

# State of Alaska Occupational Safety and Health



## Hazardous Paint Statutes and Regulations



ALASKA DEPARTMENT OF LABOR  
& WORKFORCE DEVELOPMENT

# MECHANICAL INSPECTION CUSTOMER COUNTER LOCATIONS

## Main Office MI - Anchorage

3301 Eagle Street, Ste 302  
Anchorage, AK 99503  
Office (907) 269-4925  
Fax (907) 269-4932  
Hours -8:00am-4:30pm

## MI - Juneau

111 West 8<sup>th</sup> Street  
Juneau, AK 99802  
Office (907) 465-4871  
Fax (907) 465-3584  
Hours -8:00am-4:30pm

## MI - Fairbanks

675 7<sup>th</sup> Ave, Station H-2  
Fairbanks, AK 99701  
Office (907) 451-2887  
Fax (907) 283-2967  
Hours -8:00am-9:00am

## MI - Sitka

304 Lake Street  
Sitka, AK 99835  
Office (907) 747-6380  
Fax (907) 747-6657  
Hours - By Appointment

## WEB ADDRESSES

### **Certificate of Fitness**

[www.labor.state.ak.us/lss/mihome.htm](http://www.labor.state.ak.us/lss/mihome.htm)  
Applications and Licensing Information

### **Contractor Information**

[www.commerce.state.ak.us/occ/pcon.htm](http://www.commerce.state.ak.us/occ/pcon.htm)

### **Electrical Administrator**

[www.commerce.state.ak.us/occ/pead.htm](http://www.commerce.state.ak.us/occ/pead.htm)  
Electrical CEU Provider List

### **Mechanical Administrator**

[www.commerce.state.ak.us/occ/pmec.htm](http://www.commerce.state.ak.us/occ/pmec.htm)  
Plumbing CEU Provider List

## **For Questions and Inquiries Email Mechanical Inspection**

[Anchorage.LLS-MI@alaska.gov](mailto:Anchorage.LLS-MI@alaska.gov)

## **Labor and Workforce Development.**

### **Article 9 Painting Certification**

#### Section

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

#### **8 AAC 61.800. Certification required**

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

**History:** Eff. 5/14/89, Register 110

**Authority:** AS 18.63.010 AS 18.63.040 AS 18.63.060

#### **8 AAC 61.810. Training program approval required**

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

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.040 AS 18.63.060

**8 AAC 61.815. Application for training program approval**

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

- (1) the applicant's name, address, and telephone number;
- (2) a detailed description of the contents of the training course which verifies inclusion of the subjects and procedures described in 8 AAC 61.845;
- (3) a copy of all written materials to be used;
- (4) a description and a copy of all audio-visual materials to be used in the training course;
- (5) a copy of the written examination to be administered to trainees to test their skills and knowledge, and a copy of the answers to the examination;
- (6) a description of the practical examination that will be administered to trainees to determine the adequacy of their skills;
- (7) a description of the scoring methodology to be used in grading the written examination and in grading the practical examination;
- (8) a copy of the informational materials that will be provided to trainees under 8 AAC 61.845(e);
- (9) the name of the course instructor, and a description of the instructor's qualifications which verifies that the instructor meets the minimum instructor qualifications in 8 AAC 61.840.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.040 AS 18.63.060

**8 AAC 61.820. Action on applications**

- (a) The department will, within 30 days after receipt, approve an application filed under 8 AAC 61.810 which meets the requirements of 8 AAC 61.815.
- (b) If an application for training program approval does not meet the requirements of 8 AAC 61.815, the department will assist the applicant in meeting the requirements.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.040 AS 18.63.060

**8 AAC 61.825. Duration of training program approval**

- (a) The department's approval of a training program is valid for one year after the date of approval unless the department withdraws approval of the program under 8 AAC 61.875.
- (b) The department will renew its approval of a training program for a period of one year if the applicant submits
  - (1) a new application that meets the requirements of 8 AAC 61.815;
  - (2) a description of the changes made to the current approved program and the reasons for the changes; or
  - (3) an affidavit stating that no changes in the program have occurred.

