 06.090

4 AAC 06.090 is amended to read:

4 AAC 06.090. A MANUAL FOR ALASKA SCHOOL BOARDS. "A Manual for Alaska School Boards", dated July, 1976 is adopted by reference as the official guide for the boards of all school districts in the state. (Eff. 5/63, Reg. 10; am 5/30/71, Reg. 38; am 10/4/73, Reg. 47; am 12/30/76, Register 60)

Authority: AS 14.07.020(1)

EDITOR'S NOTE: This manual may be obtained by writing the Commissioner, Department of Education, Pouch F, Juneau, Alaska 99811.

Register ^{Jan. 7} 1976

EDUCATION

4 AAC 06.130

4 AAC 06.130. FRAMEWORK FOR HEALTH EDUCATION. The "Framework for Health Education in Alaskan Schools", dated May, 1976 is adopted by reference as the official guide for health education in grades K through 12 of the schools of Alaska. (Eff. ¹² ~~12~~ ^{3/16} Register ~~60~~)

Authority: 14.07.020(1) ^{and} (4)
14.30.360(b)

EDITOR'S NOTE: This manual may be obtained by writing the Commissioner Department of Education, Pouch F, Juneau, Alaska 99811

Register 60, Jan 1976⁷

EDUCATION

4 AAC 34.010

4 AAC 34.030

CHAPTER 34. BILINGUAL-BICULTURAL EDUCATION.

Section

- 10. Purpose
- 20. Scope of state assisted programs
- 30. Grant application
- 40. Entitlement
- 50. Definitions

4 AAC 34.010 PURPOSE. The purpose of this chapter is to encourage and assist school districts, in cooperation with local communities, to meet the special needs of children of limited English-speaking ability. The department believes that establishment of bilingual programs of education will tend to bring about an end to the depreciation of local culture elements and values by the schools, stimulate better communication between the community and the schools in solving educational problems, effect a positive student self-image, provide more effective use of both English and the student's language, foster more successful secondary and higher education careers, ease the obtaining of employment, allow genuine options for all students in choosing a way of life, and facilitate more harmonious relationships between the student's culture and the mainstream of society. (Eff. 12/29/76, Register 60)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.020. SCOPE OF STATE ASSISTED PROGRAMS. (a) Grants of state funds will be made to school districts to assist in the establishment, expansion, improvement, or maintenance of bilingual-bicultural education programs.

(b) Grant awards will be made for a period of not more than one fiscal year. Grantees seeking to receive assistance for additional one-year periods must submit new applications for each year. (Eff. 12/29/76, Register 60)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.030. GRANT APPLICATION. The commissioner may award grants to school districts upon applications submitted to him by their governing bodies. A district's application must contain the following:

(1) an assessment of the bilingual-bicultural education needs of students in the district and a description of the methods utilized for determining the students' proficiency in English and native languages; and

(2) a bilingual-bicultural education program plan which assures that:

(A) the governing body has a statement of philosophy consistent with the bilingual-bicultural education philosophy expressed in sec. 10 of this chapter;

(B) to the extent possible, all sources of funds available for bilingual-bicultural education will be coordinated;

(C) there are comprehensive program objectives in measurable terms for each component of a program;

(D) there are plans for the procurement or development of bilingual-bicultural education materials;

(E) qualified bilingual-bicultural education instructors, coordinators, and administrators will be utilized;

(F) there is a program staff training design based upon training priorities for bilingual-bicultural education program staff, including, but not limited to, pre-service and in-service training;

(G) there is a mechanism for parent and community involvement in the development, establishment, and evaluation of the program and for the dissemination of program information to parents and community;

(H) there is an evaluation design for determining student progress and program progress; and

(I) there is a budget consistent with program specifications and requirements. (Eff. 12/29/75 Register 60)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.040. GRANT ENTITLEMENT. The commissioner shall consider the following in making grants to school districts:

(1) his evaluation of the program plan submitted under sec. 30 of this chapter, ranked in the following program priority order:

(A) programs directed to monolingual speakers of a language other than English;

(B) programs directed to bilingual speakers whose proficiency in the language in which instruction is given is not sufficient for instructional purposes;

(2) numbers of students in each program priority;

(3) relevant cost factors in serving variable numbers of students in the same language program priority; and

(4) program costs related to the amount of special instruction required based on the needs of identified students. (Eff. 12/29/75 Register 60)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.090. DEFINITIONS. As used in this chapter and AS 14.30.400 and AS 14.30.410, unless the context otherwise requires;

(1) "commissioner" means the commissioner of education;

(2) "children of limited English speaking ability" means both children born in the United States and children not born in the United States who have difficulty performing ordinary classwork in English due to an interference with their English comprehension by a language other than English;

(3) "bilingual-bicultural education program" means an organized program of instruction in elementary or secondary education which is designed for children of limited English-speaking ability, uses English, the child's primary language, or both as a means of instruction, allows children to progress effectively through the educational system, and which may include elements of the culture inherent in the language;

(4) "department" means the department of education;

(5) "school district" means both city and borough school districts and regional educational attendance areas;

(6) "school which is attended by at least eight pupils" means either an elementary school or a secondary school with eight or more pupils in regular daily attendance. (Eff. 12/27/76 Register 60).

Authority: AS 14.07.060
AS 14.30.410

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1977

Dear Member of the Regulation Review Committee:

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consideration not only the price offered by the bidder, but also (1) the past performance of the bidder in performing similar projects for ASHA or others during the preceding five years, (2) the reputation for responsibility of the bidder, and (3) the academic or professional credentials of the bidder.

In other words, competitive bidding is required with regard to the award of construction contracts, but not required with regard to the selection of realtors and appraisers. There might be a question as to whether maintenance of this distinction properly implements legislative intent. The statutes include no requirements in relation to ASHA pertaining to competitive bidding. However, the regulations themselves do not provide any insight as to the rationale for maintaining this distinction, e.g., even though no competitive bidding is required in the selection of real estate agents and appraisers, the regulations state that criteria similar to that taken into consideration along with the bid price (see 3 AAC 95.080, supra) in the competitive bidding context shall be considered in selecting real estate agents and appraisers, i.e., factors relating to dependability and experience.

Summary

3 AAC 96.080 - 3 AAC 96.210 relates to and governs the acquisition of real property and improvements acquired by ASHA not under a U.S. Department of Housing and Urban Development assisted program. Notice of these regulations appeared in the 'Anchorage Daily Times', 'Fairbanks Daily News-Miner', and 'Southeast Alaska Empire', and hearings were held in Anchorage on March 17, 1976, Fairbanks on February 26, 1976, and Juneau on March 2, 1976. Salient points of these sections of the AAC are the following:

- * Requires that real property to be acquired by ASHA shall be appraised by at least 2 appraisers, and more if the appraisals differ by more than 20 percent or if more appraisals are deemed necessary by the executive director of ASHA (3 AAC 96.120).
- * Where acquisition of property would leave an owner with a parcel with little or no value when separated from the main parcel, ASHA shall acquire the whole property (3 AAC 96.140).
- * Reasonably just compensation defined as being not less than the appraised value of the property, uninfluenced by certain factors (3 AAC 96.150).
- * An owner must receive compensation before being required to vacate property being acquired by eminent domain (3 AAC 96.170).

TITLE 3. COMMERCE

PART 9. ALASKA STATE HOUSING AUTHORITY

CHAPTER 96. ACQUISITION OF REAL PROPERTY AND IMPROVEMENTS

ARTICLE 1. HUD ASSISTED.

Section

- 10. HUD-Assisted Acquisition of Real Property and Improvements
- 20. HUD Procedures and Regulations
- 30. Conflict of Interest
- 40. Selection of Appraisers
- 50. Selection of Real Estate Brokers
- 60. Appraisals of Real Property
- 70. Record of Transaction

3 AAC 96.010. HUD-ASSISTED ACQUISITION OF REAL PROPERTY AND IMPROVEMENTS. All real property and improvements that are acquired by ASHA through the assistance of the United States Department of Housing and Urban Development shall be acquired under Secs. 10 - 70 of this chapter. (Eff. 1/1/76, Reg. 1)

Authority: AS 18.55.100(a)(4)
 AS 18.55.240
 AS 18.55.420
 AS 18.55.440
 AS 18.55.560
 AS 34.60.010
 AS 34.60.120
 AS 34.60.130
 AS 34.60.140

3 AAC 96.020. HUD PROCEDURES AND REGULATIONS. ^(a) The broad parameters of the acquisition and purchase of real property and improvements shall be governed by Title III of the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", Public Law 91-646, approved January 2, 1971, 84 Stat. 1894; 42 U.S.C.A. §§4651-4655 (1973 ed.)

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COMMERCE

3 AAC 96.020

3 AAC 96.040

(b)
(ii) Secs. 10 - 70 and Secs. 220 - 250 of this chapter and the most recent and applicable HUD Handbook in conjunction with the most recent Code of Federal Register that sets forth and implements the provisions of Title III shall govern the specific procedures of the acquisition and purchase of real property. These provisions of federal law and regulations are incorporated by reference.

(Eff. 1/1/76, Reg. 1/1/76)

Authority: AS 18.55.100(a)(4)
AS 18.55.240
AS 18.55.420
AS 18.55.440
AS 18.55.560
AS 34.60.010
AS 34.60.120
AS 34.60.130
AS 34.60.140

3 AAC 96.030. CONFLICT OF INTEREST. A seller of real property under Secs. 10 - 70 of this chapter shall declare in an affidavit the extent of any involvement which a board member or employee of ASHA has or may have with the seller or the real property to be sold. (Eff. 1/1/76, Reg. 1/1/76)

Authority: AS 18.55.080
AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.500

3 AAC 96.040. SELECTION OF APPRAISERS. (a) The selection of appraisers utilized in acquiring real property need not be by competitive bidding.

(b) ASHA will make appropriate inquiries among users of appraisal services, including other public agencies, and will examine its own experience, to identify the best qualified appraiser for a particular assignment. The factors that will be considered in evaluating and selecting appraisers will be their dependability and experience. All appraisers shall have a State of Alaska business license.

(c) ASHA's files will contain a full record of all actions respecting each appraisal contract, including:

(1) a resolution by the ASHA board authorizing the award of the contract;

(2) a signed statement by the appraiser setting out qualifications, general appraisal experience, specific experience in appraising properties of the type involved, the courts in which he has testified as an expert witness and other information pertinent to his professional qualifications; and

(3) an affidavit by the appraiser indicating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the appraisal contract, the property involved or the proceeds of the contract, or has a financial, business or familial interest in or with the appraiser or its business. (Eff. . / . / .. , Reg. . .)