**History: Eff. 5/14/89, Register 110**  
**Authority:** AS 18.63.040 AS 18.63.060

**8 AAC 61.830. Department notification and monitoring of training programs**

- (a) The operator of a training program approved under 8 AAC 61.800 - 8 AAC 61.890 shall notify the department at least three working days before a training course is scheduled to begin. The notification must set out the date, time, and address where the training will be conducted.
- (b) A representative of the department will, in the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved under 8 AAC 61.810.
- (c) The training instructor shall within 10 working days after completion of each training class, send a report to the department which lists the trainees who passed the course. This report must also include a brief evaluation of the course. This report may be used by the training program operator to request changes to the program under 8 AAC 61.835.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.040 AS 18.63.060

**8 AAC 61.835. Changes to an approved training program**

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

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

(c) A training program shall include state-of-the-art information; a training program operator shall update the training program accordingly.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.040 AS 18.63.060

### **8 AAC 61.840. Minimum instructor qualifications**

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

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

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

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

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

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

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

(d) In this section,

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

(2) "safety professional" means a person who, by virtue of specialized knowledge and skill, has achieved professional status in the safety field.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.040 AS 18.63.060

**8 AAC 61.845. Training course requirements**

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

- (1) an explanation of AS 18.63.010 - 18.63.100 and 8 AAC 61.800 - 8 AAC 61.890, regarding hazardous paint certification, emphasizing the responsibilities of a certificate holder;
- (2) an introduction to the terms commonly used in the painting industry and to some of the current technology used in applying paints, including
  - (A) definitions of paint components such as pigments, vehicles, binders, thinners, solvents, and paint additives;
  - (B) discussion of methods used to apply paints, such as by brush, roller, air and airless spray equipment, electrostatic equipment, and dip and flow coating; and
  - (C) discussion of types of paint drying and curing methods, such as solvent evaporation, air and moisture curing, and catalytic action, heat conversion, and chemical crosslinking;
- (3) training on how to interpret container labels and the material safety data sheets (MSDSs) that are available for hazardous materials, including an explanation of
  - (A) the warning signal words "caution," "warning," and "danger" printed on container labels;
  - (B) the format of an MSDS and the common terms and physical data concepts that are listed on a typical MSDS for a paint product;
  - (C) how to use the information on the container label and the MSDS to determine proper handling, storage, and clean-up of the product;
- (4) training on how to use other reference materials, such as the NIOSH *Pocket Guide to Chemical Hazards*; the ACGIH *TLVs for Chemical Substances in the Work Environment*, the Alliance of American Insurers' *Handbook of Industrial Solvents and Handbook of Hazardous Materials*; and the National Paint and Coating Association's *Hazardous Materials Identification System*;
- (5) instruction on determining the hazardous chemicals found in commercially available products and the potential risk and symptoms of overexposure for each, by reviewing container labels, MSDSs, and the NIOSH (National Institute of Occupational Safety and Health) *Pocket Guide to Chemical Hazards*;

- (6) a general discussion of the medical aspects of exposure to painting and coating processes with emphasis on solvent-induced neurotoxicity;
  - (7) an explanation of the impact that drugs and alcohol might have on the toxic effects of solvents and paints and their impact on the rate of removal of toxic substances from the body;
  - (8) information on the medical tests that are available to detect illnesses that might be caused by exposure to paints;
  - (9) training on the types of hazard controls that should be used when applying paints, including
    - (A) substitution of less hazardous paints;
    - (B) engineering controls;
    - (C) administrative controls; and
    - (D) personal protective equipment (PPE);
  - (10) training on prevention of fire and explosion hazards from sparks or ignition sources when using solvent-based paints;
  - (11) training on clean-up procedures including safe methods for cleaning skin, hair, and clothing, and methods for cleaning up spills of hazardous materials.
- (b) Each trainee must be provided with the following practical training:
- (1) methods of ventilation that can be used to minimize or eliminate exposure to hazardous and toxic chemicals of the painter, other workers, and the public; this training should include
    - (A) methods that can be used to assure adequate airflow in a work area, including adequate exhaust; the relationship between the ventilation source and the work being performed; adequate ventilation of the worker's breathing zone; and adequate supply of make-up air;
    - (B) use of general dilution ventilation and local exhaust ventilation;
    - (C) methods of ventilation of temporary work sites, including
      - (i) setting up a proper push/pull ventilation system;
      - (ii) using doorway supply fans and proper painting sequence, depending on the location of the fan;