Authority: AS 18.55.100(a)(4)
AS 18.55.140
AS 18.55.240
AS 18.55.520
AS 34.60.120

3 AAC 96.050. SELECTION OF REAL ESTATE BROKERS. (a) If ASHA utilizes real estate brokers to acquire real property, the selection of the brokers need not be by competitive bidding.

(b) ASHA will make appropriate inquiries among users of real estate brokers, including other public agencies, and will examine its own experience, to identify the best qualified real estate broker for a particular assignment. The factors that will be considered in evaluating and selecting brokers will be their dependability and experience. A real estate broker selected by ASHA shall be licensed by the State of Alaska, and shall have a State of Alaska business license.

(c) ASHA's files will contain a full record of all actions respecting each real estate broker's contract, including:

(1) a resolution by the ASHA board authorizing the award of the contract;

(2) a signed statement by the real estate broker setting out qualifications, general real estate broker experience, specific experience in marketing properties of the type involved, the courts in which he has testified as an expert witness and other information pertinent to his professional qualifications; and

(3) an affidavit by the broker indicating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the broker contract, the property involved or the proceeds of the contract, or has a financial, business or familial interest in or with the broker or its business. (Eff. 7/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.140
AS 18.55.240
AS 18.55.520

3 AAC 96.060. APPRAISALS OF REAL PROPERTY. (a) A parcel of real property to be acquired shall be appraised by at least two professional appraisers.

(b) The appraisal shall be performed pursuant to guidelines, if any, as suggested by HUD in the most recent and applicable HUD Handbook. (Eff. 7/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.240
AS 18.55.520
AS 34.60.120
AS 34.60.140

3 AAC 96.070. RECORD OF TRANSACTION. (a) Transactions of all real estate acquisition will be made a part of a file or record.

(b) These files or records will be open to public inspection at all reasonable times and will be retained by ASHA for at least three years. (Eff. 7/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.520

TITLE 3. COMMERCE

PART 9. ALASKA STATE HOUSING AUTHORITY

CHAPTER 96. ACQUISITION OF REAL
PROPERTY AND IMPROVEMENTS

ARTICLE 2. NON-HUD ASSISTED.

Section

- 80. Non-HUD Assisted Acquisition of Real Property and Improvements
- 90. Conflict of Interest
- 100. Selection of Appraisers
- 110. Selection of Real Estate Brokers
- 120. Appraisals of Real Property
- 130. Acquisition of Improvements
- 140. Uneconomic Remnant
- 150. Acquisition by Negotiation
- 160. Acquisition by Eminent Domain
- 170. Surrender of Possession
- 180. Conveyance of Real Property
- 190. Cost of Conveyance
- 200. Relocation Assistance
- 210. Record of Transaction

3 AAC 96.080. NON-HUD ASSISTED ACQUISITION OF REAL PROPERTY AND IMPROVEMENTS. Real property and improvements acquired by ASHA not under a United States Department of Housing and Urban Development assisted program shall be acquired under Secs. 80 - 210 of this chapter. (Eff. 1/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.090. CONFLICT OF INTEREST. A seller of real property under Secs. 80 - 210 of this chapter shall declare in an affidavit the extent of any involvement which a board member or employee of ASHA has or may have with the seller or the real property to be sold. (Eff. 1/1/76, Reg. 59)

Authority: AS 18.55.080
AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.500

3 AAC 96.100. SELECTION OF APPRAISERS. (a) The selection of appraisers utilized in acquiring real property need not be by competitive bidding.

(b) ASHA will make appropriate inquiries among users of appraisal services, including other public agencies, and will examine its own experience, to identify the best qualified appraiser for a particular assignment. The factors that will be considered in evaluating and selecting appraisers will be their dependability and experience. All appraisers shall have a State of Alaska business license.

(c) ASHA's files will contain a full record of all actions respecting each appraisal contract, including:

(1) a resolution by the ASHA board authorizing the award of the contract;

(2) a signed statement by the appraiser setting out qualifications, general appraisal experience, specific experience in appraising properties of the type involved, the courts in which he has testified as an expert witness and other information pertinent to his professional qualifications; and

(3) an affidavit by the appraiser indicating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the appraisal contract, the property involved or the proceeds of the contract, or has a financial, business or familial interest in or with the appraiser or its business. (Eff. 1/1/76, Reg. 1.)

Authority: AS 18.55.100(a)(4)

AS 18.55.140(4)

AS 18.55.240

3 AAC 96.110. SELECTION OF REAL ESTATE BROKERS. (a) If ASHA utilizes real estate brokers to acquire real property, the selection of the brokers need not be by competitive bidding.

(b) ASHA will make appropriate inquiries among users of real estate brokers, including other public agencies, and will examine its own experience, to identify the best qualified real estate broker for a particular assignment. The factors that will be considered in evaluating and selecting brokers will be their dependability and experience. A real estate broker selected by ASHA shall be licensed by the State of Alaska and shall have a State of Alaska business license.

(c) ASHA's files will contain a full record of all actions respecting each real estate broker's contract, including:

(1) a resolution by the ASHA board authorizing the award of the contract;

(2) a signed statement by the real estate broker setting out qualifications, general real estate broker experience, specific experience in marketing properties of the type involved, the courts in which he has testified as an expert witness and other information pertinent to his professional qualifications; and

(3) an affidavit by the broker indicating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the broker contract, the property involved or the proceeds of the contract, or has a financial, business or familial interest in or with the broker or its business. (Eff. 1/1/76, Reg. 1.1.1)

Authority: AS 18.55.100(a)(4)
AS 18.55.140(4)
AS 18.55.240

3 AAC 96.120. APPRAISALS OF REAL PROPERTY. (a) A parcel of real property, including improvements to be acquired by ASHA, will be appraised by at least two appraisers. A parcel of real property acquired by ASHA will have been appraised within at least 180 days before acquisition. The purpose of the appraisals is to establish a fair market value for the real property or improvements.

(b) The appraisals will be reviewed by the Executive Director of ASHA and his staff. The purpose of this review is to determine whether, in their opinion, the appraisals reflect fair market value. If, in their opinion, the appraisals do not reflect fair market value, or if there is more than a 20 percent difference in value between the appraisals, additional appraisals will be obtained.

(1) If ASHA determines that an appraisal does not reflect the fair market value, written notice to that effect shall be sent to the appraisers. (Eff. 1/1/76, Reg. 1.1.1)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.130. ACQUISITION OF IMPROVEMENTS. When ASHA acquires an interest in real property, it will also acquire at least an equal interest in those buildings, structures or other improvements located upon the real property which must be removed from the real property or those which will be adversely affected by the use to which the real property will be put. The improvements acquired must be a part of the real property. Acquisition of improvements will not result in duplication of payment. (Eff. . / . / . , Reg. . .)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.140. UNECONOMIC REMNANT. (a) If the acquisition of the property would leave the owner with an uneconomic remnant, ASHA will acquire the entire property. The determination of an uneconomic remnant shall be made by professional appraisers. The determination of an uneconomic remnant shall be supported by a written analysis by the appraisers.

(b) For purposes of this section, an uneconomic remnant means a remaining parcel of real property that has little or no value apart from the parcel that has been or will be acquired by ASHA. (Eff. . / . / . , Reg. . .)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.150. ACQUISITION BY NEGOTIATION. (a) Reasonable effort will first be made to expeditiously acquire real property by negotiation. ASHA will, by certified mail, return receipt requested, inform the owner of ASHA's interest in purchasing the real property, and the purpose for which the property is being purchased.

(b) Appraisals will be conducted on the property to be purchased by professional appraisers. The owner or his designated representative shall be given an opportunity to accompany the appraisers during their inspection of the property.

(c) Subsequent to the appraisals, an amount will be established that is reasonably just compensation for the real property. The amount may not be less than the approved appraisals of the fair market value of the property. A decrease or increase in the fair market value of the real

property before the date of evaluation caused by the projected public improvement for which the property is to be acquired or by the likelihood that the property would be acquired for the improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in determining compensation for the property. The owner of the real property that is to be acquired will be provided with a copy of the appraisals.

(d) ASHA will not use the threat of a condemnation proceeding as a means to compel an agreement on the price to be paid for the property. (Eff. 1/1/76, Reg. 18.55.427)

Authority: AS 18.55.100(a)(4)
AS 18.55.427

3 AAC 96.160. ACQUISITION BY EMINENT DOMAIN. If ASHA is not successful in negotiating the purchase of the real property at a fair and equitable price, the property will be obtained by eminent domain. Before the exercise by ASHA of its power of eminent domain, the Executive Director of ASHA must make an affidavit indicating that the public interest in acquiring the property outweighs the injury or loss incurred by the owner. (Eff. 1/1/76, Reg. 18.55.427)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(6)
AS 18.55.420
AS 18.55.440
AS 18.55.550

3 AAC 96.170. SURRENDER OF POSSESSION. (a) An owner may not be required to surrender possession of real property before ASHA pays the agreed purchase price or deposits with the court in accordance with applicable law, for the benefit of the owner, an amount not less than the approved appraisal of the fair market value of the property, or the amount of the award of compensation in the condemnation proceeding for the property.

(b) The construction or development of an improvement will be scheduled so that, to the greatest extent practicable, a person lawfully occupying real property may not be required to move from a dwelling or to move his business or farm operation, without at least 90 days written notice of the date by which the move is required.

(c) If an owner or a tenant is permitted to occupy the real property on a rental basis for a short term or for a period subject to termination by ASHA on a short notice, the amount of rent charged by ASHA will not exceed the fair market rental value of the property to a short-term occupier. (Eff. 1/1/76, Reg. 18.55.100)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.180. CONVEYANCE OF REAL PROPERTY. ASHA will, in its discretion, accept the conveyance of real property by Warranty or Quitclaim Deed. If a conveyance of real property is made by Quitclaim Deed, ASHA will institute a quiet title action prior to payment of the purchase price to insure that a full interest is acquired, or ASHA will secure title insurance, unless the Executive Director of ASHA makes a determination that the interest conveyed by Quitclaim is sufficient for the purpose of acquiring the real property. (Eff. 1/1/76, Reg. 18.55.100)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.190. COST OF CONVEYANCE. The cost incurred in the acquisition of property will be apportioned between ASHA and the seller on a case-by-case basis through negotiations between ASHA and the seller, or by order of the court. (Eff. 1/1/76, Reg. 18.55.100)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.200. RELOCATION ASSISTANCE. (a) If an acquisition of real property results in the direct displacement of a person, family, individual, business or other organization, relocation assistance and relocation payments will be made.

(b) The schedule of moving expense allowance for relocation assistance will be determined by reference to the current moving expense schedules developed and published by the Department of Highways, State of Alaska, and approved by the Federal Highway Administration.

(c) ASHA shall process a claim for relocation assistance and make payments directly to the claimant. Displaced persons shall make a claim for relocation assistance and relocation payments, including moving expense allowance, as follows:

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COMMERCE

3 AAC 96.200

3 AAC 96.210

(1) each displaced person shall make a written claim on a form prescribed by ASHA; and

(2) each claim shall be supported by all information requested. (Eff. 7/1/76, Reg. 18.55.420)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.210. RECORD OF TRANSACTION. (a) Transactions of all real estate acquisition will be made a part of a file or record.

(b) These files or records will be open to public inspection at all reasonable times and will be retained by ASHA for at least three years. (Eff. 7/1/76, Reg. 18.55.420)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

Labor

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 17, 1977

Dear Member of the Regulation Review Committee:

The Department of Labor has amended the safety requirements relating to pulp, paperboard, and paper mills contained in article 3, subchapter 7, adopted by reference by AS 18.60.020. The subject matter of this amendment appears to be within the authority granted the department to adopt regulations by AS 18.60.020(a) and AS 18.60.030(6). The amendment would appear to require pulp, paperboard, and paper mills employing more than 50 persons to add an adequate supply of oxygen, with a complete demand valve resuscitator/respirator and an aspirator to those items otherwise required to be kept in a first aid room on the premises. The items heretofore required by regulation to be kept in the first aid room would appear to be relatively inexpensive.

The Department of Labor has also further delineated those occupational illnesses and injuries which must be reported under 8 AAC 61.230, by identifying those injuries and illnesses which result in loss of workdays or loss of employment as "recordable" occupational injuries and illnesses. The subject matter of this amendment appears to be within the authority granted the department to adopt regulations by AS 18.60.020(a) and AS 18.60.030(7), (8), and (9).

A.R.R.C.

Attachment "K"

ORDER AMENDING
REGULATIONS OF
THE ALASKA DEPARTMENT OF LABOR

The attached page of regulations amending 8 AAC 61.010 and the attached page of safety standards amending Article 3, Subchapter 7, Pulp, Paper and Paperboard Mills which is adopted by reference in 8 AAC 61.010 are hereby certified to be correct copies of the regulations and standards which the Alaska Department of Labor amends under authority vested by AS 18.60.020, and after proceedings had in accordance with the Administrative Procedure Act (AS 44.62).

This order takes effect on the 30th day after it has been filed by the lieutenant governor as provided in AS 44.62.180.

DATE June 3, 1976

Edmund N. Orbeck
Edmund N. Orbeck
Commissioner of Labor

I, Lowell Thomas, Jr., lieutenant governor for the State of Alaska, certify that on July 12, 1976, at 4:00 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Lowell Thomas, Jr.
Lieutenant Governor

CHAPTER 61
ARTICLE 1
ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 6/30/73, as amended as of 3/27/76), 2 (effective 9/26/74), 3 (effective 6/30/73), 4 (effective 6/30/73, as amended as of 5/7/76), 5 (effective 9/26/74), Article 3 of Subchapter 7 (effective 3/27/76, as amended as of 5/11/76), and Subchapters 11 (effective 5/11/76), 12 (effective 8/11/76), and 13 (effective 8/11/76) of the Alaska Occupational Safety and Health Standards (AOSAHS), as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

(Eff. 6/30/73, Reg. 46; am 9/26/74, Reg. 51; am 5/7/75, Reg. 54; am 11/22/75, Reg. 56; am 3/27/76, Reg. 57; am 5/11/76, Reg. 57)

Authority: AS 18.60.020
AS 18.60.075
AS 44.62.130

ARTICLE 3
SUBCHAPTER 7
PULP, PAPER AND PAPERBOARD MILLS

07.310(d)

(d) Medical services and first aid. Medical and first aid services must be provided as specified in section 01.0501, subchapter 1, General Safety Code, Alaska Occupational Safety and Health Standards. In addition to the requirements of section .0501, first aid rooms shall also contain an adequate supply of oxygen as determined by a physician, with a complete demand valve resuscitator/respirator and an aspirator.

07.365(e)(3)

(3) All power mechanisms must be guarded in conformity with ANSI B15.1-1953 (reaffirmed 1958).

Register 59, October 1976

Attachment "L"

8 AAC 61.010

LABOR

CHAPTER 61

ARTICLE 1

ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 5/30/73, as amended as of 9/30/76), 2 (effective 9/26/74), 3 (effective 6/30/73, as amended as of 9/30/76), 4 (effective 6/30/73, as amended as of 9/30/76), 5 (effective 9/26/74, as amended as of 9/30/76), 7 (effective 3/27/76, as amended as of 9/30/76), and Subchapters 11 (effective 8/11/76), 12 (effective 8/11/76), 13 (effective 8/11/76), and 14 (effective 9/30/76) of the Alaska Occupational Safety and Health Standards (AOSAHS), as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

OUTLINE OF STANDARDS

SUBCHAPTER 03

ELECTRICAL CODE

Article

1. Electrical - General
2. Telecommunications

SUBCHAPTER 04

OCCUPATIONAL HEALTH AND
ENVIRONMENTAL CONTROL CODE

Article

1. Occupational Health and Environmental Code
2. Toxic and Hazardous Substances (29 CFR 1910.1002--1910.1017 and 29 CFR 1910.1499 and 1910.1500 are adopted by reference as comprising Article 2)

SUBCHAPTER 07

WOOD PRODUCTS CODE

Article

1. Logging
2. Sawmills
3. Pulp, Paper and Paperboard Mills

SUBCHAPTER 14
AGRICULTURAL CODE

Article

1. Occupational Safety and Health Standards for Agriculture. (29 CFR 1928.1, 1928.21 [excluding paragraphs (a)(1) and (3) of that section, the subject matter of which is covered in standards prescribed in Article 1 of Subchapter 2, Industrial Housing Code, and sec. 180 of Article 1, Subchapter 7, Wood Products Code, Alaska Occupational Safety and Health Standards, and which applies to agricultural operations in the State], 1928.51, 1928.52, 1928.53, and 1928.57 are adopted by reference as comprising Article 1).

(Eff. 6/30/73, Reg. 46; am 9/26/74, Reg. 51; am 5/7/75, Reg. 54; am 11/22/75, Reg. 56; am 3/27/76, Reg. 57; am 5/7/76, Reg. 58; am 8/11/76, Reg. 59, am 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.075
AS 44.62.130

Register 59, ~~October~~ 1976 LABOR
Chapter 61
Occupational Safety and Health

8 AAC 61.225
8 AAC 61.230

(22)

provisions of

8 AAC 61.225. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES. The ~~regulations in secs.~~ 230-295 of this chapter implement AS 18.60.030(7), (8), and (9). These sections provide for recordkeeping and reporting by employers covered under AS 18.60.010-18.60.105 as necessary or appropriate for enforcement of AS 18.60.010-18.60.105, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics. (Eff. 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.030

8 AAC 61.230

(d) Recordable occupational injuries or illnesses are any occupational injuries or illnesses which result in:

(1) fatalities, regardless of the time between the injury and death, or the length of the illness which led to the death;

(2) cases, other than fatalities, that result in lost workdays; and

(3) nonfatal cases without lost workdays which result in transfer of an employee to another job or termination of employment, or which require medical treatment (other than first aid), or which involve a loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(e) The employer shall maintain the log on department form DOSH 100 "Log of Occupational Injuries or Illnesses" or on a form that contains the information required to be kept on DOSH 100. If an equivalent to form DOSH 100 is used, such as a printout from data processing equipment, the information must be as readable and comprehensible to a person not familiar with the data processing equipment as the form DOSH 100 itself.

(h) For the purposes of this section:

(1) "medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician, however it does not include first aid treatment even though provided by a physician or registered professional personnel;

Publishers note:
new section,
how title in
sectional listing
is part of
article 4.

Publishers note:
sec. 230(a),(b),
c),(d) and (g)
are unchanged.

Pub
delete

(2) "first aid" means any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care, even though the one-time treatment or followup visit for the purpose of observation may be provided by a physician or registered professional personnel.

(3) "lost workdays" means the number of days (whether or not consecutive) after, but not including, the day of injury or first day of illness during which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness. (Eff. 1/10/75, Reg 53; am 11/22/75, Reg. 56; am 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.030

8 AAC 61.240

(d) The person responsible for the preparation of the summary shall certify that it is true and complete by signing the statement on the form or by attaching a separate statement to the summary certifying that it is true and complete. (Eff. 1/10/75, Reg. 53; am 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.030

Publishers note:

new section, show title in sectional listing as part of Article 4.

8 AAC 61.275. FAILURE TO KEEP RECORDS OR REPORTS. Failure to maintain records or file reports required by this chapter, or in the details required by forms and instructions issued under this chapter, may result in the issuance of citations and assessment of penalties as provided for in AS 18.60.095 and secs. 110 and 140 of this chapter. (Eff. 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.030
AS 18.60.095

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

January 17, 1977

Dear Member of the Regulation Review Committee:

The Department of Labor has amended 8 AAC 61.010 so as to adopt by reference safety standards constituting subchapter 11, subchapter 12, subchapter 7, subchapter 14, and subchapter 13, relating to laundry machines and their operation, bakery equipment, wood products (logging, sawmills, pulp, paper, and paperboard mills), occupational and health standards for agriculture, and textiles, respectively. Apparently the regulations did not include safety standards relating to these industries before the incorporation of these standards by reference. The subject matter of these regulations appears to be within authority granted the department to adopt regulations by AS 18.60.020(a) and AS 18.60.030(6). Due to lack of expertise on my part, I could not say whether any of these standards go beyond what is necessary to insure safe and healthful working conditions; therefore I did not read them.

Due to their length, copies of these regulations are not attached; however, I can supply them to a member of the committee who needs them.

Register 57, April 1976

LABOR

8 AAC 61.010

CHAPTER 61.

ARTICLE 1
ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 6/30/73, as amended as of 3/27/76), 2 (effective 9/26/74), 3 (effective 6/30/73), 4 (effective 6/30/73), 5 (effective 9/26/74), and Article 3 of Subchapter 7 (effective 3/27/76), of the Occupational Safety and Health standards as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical. (Eff. 6/30/73, Reg. 46; am 9/26/74, Reg. 51; am 5/7/75, Reg. 54; am 11/22/75, Reg. 56; am 3/27/76, Reg. 57; ~~am / / , Reg. /~~)

Authority: AS 18.60.020
AS 18.60.075
AS 44.62.130

Registered 57, April 1976
LABOR

8 AAC 61.010

CHAPTER 61.
ARTICLE 1
ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 6/30/73, as amended as of 3/27/76), 2 (effective 9/26/74), 3 (effective 6/30/73), 4 (effective 6/30/73), 5 (effective 9/26/74), and Article 3 of Subchapter 7 (effective 3/27/76), of the Occupational Safety and Health standards as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

OUTLINE OF STANDARDS

SUBCHAPTER 07.
WOOD PRODUCTS CODE

Article

3. Pulp, Paper, and Paperboard Mills

(Eff. 6/30/73, Reg. 46; am 9/26/74, Reg. 51; am 5/7/75, Reg. 54; am 11/22/75, Reg. 56; am 3/27/76, Reg. 57)

Authority: AS 18.60.020
AS 18.60.075
AS 44.62.130

NOTE TO PUBLISHER:

OUTLINE OF STANDARDS FOR SUBCHAPTERS 01, 02, 03, 04, and 05
REMAINS UNCHANGED.

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1977

Dear Member of the Regulation Review Committee:

The Department of Labor has adopted a regulation relating to the computation of death benefits payable under Workmen's Compensation. The salient points of this regulation will be summarized, and possible deviations from legislative intent discussed.

Summary

8 AAC 45.035 as adopted provides that death benefits payable under Workmen's Compensation shall be adjusted as the rates are changed by statute unless such adjustment would result in a decrease in the actual benefits receivable, resulting in death benefits being calculated in the same manner in which temporary total disability payments are calculated.

Comment

This regulation interprets certain statute to mean that "death benefits" should be included under the coverage of AS 23.30.172, which reads as follows:

BENEFIT ADJUSTMENTS. Benefits for temporary total disability cases which have existed for more than two years and permanent total disability shall be calculated under this chapter according to currently existing benefit rates regardless of the benefits rates in existence at the time of the injury, unless this calculation would cause a decrease in the actual benefits receivable.

In other words, death benefits shall be computed at the rate then prevailing, not at the rate payable at the time of death.

The department apparently reached this conclusion through an interpretation of the following language from AS 23.30.215(b), which reads as follows:

In computing death benefits the average weekly wage of the deceased shall be computed under sec. 220 of this chapter and shall be paid in the same manner and subject to the same weekly maximum limitation in the aggregate as temporary total disability compensation, but the total weekly compensation may not be less than \$45 for a widow or widower not less than \$15 weekly to a child or \$30 for children. .

Apparently the Department felt that the language "in the same manner" meant that the calculation of death benefits should be adjusted to reflect the going rate, as is done with regard to temporary total disability compensation. It would seem that this interpretation would assuredly cost the state money. Is this what the Legislature intended?

8 AAC 45.035. BENEFIT ADJUSTMENTS. (a) For the purposes of AS 23.30.172, a temporary total disability case will be considered to "have existed for more than two years" when temporary total disability benefits have been paid or are due and payable for an aggregate period of at least 24 months or 104 weeks. Pursuant to AS 23.30.215(b), death benefits arising from injuries occurring on or after May 22, 1975 are to be adjusted in the same manner as temporary total disability benefits under AS 23.30.172 and this subsection.

(b) Prior to the expiration of the period specified in (a) of this section benefits for temporary total disability or death will be computed based on the rate of compensation in effect at the time of injury, unless this computation would cause a decrease in the benefits receivable on September 21, 1976.

(c) Nothing in (a) or (b) of this section or AS 23.30.172 prohibits, at any time, a recomputation of disability or death benefits for injuries occurring on or after September 22, 1976 based on the place the recipient resides pursuant to AS 23.30.175(c)-(f). Recomputations of disability or death benefits for injuries occurring prior to September 22, 1976 based on the place the recipient resides pursuant to AS 23.30.175(c)-(f) may also be made where the computation does not cause a decrease in the benefits receivable on September 21, 1976.

(d) For the purposes of AS 23.30.175(c)-(f), "resides" means abides, dwells, inhabits, lives; in applying the term to the facts of a specific case, the inquiry will be directed largely toward determining with what jurisdiction's economy the claimant must contend.

(e) Although a rebuttable presumption of non-residential status arises under AS 23.30.175(d) after 90 days of continuous absence from Alaska, this does not mean that a change in residential status cannot, in fact, take place in a shorter period of time.

(f) The rebuttable presumption of non-residential status under AS 23.30.175(d) does not arise if the absence from Alaska is for necessary medical or rehabilitation services not available in Alaska. (Eff. 9/22/76, Reg. 60)

Authority: AS 23.30.005
AS 23.30.172
AS 23.30.175(c)-(f)
AS 23.30.215(b)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1977

Dear Member of the Regulation Review Committee:

The Department of Labor has amended the regulations promulgated under AS 38.40 - Local Hire under State Leases. The salient points of the amendments will be discussed, and possible deviations from legislative intent commented upon in the light of the statutes being interpreted or implemented.

Summary

8 AAC 35.011 has been amended by adding new subsections which delineate how a work force may be scaled down in such a manner as to not discriminate against Alaska residents vis a vis non-residents. Specifically, subsection (b) states that an employer is not obliged to transfer a resident employee to another employer if a work project has more than one employer, or transfer that resident employee to another geographical location if work is available there. Subsection (c) states that an employer is not prohibited from laying off an entire crew, unless the composition of that crew was made in a manner discriminatory to the residents before the layoff. Notice of this amendment to the regulation appeared in the 'Anchorage News', 'Fairbanks Daily News-Miner' and 'Southeast Alaska Empire'.

Comment

AS 38.40.040(d) states:

In implementing this chapter the commissioner of labor shall adopt regulations prohibiting discrimination against Alaska residents in hiring practices."

Whether the above amendments to 8 AAC 35.011 implement or frustrate this statutory mandate is a policy decision to be made in light of knowledge of the actual practices and abuses which can occur in reducing a work force.

Summary

8 AAC 35.044(e) is amended by changing the period of time allowed for filing from the time of the alleged discrimination from 30 days to 15 days. Notice of this amendment appeared in the 'Anchorage Daily News', 'Fairbanks Daily News-Miner', and 'Southeast Alaska Empire'.

Summary

8 AAC 35.050 is amended to provide that the hearing officer, after hearing the evidence, prepare a written decision which is final; whereas before amendment, the regulation provided that the hearing officer prepare a written recommendation to the commissioner in a form containing findings of fact and determinations of the issues presented. Notice of this amendment appeared in the 'Anchorage Daily News', 'Fairbanks Daily News-Miner', and 'Southeast Alaska Empire'.

Summary

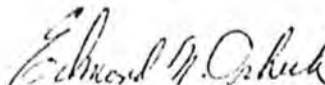
Sec. 04.0102(i)(1) of Subchapter 1, Occupational Health and Safety Code, which is adopted by reference by 8 AAC 61.010, has been amended. This section deals with the responsibility of employers in regard to retention of records of personal or environmental monitoring of asbestos exposure. The amendment increases the period of time which the records must be retained from 3 to 20 years. Notice of this amendment appeared in the 'Anchorage Daily News', 'Fairbanks Daily News-Miner', and the 'Ketchikan Daily News'.

ORDER AMENDING
REGULATIONS OF
THE ALASKA DEPARTMENT OF LABOR

The attached page of regulations amending 8 AAC 61.010, which deals with occupational safety and health standards which have been adopted by reference by the Department of Labor, and the attached page of safety and health standards amending Subchapter 4, Occupational Health and Environmental Control Code, which is adopted by reference in 8 AAC 61.010 and which deals with the responsibility of employers in the State with respect to retention of records of personal or environmental monitoring of asbestos exposure, are hereby adopted and certified to be correct copies of the regulations and standards which the Department of Labor amends under authority vested by 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 order takes effect on the 30th day after it has been filed by the lieutenant governor as provided in AS 44.62.180.

Date 11/9/76



Edmund N. Orbeck
Commissioner of Labor

I, Lowell Thomas, Jr., lieutenant governor for the State of Alaska, certify that on November 16, 1976, at 11:00 p.m., I filed the attached regulations according to the provisions of AS 44.62.040--44.62.120.



Lieutenant Governor

Effective Register
60; 12/16/76
Register _____

Register 60, January 1977

8 AAC 61.010

LABOR

CHAPTER 61
ARTICLE 1

ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 6/30/73, as amended as of 9/30/76), 2 (effective 9/26/74), 3 (effective 6/30/73, as amended as of 9/30/76), 4 (effective 6/30/73, as amended as of 12/16/76), 5 (effective 9/26/74, as amended as of 9/30/76), 7 (effective 3/27/76, as amended as of 9/30/76), and Subchapters 11 (effective 8/11/76), 12 (effective 8/11/76), 13 (effective 8/11/76), and 14 (effective 9/30/76) of the Alaska Occupational Safety and Health Standards (AOSHS), as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

Note to Publisher: Outline of standards remains unchanged.
note change in history line

SUBCHAPTER 4

OCCUPATIONAL HEALTH AND
ENVIRONMENTAL CONTROL CODE

04.0102(f)(1)

(i) Recordkeeping

(1) Exposure records. Every employer shall maintain records of any personal or environmental monitoring required by 04.0102. Records shall be maintained for a period of at least 20 years and shall be made available upon request to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of the National Institute for Occupational Safety and Health, and to authorized representatives of either.

Register ^{60 Jan. 1977} ~~59, October 1976~~

8 AAC 35.010
8 AAC 35.044

TITLE 8. LABOR

CHAPTER 35. OIL AND GAS LEASES, LOCAL HIRE

8 AAC 35.010. EMPLOYER REQUIREMENTS. (a) Repealed.
(Eff. 6/21/73, Reg. 46; am 7/8/76, Reg. 58; am 8/20/76,
Reg. 59)

Note to Publisher:

Subsection (b) remains unchanged

8 AAC 35.011. REDUCTION OF WORK FORCE. (a) When either a resident employee or a non-resident employee, working in the same trade or craft, is to be laid off, the non-resident may be retained only if no resident employee is qualified to fill the position.

(b) This section does not require that a resident employee be transferred from employer to employer where a project has more than one employer, nor does it require that a resident employee be transferred from one geographic work unit, camp, or site to another.

(c) This section does not preclude an employer from laying off an entire work crew, irrespective of the resident status of its members, unless the composition of the employer's crew was made in a manner discriminatory to residents before the lay-off. A crew, for purposes of this subsection, is a work unit no larger than the employer's smallest sub-division under the supervision of a foreman or that size unit which is traditional or commonly used in the affected industry or project. (Eff. 7/8/76, Reg. 58; am 8/20/76, Reg. 59)

Authority: AS 23.05.060(5)
AS 23.05.130
AS 38.40.030(d)
AS 38.40.060

8 AAC 35.044. (e) A complaint or a request for a complaint form must be made within 15 days of the date of the alleged discrimination or of the date that the complainant became aware of the facts which lead him to believe he was discriminated against.

(k) Repealed. (Eff. 7/8/76, Reg. 58; am 8/20/76, Reg. 59)

Note to Publisher:

Subsections (a)-(d), (f)-(j) remain unchanged

60, January 1977
Register 59, October 1976

8 AAC 35.050
8 AAC 35.055

TITLE 8. LABOR

8 AAC 35.050. (1) The hearing officer shall prepare a written decision which shall be final. A copy will be mailed or otherwise delivered to the complainant and respondent. (Eff. 6/21/73, Reg. 46; am 7/8/76, Reg. 58; am 8/20/76, Reg. 59)

Note to Publisher:

Subsections (a)-(k) and (m) remain unchanged

8 AAC 35.055. COMMISSIONER'S DECISION. Repealed.
(Eff. 8/20/76, Reg. 59)

Revenue

STATE OF ALASKA
THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

January 17, 1977

Dear Member of the Regulation Review Committee:

The Department of Revenue has amended the regulations pertaining to games of chance and skill. Salient points of these amendments are summarized, and regulations which might be out of conformity with legislative intent are discussed in greater particularity with reference to the statute(s) supposedly being interpreted or implemented.

15 AAC 05.300 is amended to state that "a certificate or letter of tax exemption issued by the Internal Revenue Service is evidence that the organization qualifies" as an organization which operates without profits to its members. Although this regulation would appear to be ambiguous on the question of whether a letter or certificate from the Internal Revenue Service is the only evidence which will serve to establish that the organization operates without profit to its members, persons at the Department of Revenue informed me that such was their intent. Therefore, any operator of a game of chance or skill would have to submit, or if not already obtained, to obtain and submit a certificate or letter testifying to his tax exempt status both at time of original application and at time of renewal. In this regard AS 05.15.140 provides as follows:

PROOF NECESSARY TO QUALIFY FOR PERMIT. The commissioner of revenue may not issue or renew a permit except upon proof, satisfactory to him, that the applicant is a qualified organization....Upon request of the commissioner of revenue, the applicant shall prove conclusively each of these requirements before a permit may be issued or renewed.

Did the legislature intend the only satisfactory proof that an organization operates without profit to its members to be a prior finding to that effect by the Internal Revenue Service?

15 AAC 05.400(6) sets limits on the amount of cash prizes which may be awarded in bingo, and provides that game tickets may not be paid as a part of a cash prize.

15 AAC 05.460 increases the amount of the permit fee from ten dollars to twenty dollars, in accordance with ch. 182 SLA 1976. This regulation also adds a requirement that an applicant for a permit submit a list of 25 members with his application, which would seem to be within the authority granted the commissioner to add to the definition of which is a "qualified organization", pursuant to AS 05.15.130.

15 AAC 05.500 is amended to require an applicant to designate at the time of application a single person to be in charge and primarily responsible for the conduct of the game of chance and skill, whereas before amendment, a permittee was only required to have one of its active and bonafide membership present during the conduct of the game. As amended, the regulation provides that an alternate may be designated to fill the place of the person named as being primarily responsible.

15 AAC 05.520 is amended to reflect amendments made to AS 05.15.020 and AS 05.15.080 by ch. 182 SLA 182.

X 15 AAC 05.510 is amended by adding subsections (b), (c), and (d). These subsections are addressed to the question of which expenses, including building expenses, may be deducted in the computation of the net proceeds, and also list some expenses which may not be deducted. It might be worthwhile to the members of the committee to read this regulation as it is now amended.

X 15 AAC 05.570(b) is amended by adding subsections (b) and (c) to implement amendments to AS 05.15.150(a), effected by ch. 66 SLA 1976. Subsection (b) provides definition of the language "for the promotion of the welfare and well-being of the membership within their own community", added by ch. 66 SLA 1976, stating that a member may receive assistance in the form of various charitable donations, and enumerating the form which the donations might take.

Subsection (c) of 15 AAC 05.570 incorporates the same approach in defining a non-profit organization as was used in 15 AAC 05.300 i.e. defining a non-profit organization as one which is certified as a tax exempt organization under the Internal Revenue Code, Section 501(c)(3). The same objections enumerated earlier would apply.

ARTICLE 3. AUTHORIZED GAMES OF CHANCE AND SKILL

Section

- 300. Definition of qualified organization
- 310. Civic or service organization
- 320. Religious organization
- 330. Charitable organization
- 340. Fraternal organization
- 350. Education organization
- 360. Veteran's organization
- 370. Police or fire department and company
- 380. Dog mushers' association
- 390. Fishing derby association
- 400. Bingo
- 410. Raffles and lotteries
- 420. Ice classics
- 430. Dog mushers' contests
- 440. Fish derbys
- 450. Contest of skill
- 460. Issuance of permits
- 470. Renewal of permits
- 480. Suspension and revocation of permits
- 490. Investigation
- 500. Person in charge of activities
- 510. Net proceeds
- 520. ~~Cash receipts and disbursements~~ Annual financial statement
- 530. Method of accounting
- 540. Maintenance of records
- 550. Disposition of funds
- 560. Display of permit
- 570. Use of dedicated net proceeds
- 580. Violation
- 590. ~~Cross-reference~~

Publisher:
 Sections not set
 out on the following
 pages remain
 unchanged. *[Signature]*

15 AAC 05.300. QUALIFIED ORGANIZATION. (a) "Qualified organization" means a bona fide civic or service organization or a bona fide religious, charitable, fraternal, labor, political, or educational organization, police or fire department company, dog musher's association, or fishing-derby association in the State, which operates without profits to its members, which has been in existence continually for a period of five years immediately ^{before} ~~prior~~ to the making of an application for a permit and which has at least 25 members. Qualified organizations may be firms, corporations, companies, associations or partnerships.

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15 AAC 05.300
15 AAC 05.410

(b) "Qualified organization which operates without profits to its members" means that no part of the net earnings of the organization shall inure to the benefit of any private shareholder or individual.

(c) A certificate or letter of tax exemption issued by the Internal Revenue Service is evidence that the organization qualifies under (b) of this section. This certificate and letter may be submitted along with an application for a permit under sec. 460 of this chapter or with an application for the renewal of a permit under sec. 470 of this chapter. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.130

15 AAC 05.400 (6) IS REPEALED AND A NEW PARAGRAPH IS ADDED TO READ.

(6) A single prize awarded in bingo, ^{may} must not exceed \$1,000.00 and the total prizes awarded during any one bingo session shall ^{may} not exceed \$5,000.00. Prize amounts shall be stated ^{or prior} prior to the beginning of each game and prizes shall be awarded as stated. Game tickets ^{may} cannot be considered as, nor included in, a cash prize. For example, if a person wins a \$45.00 jackpot, that person must receive and sign for \$45.00 in cash. The prize cannot be divided into \$30.00 cash and \$15.00 in game tickets. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060

15 AAC 05.410. RAFFLES AND LOTTERIES.

(4) In holding, operating and conducting raffles or lotteries, a permittee shall not raffle prizes of personal property, including cash or a negotiable instrument, the aggregate total of which is in excess of the sum or value of \$30,000 in any one calendar year and real property in excess of the sum or value of \$50,000 in any one calendar year. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060

Publisher
Paragraph
not set out
have remained
unchanged

15 AAC 05.460. ISSUANCE OF PERMITS. An applicant for a permit shall submit an application on a form prescribed by the department which may be obtained from the Department of Revenue, State Office Building, Juneau, Alaska or at any local Department of Revenue Field Office. The original application shall be filed with the Department of Revenue, State Office Building, Juneau, Alaska, and two copies of the application shall be mailed to the nearest city or borough for their consideration. An applicant shall also retain a copy of the application. The original of the application filed with the department must be accompanied by a permit fee of \$20.00 in addition to certified, true copies of articles of incorporation, or, if not incorporated, by-laws and copies of national and state charters, a current list of at least 25 Alaskan members of the organization and, if applicable, an Internal Revenue Service certificate or letter of tax exemption. For 15 days after receipt by the Department of Revenue, this application is subject to protest by the city or borough nearest to the location of the proposed activity as specified in AS 05.15.150. Upon approval of the application by the department, a permit will be issued for that calendar year. Activities may not be conducted until an annual permit has been issued. The activity or activities authorized under the permit may be conducted during the calendar year, unless the permit is suspended or revoked by the department. Refunds of permit fees will not be granted. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.020
AS 05.15.060
AS 05.15.100
AS 05.15.130

15 AAC 05.470. RENEWAL OF PERMITS. (a) A permit may be renewed by filing an application on the prescribed form with the department.

(b) Certified copies of the articles of incorporation or the by-laws, copies of any national and state charters, and a list of Alaskan members need not accompany the application for renewal unless amendments to these documents have been made during the preceding year.

(c) If applicable, an IRS certificate or letter of tax exemption may accompany all renewals unless it has previously been sent in. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.020

15 AAC 05.480. SUSPENSION, REVOCATION AND DENIAL OF PERMITS. The following are grounds which will constitute a basis for the suspension, revocation or denial of permits:

- (1) any false statement made in an application for a permit or any report required under AS 05.15 or this chapter;
- (2) failure to keep sufficient books or records to substantiate year end reports to the department;
- (3) failure to timely file any reports required by AS 05.15 or this chapter;
- (4) the conviction of a permittee or an officer or employee of a permittee of a felony or any crime involving moral turpitude, or violation of any municipal, state or federal gambling law;
- (5) knowing violation by a permittee or officer or employee of a permittee of any provision of AS 05.15 or this chapter;
- (6) failure to devote net proceeds in accordance with AS 05.15 or this chapter; ~~within one year without permission for an extension of time from the commissioner;~~
- (7) paying or incurring unreasonable or exorbitant expenses or fees by the permittee; and
- (8) ^{allowing} the use of a permit by another organization.

(Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060

15 AAC 05.500. PERSON IN CHARGE OF ACTIVITIES. An organization applying for a permit shall designate on the original application a bona fide and active member to be responsible for the conduct of the activities on each occasion of holding a game of chance and skill. That member shall be responsible for maintaining all records required under this chapter. The member in charge shall be present during the conduct of each of the specific activities stated on the permit. An alternate member may be designated to conduct the authorized activities during the absence of the member in charge. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.130

15 AAC 05.510. NET PROCEEDS. (a) "Net proceeds" means the gross income from the sale of tickets or rights (including advance sales) to participate in an authorized activity, less the cost of prizes and authorized expenses as defined in (b) of this section.

(b) Authorized expenses are charges, fees and deductions which are reasonable and necessary to the operation of the activity as stated on the permit. Authorized expenses include payment for

- (1) equipment actually purchased for games;
- (2) printing of tickets or cards;
- (3) advertising for games;
- (4) non-alcoholic refreshments for games;
- (5) hall rentals, but only if the building is not owned by ^{the} permittee and only for the time actually used for operation of the games;
- (6) utility, repair and maintenance, and depreciation costs of a building owned by the permittee; ^{these costs} are allowable on a pro-rated basis for the actual hours used for the games in accordance with the provisions of subsection (c) ^b of this section;
- (7) repairs for damages to equipment used for the games;
- (8) wages paid to workers operating the games, which may include members of the organization; ^{these wages} shall be paid only for the number of hours the games are actually being conducted and may not exceed one dollar per hour over the state minimum hourly wage;
- (9) postage, freight or accounting actually necessary for the games;
- (10) miscellaneous expenses directly pertaining to games only.

(c) The pro-ration of building expenses shall be computed using a maximum use factor of 14 hours per day. For example, a bingo game is conducted 2 days a week at 5 hours per day for a total of 10 hours a week. Since there are 98 use hours in a week (14 use hours per day times 7 days per week equals 98 use hours per week), 10.20% (10 hours per week divided by 98 hours per week equals 10.20%) of the pro-ratable expenses for the week may be included in the authorized expenses. For depreciation purposes, the life of the building must be the guideline life provided in the Internal Revenue Code and the only approved method of depreciation shall be straight line.

(d) Unauthorized expenses are those not directly related to the operation of the games and they can not be deducted. Unauthorized expenses include, but are not limited to, payment for

- (1) expenses on buildings except as provided in (b) of this section on a pro-rata basis;
- (2) mortgage or interest payments;
- (3) purchase of furniture, fixtures or equipment, except those necessary for the operation of the games and used exclusively for the games;
- (4) payments to members as gifts, excluding authorized prizes;
- (5) travel or per diem expenses outside the state under any circumstances;
- (6) organization membership fees to national, or international, affiliated or unaffiliated, organizations;
- (7) personal or organizational vehicle expenses;
- (8) consultant fees paid to a member or paid for a member's benefit;
- (9) legal fees paid to a member for services or paid for a member's benefit;
- (10) organizational advertising or notices;
- (11) organizational entertainment (picnics, dinners, parties, etc.);
- (12) organizational accounting or other operating expenses except those directly related to the operation of the games;
- (13) taxes on real or personal property and taxes based on net income;
- (14) purchase of alcoholic beverages.

(Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.150

15 AAC 05.520. ANNUAL FINANCIAL STATEMENT. A statement accounting for all ~~profits~~ ^{revenues} generated from authorized games of chance and skill for the year must be filed by January 31 following the end of the calendar year. The permittee shall also file with the financial statement a copy of the Internal Revenue Service Form 1099 for every

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15 AAC 05.520
15 AAC 05.570

person who received prizes, awards or money of \$600.00 or more during the calendar year. A fee of one percent of the net proceeds generated from the games of chance and skill shall be paid at the time of filing the annual financial statement. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.080
AS 05.15.130

15 AAC 05.530. METHOD OF ACCOUNTING. A permittee shall maintain and keep books and records necessary to substantiate the particulars of each annual financial statement. All money collected or received from games of chance and skill activity shall be deposited in a separate bank account. Where cash prizes are awarded, the recipient of the award shall sign a receipt indicating that the cash award was received, and the awarding of the cash award shall be contingent upon the recipient executing the receipt. All expenses of activities shall be paid by check only, and the check may not be drawn to "cash" or a fictitious payee. Each check drawn on the bank account required under the section shall bear two authorized signatures of the organization. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.130

15 AAC 05.540. MAINTENANCE OF RECORDS. All records and supporting documents pertaining to activities permitted under AS 05.15 shall be maintained for at least three years following the close of the calendar year. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060

15 AAC 15.570. USE OF DEDICATED NET PROCEEDS. (a) The dedicated net proceeds given to a qualified organization may not be used to pay any person for services rendered in the connection with the activities from which the funds were derived. Detailed records of all disbursements must be kept for later audit review. These must be kept with the other accounting records for a period of three years.

In AS 05.15.150(a),

(b) Disbursements for the promotion of the welfare and well-being of the membership means that a member may receive assistance in the form of various charitable donations, which have been approved by the organization's board of directors. Charitable projects which an organization may sponsor include educational grants, training assistance or job counseling, food baskets, medical or health care assistance, charitable functions and dinners for the community, etc. The qualifications to receive the charitable donations must include a requirement that all members of the organization within the community may qualify and receive the assistance. These payments shall not be devoted to organizational parties, dinners or benefits, picnics, or social functions limited to members and their families.

(c) Permittees ^{may} shall not be allowed to erect, buy or lease buildings or land for their organization with the net proceeds unless these buildings are area

(1) used exclusively for educational, civic, public, or religious purposes (such as hospitals, churches, schools, government buildings, or community centers); or

(2) turned over to an appropriate non-profit organization, ^{to a local,} or state or federal government;

^{which qualifies} ~~(3) the non-profit organization must qualify as a tax exempt organization under the Internal Revenue Code, Section 501 (C) (3).~~

(Eff. 3/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.150

15 AAC 05.580. ⁹ VIOLATION ^(INELIGIBILITY) A revocation of a permit based on a violation of AS 05.15 or this chapter shall ^{make} cause the person, association, corporation, or other organization to be ineligible to apply for a permit for a period of one year from the date of that revocation. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.040

3/4/77

ARRC
Attachment G

Register 61, APRIL 1977 Commerce and 12 AAC 38.020
Economic Development 12 AAC 38.050

PROFESSIONAL AND VOCATIONAL REGULATIONS

CHAPTER 38. GUIDE LICENSING & CONTROL BOARD

Section 1. 12 AAC 38.020 is amended ^{by adding a new subsection} to read:

~~12 AAC 38.020 GUIDE REGISTER. (a) On December 31 of the register year, the names of all persons holding a master or registered guide license shall be entered by the board on a register maintained by the board and shall be published for distribution to the public.~~

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subsec. (a).

(b) All guides shall advise the board of their current address and all changes ~~thereof~~ ^{of address.} (Eff. 6/28/74, Reg. 50; am. ~~0~~ ^{2/25/77, Reg. 61})

Authority: AS 08.54.040 (a) (4)
and (5)
AS 08.54.050

Section 2. 12 AAC 38.040 (b) is amended to read:

(b) Twenty-six ~~(26)~~ guide districts are established and defined as being identical to those areas described as game management units by the Board of Fish and Game in 5 AAC 90.010 as of January 1, 1974 with the addition of two sub-districts

(1) 18A - Nunivak Island and all waters within one mile of that island;

(2) 22A - St. Lawrence, King and Little Diomed Island and all waters subject to the jurisdiction of Alaska between 62n. lat. and 67n. lat., except ~~those~~ ^{that} waters within one mile of the mainland of Alaska. (Eff. 6/28/74, Reg. 50; am. ~~0~~ ^{2/25/77, Reg. 61})

Authority: AS 08.54.040 (a) (3)
and (6)
AS 08.54.050

Section 3. 12 AAC 38.050 (a) is amended to read:

(a) Registration of camps by guides will be allowed based on occupancy, use, financial value and other considerations that must be substantiated to the board's satisfaction. (Eff. 6/28/74, Reg. 50; am. ~~0~~ ^{8/29/75, Reg. 55; am. 2/25/77, Reg. 61})

Authority: AS 08.54.040 (a) (3)
AS 08.54.050

Section 4. 12 AAC 38.050 (c) is amended to read:

(c) Petitions will be accepted for all guide districts. Hearings on the granting of petitions ^{will} ~~shall~~ be scheduled by guide area on dates to be determined by the board but in no event earlier than six months after filing. (Eff. ~~2/25/77~~ ^{2/25/77}, Reg. ~~61~~ ⁶¹)

Authority: AS 08.54.040 (a) (6)
AS 08.54.050

Attachment "F"

Osc

TITLE 20.
MISCELLANEOUS BOARDS AND COMMISSIONS

Chapter

15

Student Financial Aid

MISCELLANEOUS BOARDS, COMMISSIONS
CHAPTER 15.
STUDENT FINANCIAL AID

Article

1. Scholarship Loans

MISCELLANEOUS BOARDS, COMMISSIONS

ARTICLE 1.
SCHOLARSHIP LOANS

Section

- 10. Purpose of scholarship loan program
- 15. Administration
- 20. Filing dates
- 25. Priority ranking of applicants
- 30. Computation of authorized loan awards
- 35. Limitations on granting authorized loan awards
- 40. Conditions of loans
- 45. Disbursement of loan awards
- 50. Repayment of loans
- 55. Deferment of payments
- 60. Grants
- 65. Default
- 70. Appeals to the executive secretary
- 75. Appeals to the committee
- 80. Complaint file
- 85. Definitions

20 AAC 15.010 PURPOSE OF SCHOLARSHIP LOAN PROGRAM. The scholarship loan program provides low cost educational loans to Alaskan students enrolled in undergraduate, graduate, or career degree programs. (Eff. 3/3/77, Register . . .)

Authority: AS 14.40.757

20 AAC 15.020. ADMINISTRATION. The executive secretary of the student financial aid committee shall appoint, subject to approval of the committee, a director of student financial aid. The director reviews all applications for scholarship loans and determines an applicant's eligibility and amount of award, subject to review by the executive secretary and the committee. (Eff. 3/3/77, Register . . .)

Authority: AS 14.40.757

EDITOR'S NOTE: Applications for scholarship loans are available from the Alaska Commission on Postsecondary Education, Director of Student Financial Aid, Pouch F, Juneau, Alaska 99811.

20 AAC 15.020. FILING DATES. (a) In each school year the application deadline for each of the priority categories set out in sec. 25(a) of this chapter is as follows:

(1) renewal applications from students who received loans for the prior school year - the third Monday in April;

(2) students, other than entering freshmen or first year graduate students, who did not receive a scholarship loan in the prior school year - the first Monday in May;

(3) entering freshmen - the third Monday in May;

(4) first year graduate students who did not receive a loan for the prior school year - the first Monday in June.

(b) An application will be considered timely filed only if it is postmarked on or before the applicable deadline and contains all information required to make a determination of the applicant's eligibility and the amount of the loan award.

(c) An incomplete application will be returned to the applicant with a request for further information. No further action will be taken on an incomplete application until it is resubmitted. An application which is resubmitted within 30 days after being returned to the applicant will be processed as if filed when originally submitted. Applications resubmitted later than 30 days after they are returned to the applicant will be processed as if filed on the date the resubmission is postmarked.

(d) Applications postmarked after the deadlines established in (a) of this section will be processed in the order they are postmarked. Loans will be awarded to late applicants only if funds are available after loans have been awarded to all applicants who submitted completed applications before the deadlines.

(e) Except in unusual situations and for good cause shown, an application will not be accepted from a person who has attended one-half or more of the school term for which the loan is requested. (Eff. . / . / ., Register . . .)

Authority: AS 14.40.757

20 AAC 15.025. PRIORITY RANKING OF APPLICANTS. (a) Upon receipt of a completed application before the relevant deadline set out in sec. 20 of this chapter, the application will be placed in one of the following categories and processed in a descending order of preference:

(1) renewal applications from students receiving loans for the prior school year;

(2) students, other than entering freshmen or first year graduate students, who did not receive a scholarship loan in the prior school year;

(3) entering freshmen;

(4) first year graduate students who did not receive a loan for the prior school year.

(b) Within each priority category, applicants will be ranked based on an evaluation of the following factors:

(1) financial need;

(2) personal recommendations from the applicant's instructors, counselors, employers, or other persons familiar with the applicant's abilities;

(3) the applicant's record of achievement, as indicated by his educational history, past employment, community service, or any other activities which the applicant feels exemplify his abilities and which are capable of being independently verified and assessed; and

(4) whether an entering freshman, or other applicant, is a graduate of an Alaskan high school or a graduate of a high school outside the state which he attended after establishing residency in Alaska, if he continued to maintain his Alaska residency after attendance at that high school. (Eff. . / . / ., Register . . .)

Authority: AS 14.40.757

AS 14.40.767

20 AAC 15.030. COMPUTATION OF AUTHORIZED LOAN AWARDS. (a) As provided in AS 14.40.759 and AS 14.40.761, respectively, the maximum amount of an authorized loan award in any one school year is \$2500 for applicants enrolled in an undergraduate or career degree program and \$5000 for applicants enrolled in a graduate degree program. A loan recipient's maximum indebtedness under the scholarship loan program may not exceed \$10,000, excluding accrued interest payable on prior loans.

(b) The maximum authorized loan for an applicant enrolled for less than a full school year, as defined by the enrolling institution and as approved by the director, is determined by prorating the maximum authorized loan award under (a) of this section based on the actual period of attendance.

(c) Subject to the limitations of (a) and (b) of this section, an applicant's authorized loan award will be based on the director's computation of the applicant's financial need. Financial need will be computed as the difference between the required fees, tuition and room and board, as applicable, charged by the institution for the course of study for which the applicant has been accepted or is enrolled in full-time status, plus expenses normally considered as educational costs, plus any ongoing expenses the applicant may have that are demonstrably at a reasonable and necessary level, less the amount of funds available to the applicant from other sources to meet those expenses. The amount of the authorized loan award will be the next lower multiple of \$50 below the computed financial need.

(d) Married students applying for separate loans may apportion those expenses listed on their applications which are for common use or commonly held property as they see fit. However, the total of commonly shared expenses listed on both applications may not exceed 100% of the actual expense.

(e) An applicant who elects to live off campus when room or board is available from the institution may list as an expense only the cost of the room or board available from the institution, unless it can be demonstrated that any additional expense for living off campus is reasonable and necessary.

(f) The director may require an applicant to furnish copies of financial records and other relevant information to verify statements on his application.

(g) An applicant who has been awarded a loan based on his admission to a particular institution must notify the director immediately if he elects to attend a different institution. The applicant must then resubmit a loan application based on his admission at the new institution. The applicant will not lose his priority category status, as determined under sec. 20(a) of this chapter, but must give 60 days notice of the change in institutions to insure the timely receipt of funds. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757
AS 14.40.759
AS 14.40.761

Original 1977

Register, MISCELLANEOUS BOARDS, COMMISSIONS

20 AAC 15.035
20 AAC 15.040

20 AAC 15.035. LIMITATIONS ON GRANTING AUTHORIZED LOAN AWARDS. (a) Subject to (b) of this section, loan awards will be made to applicants in the amount determined by the provisions of sec. 30 of this chapter.

(b) Funds available for scholarship loans may be less than the amount necessary to grant the full amount of all authorized loan awards. Should this occur, loans will be awarded to applicants based on the priority categories established under sec. 25 of this chapter. Loan awards will then be made in the full authorized amount to all applicants in a priority category until that category is reached for which the remaining available funds are insufficient to award loans in the full authorized amount to all students in that category. Loans to students in that category will be awarded to applicants in the full authorized amount based on the rankings made by the director using the criteria in sec. 25(b) of this chapter until all funds have been awarded.

(c) When the director has determined an applicant's eligibility and amount of loan award he will forward the application to the executive secretary for presentation to the student financial aid committee.

(d) If more funds become available for scholarship loans after the procedures in (b) of this section have been utilized, loan awards will be made to the remaining applicants in the order they are ranked by the director using the factors in sec. 25(b) of this chapter. (Eff. 7/1/77, Register.)

Authority: AS 14.40.757

20 AAC 15.040. CONDITIONS OF LOANS. (a) The recipient of a scholarship loan shall report to the director any changes which would affect the conditions of his loan or his repayment schedule, including any change of address, marital status, withdrawal or dismissal from his full-time course of study, change in schools or college residency status.

(b) Funds received for a scholarship loan may be used only for books, tuition, required fees, and room and board.

(c) A promissory note in the full amount of the loan award must be signed by the recipient, or by the recipient's parent or legal guardian in the case of a recipient under sixteen years of age. However, liability for the loan is limited to the actual amount of the loan funds disbursed to the recipient, plus interest.

(d) The provisions of this chapter will be incorporated by reference into each promissory note.

(e) Loans will not be granted for more than a total of six full school years.

(f) The costs incurred in the collection of a defaulted loan, including attorney fees and court costs, shall be borne by the recipient.

(g) Interest on a loan begins to accrue on the first day of the month following the termination of the recipient's full-time course of study.

(h) Interest shall be computed at the annual rate of 5% of the outstanding balance of the loan.

(i) At the time the promissory note is mailed to the recipient, the director will provide him with an anticipated repayment schedule for the total amount of the current loan and any loans received in prior consecutive years. The repayment schedule will be computed from the date ~~of the~~ recipient anticipates the completion of his full-time course of study. The schedule will include: a 12-month optional deferment period, the number and amount of payments, including interest, over the six succeeding years, and the annual percentage rate of interest. (Eff. 3/3/77, Register 61)

Authority: AS 14.40.757
 AS 14.40.763(a)
 AS 14.40.763(d-h)
 AS 14.40.771

20 AAC 15.045. DISBURSEMENT OF LOAN AWARDS. (a) The loan will be disbursed in equal installments, with each installment issued before a school term the recipient has indicated he will attend.

(b) A warrant for the appropriate amount of the loan disbursement and a record of disbursement and receipt form will be mailed to the recipient in care of the financial aid officer of the institution which the recipient is attending.

(c) Before delivering the warrant to the recipient, the financial aid officer will be requested to certify on the record of disbursement and receipt form that the recipient is a full-time student at the institution.

(d) At the time the warrant is delivered to him, the recipient must certify its receipt on the record of disbursement and receipt form.

(e) The recipient is responsible for the return of the record of disbursement receipt form to the director. Failure to return a completed form will result in no further warrants being issued to the recipient. (Eff. / / , Register .)

Authority: AS 14.40.757

20 AAC 15.050. REPAYMENT OF LOANS. (a) Subject to sec. 55 of this chapter, repayment of a loan must begin on the date the recipient first terminates his full-time course of study, with the first payment becoming due on the first day of the month following the date the recipient first terminates his full-time course of study.

(b) At the time the recipient first terminates his full-time course of study he must contact the director and establish a repayment schedule satisfactory to the director.

(c) Payments for loans granted to a recipient in consecutive years during which the recipient continued to be a full-time student will be consolidated into single monthly or quarterly payments.

(d) Subject to the deferment provisions of sec. 55 of this chapter and the hardship provisions of (e) and (f) of this section, a loan must be fully repaid within six years from the date first payment is due.

(e) In cases of hardship and based on such factors as the seriousness of the hardship, its anticipated duration and the expectation of increased earnings in later years, the director may, in his discretion, alter the repayment schedule by extending the period of repayment, subject to the deferment provisions of sec. 55 of this chapter, to a maximum-term of 11 years, or weight the regular payments to ease payment in the first years and require larger payments in later years, or both.

(f) A recipient whose repayment schedule has been modified as a result of hardship must certify annually to the director the continued existence of the conditions under which the hardship determination was made. At the time the conditions no longer exist, the recipient must notify the director and renegotiate his payment schedule, based on the loan's outstanding balance and accrued interest, over a term acceptable to the director.

(g) If a recipient chooses to make a payment in an amount larger than that required by the repayment schedule, the difference will be applied to the remaining principal of the loan unless otherwise specified by the recipient. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757
AS 14.40.763(g)

20 AAC 15.055. DEFERMENT OF PAYMENTS. (a) Loan repayments may be deferred by the director upon request of the recipient under the following conditions:

(1) for up to 12 months following the date the recipient terminates his full-time course of study, or completes required military service, or alternative required service as is approved by the selective service system, if the service began upon the termination of his full-time course of study;

(2) during any period a recipient is a full-time student;

(3) during any period a recipient is serving a required tour of duty in the military or alternative required service as is approved by the selective service system; or

(4) when a recipient has suffered partial or total disability and when that condition is certified by a doctor to continue in excess of 90 days.

(b) A recipient who desires a deferment of payments under this section must inform the director of his request to be considered for a deferment. Upon receipt of this notification, the director will send the recipient a form by certified mail, return receipt requested, which must be completed by the recipient describing the conditions under which he requests the deferment. Except for good cause shown, failure to return the form within 30 days of the date it is received will result in the continuation of interest accrual and required payments, if applicable.

(c) Interest does not accrue on a recipient's loan while payments have been deferred under paragraphs (a) (2) or (3) of this section.

(d) A recipient who has received a payment deferment must notify the director immediately when the conditions under which the deferment was granted no longer exist. When the director receives this notification, he will redetermine the recipient's payment schedule and notify the recipient of the number and amount of the payments required to retire the loan.

(Eff. 2/1/77, Register 6.)

Authority: AS 14.40.757
AS 14.40.763(c)
AS 14.40.763(e)
AS 14.40.763(g)

20 AAC 15.060. GRANTS. (a) Under AS 14.40.763(j), a recipient is eligible to have up to 40% of his total loans and accrued interest treated as a grant if he continues his Alaska residency upon the successful completion of his course of study, is awarded an appropriate degree, diploma or certificate, and has been continuously employed, except for brief periods, in the state during the period for which he claims the grant.

(b) Computation of the period of employment for the purposes of the grant will begin on the first day the recipient becomes employed after he successfully completes his course of study. However, the employment must begin within one year of the last day of the school term in which the recipient successfully completed his course of study.

(c) Grants under this section will be computed as follows:

(1) if the recipient satisfies the requirements of (a) and (b) of this section for at least two, but less than three consecutive years, he will be eligible for a first grant in the amount equal to 10% of his total loan, plus 10% of the total interest accrued as of the second anniversary of the date he first became employed;

(2) if the recipient satisfies the requirements of (a) and (b) of this section for at least three, but less than four consecutive years, he will be eligible for a second grant in an amount equal to 10% of his total loan, plus 10% of the interest accrued as of the third anniversary of the date he first became employed;

(3) if the recipient satisfies the requirements of (a) and (b) of this section for at least four, but less than five consecutive years, he will be eligible for a third grant in an amount equal to 10% of his total loan, plus 10% of the interest accrued as of the fourth anniversary of the date he first became employed;

(4) if the recipient satisfies the requirements of (a) and (b) of this section for at least five consecutive years, he will be eligible for a fourth grant in an amount equal to 10% of his total loan, plus 10% of the interest accrued as of the fifth anniversary of the date he first became employed.

(d) Subject to (g) of this section, that portion of the grant based on the total loan will be credited against principal and that portion of the grant based on accrued interest will be credited against interest.

(e) In order to receive a grant, the recipient must notify the director of his eligibility and complete a form available from the director certifying that the recipient has satisfied the appropriate residency and employment requirements.

(f) A recipient who ceases to be a resident of Alaska during the period he is eligible for a grant loses his eligibility for any further grants under this section.

(g) A recipient whose loan is completely repaid before becoming entitled to the maximum grant available to him may notify the director of his eligibility for a grant in the manner provided in (e) of this section each time he qualifies for a recomputation of his grant. Upon verification of the recipient's eligibility, the director will issue a warrant payable to the recipient in the amount to which he is entitled. (Eff. 2/3/77, Register . .)

Authority: AS 14.40.757

AS 14.40.763(j)

20 AAC 15.065. DEFAULT. (a) A recipient's loan will be considered in default if he fails to make three consecutive monthly payments or two consecutive quarterly payments, fails to comply with the reporting requirements of sec. 40 (a) of this chapter, or is determined by the director to have falsified any document required by this chapter.

(b) When a loan is found to be in default by the director, the recipient will be notified of that fact by certified mail, return receipt requested. The recipient has 30 days from the receipt of the notification to cure the default or otherwise respond in writing to the director's finding. Failure to cure the default or otherwise respond to the default notification within this time period will result in the director forwarding the recipient's file to the executive secretary for appropriate action. (Eff. ./. /., Register . .)

Authority: AS 14.40.757

AS 14.40.763(i)

20 AAC 15.070. APPEALS TO THE EXECUTIVE SECRETARY. (a) A decision or other determination of the director under this chapter may be appealed in writing to the executive secretary of the committee, Alaska Commission on Postsecondary Education, Pouch F, Juneau, 99811. The appeal must be postmarked within 30 days of the date the decision or determination being appealed was mailed, must clearly state the objections to that decision or determination, and must set out justification for any alternative action sought.

(b) The executive secretary shall acknowledge receipt of an appeal by certified mail, return receipt requested, within 30 days. The executive secretary shall render his decision, in writing, as expeditiously as possible after receipt of the appeal and send it to the appellant by certified mail, return receipt requested.

(c) At the appellant's request, the executive secretary ^{shall} will afford the appellant or his designated representative the opportunity to present his appeal in-person. (Eff. 2/3/77, Register . .).

Authority: AS 14.40.757

20 AAC 15.075. APPEALS TO THE COMMITTEE. (a) A decision of the executive secretary may be appealed to the chairman of the committee. The appeal must be made within 30 days of the receipt of the executive secretary's decision, must clearly state the objections to that decision, and must set out justification for any alternative action sought.

(b) The chairman of the committee will place an appeal on the agenda for the committee's next meeting and notify the appellant of the time and location of the meeting and that he or his designated representative may present his appeal in person to the committee at that time.

(c) The committee's decision on an appeal is final. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757

20 AAC 15.080. COMPLAINT FILE. (a) A written complaint regarding the administration of the scholarship loan program will be answered within 30 days of its receipt.

(b) The director ^{shall} will maintain a separate complaint file.

(c) At the committee's first meeting of the calendar year the director will provide the committee with a synopsis of all written complaints received during the prior 12 months and a description of the action taken on each complaint. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757

20 AAC 15.085. DEFINITIONS. In this chapter and AS 14.40.751-14.40.771, unless the context requires otherwise,

(1) "accredited school" means an institution which:

(A) is accredited by a national accreditation association, or the regional accreditation association for the area in which the school is located; or

(B) offers a career education degree approved by the Department of Education;

(2) "career education degree program" means a full-time course of study in a recognized occupation leading to a degree, diploma or comparable certificate of completion;

(3) "commission" means the Alaska Commission on Postsecondary Education;

(4) "committee" means the student financial aid committee of the commission;

(5) "director" means the director of student financial aid;

(6) "employed" means full-time employment in an occupation, as determined by the number of hours in a day, days in a week, weeks in a month, or months in a year which are usual to that occupation;

(7) "employed in the state" means;

(A) employed physically within the geographic boundaries of Alaska; or

(B) employed outside the geographic boundaries of Alaska but:

(i) subject to Alaska state income tax laws and regulations; and

(ii) files a resident Alaska state income tax return for that outside employment;

(8) "full-time course of study" means:

(A) a course of study which consists of the completion of a minimum of 24 semester or 36 quarter hours within one school year by an undergraduate student or, when enrollment commences after the first term, the completion of that portion of the hourly requirements which equals the portion remaining of the school year;

(B) a course of study which consists of the completion of a minimum of 18 semester or 27 quarter hours within one school year by a graduate student or, when enrollment commences after the first term, the completion of that portion of the hourly requirements which equals the portion remaining of the school year;

(C) a course of study by a career education student which:

(i) consists of the completion of a minimum of 1080 clock hours, as clock hours is defined in subparagraph (9) (c) of this section, within one school year;

(ii) consists of the completion of that portion of the hourly requirements of (i) of this subparagraph which equals the portion remaining of the school year when enrollment commences after the first term of the school year; or

(iii) consists of the completion of that portion of the hourly requirements of (i) of this subparagraph which equals the portion of the school year represented by the length of the career education program when the career education program does not last for the entire school year.

(9) "full-time student" means:

(A) an undergraduate student, not on academic or other probation, who is enrolled in any combination of courses, work experience, research, or special studies which the school requires of the student to consider him as being engaged in full-time study and which amount to the equivalent of 12 semester or 12 quarter hour systems;

(B) a graduate student, not on academic or other probation, who is enrolled in any combination of courses, work experience, research, or special studies which the school requires of the student to consider him as being engaged in full-time study and which amount to the equivalent of nine semester or nine quarter hours per academic term for institutions utilizing trimester, semester, or quarter hour system; or

(C) a student enrolled in a career education program for at least 30 clock hours per week, a clock hour being a period of time which is equivalent of

(i) a 50- to 60- minute class, lecture, or recitation;

(ii) two hours of laboratory, shop training or internship requiring outside preparation;

(iii) two hours of outside preparation related to the activities specified in (i) and (ii) of this subparagraph; or

(iv) three hours of laboratory, shop training, or internship not requiring outside preparation;

(10) "graduate degree program" means an educational program for which a master's degree, doctorate, or other degree requiring study beyond that necessary for a bachelor's degree is awarded;

(11) "hardship" means being unable to meet the obligation to repay a scholarship loan over the term or in the amount determined by the director;

(12) "prospective graduate" means a high school student who will graduate within six months of the submission date of his application for a scholarship loan;

(13) "resident" means a person who, except for brief intervals, military service, attendance at an educational or training institution, or for absences for good cause shown, has resided in Alaska and who has maintained his domicile in Alaska for at least the period required under AS 14.40.806(4) immediately before the date of submission of his application for a scholarship loan; domicile is the true and permanent home of a person from which he has no present intention of moving and to which he intends to return whenever he is away;

(14) "total loan" means the total amount of all loans received by a recipient in consecutive school years;

(15) "undergraduate degree program" means:

(A) an educational program for which a bachelor's degree is awarded; or

(B) an educational program for which an associate degree, or comparable certificate is awarded, and which is acceptable, upon transfer, for full credit towards a bachelor's degree. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757