- (iii) selecting the proper air flow directions for various room sizes and shapes;
  - (iv) identifying and correcting improper fan set-ups; and
  - (v) using jobsite warning signs and public notification;
- (D) methods of ventilation of permanent work sites and how to properly use and maintain spray booths and spray rooms;
- (E) methods of ventilation and safety procedures for confined-space entry, including
  - (i) methods of testing for toxic gases and the level of oxygen present in a confined space;
  - (ii) isolation methods such as locking out of electrical service, and blanking, blinding, and misalignment of pneumatic and hydraulic lines;
  - (iii) methods that can be used to remove residual toxic substances from inside the confined space whenever possible before beginning work;
  - (iv) standby rescue and emergency procedures; and
  - (v) establishing communications protocols and buddy systems;
- (F) potential for overexposure in exterior painting, and the criteria needed to determine if there is adequate natural ventilation; and
- (G) the requirements of Alaska occupational safety and health regulations in this chapter for air monitoring for chemical exposures;
- (2) training in the proper use of respiratory protective equipment, including
  - (A) proper selection of respirators, including dust, half-mask and full-face, air purifying, and supplied air respirators;
  - (B) use of the NIOSH *Pocket Guide*, container labels and MSDSs, to determine the proper respirators to be used for specific hazardous materials;
  - (C) the use of air purifying respirators, including qualitative fit tests for half masks and full-face respirators;
  - (D) conducting a self-administered qualitative fit test that can be done in the field, including positive and negative pressure checks;
  - (E) selecting proper cartridges and filters, and methods that can be used to

predict the life of the cartridges and filters;

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

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

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

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

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

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

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

(c) Each trainee must become familiar with

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

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

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

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

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

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

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

- (3) an example of an MSDS for a typical paint containing hazardous materials;
- (4) a brochure, available from the department, on the health effects of paints and coatings;
- (5) a list of substances that should not be spray-applied;
- (6) a list of substances that are known to absorb through the skin.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.040 AS 18.63.060

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

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

### **8 AAC 61.850. Examinations**

- (a) An examination shall be given to each trainee to test the trainee's knowledge and skill in the subjects and procedures covered by a training course.
- (b) The examination under this section shall include a written examination that tests a trainee's knowledge of the material covered in the training course, including
  - (1) the requirements of 8 AAC 61.800 - 8 AAC 61.890, including the requirement that the required certificate must be in the worker's possession when performing or supervising hazardous painting work; the fines that may be assessed and citations that may be issued for violations of the applicable statutes or regulations; and renewal requirements;
  - (2) determining potential workplace hazards of several paint products, using container labels, MSDSs, and the NIOSH *Pocket Guide to Chemical Hazards*; a trainee should be able to determine the following information from these reference materials:
    - (A) emergency telephone numbers to be called in case of an overexposure;
    - (B) the hazardous ingredients of the product;
    - (C) the exposure limits of the product;

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

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

(F) the fire and explosion hazards;

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

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

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

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

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

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

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

(1) recognizing inappropriate or damaged respiratory equipment;

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

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

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

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

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

**History: Eff. 5/14/89, Register 110**

**4/89, Register 110**

**Authority:** AS 18.63.010 AS 18.63.040 AS 18.63.060

### **8 AAC 61.855. Issuance of hazardous painting certificate**

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

(b) A person must provide proof that the person completed the training course not more than 90 days before sending the application for a certificate to the department. Proof of completion must be on the application form provided by the department to the operator of the training program. The completed application form must indicate the applicant's name, address, physical description, and applicant's score on the examination required under 8 AAC 61.850(a).

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

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

(e) If a certificate holder loses the certificate, the holder must contact the Anchorage office of the mechanical inspection section of the department to obtain a duplicate certificate.

**History: Eff. 5/14/89, Register 110; am 6/14/2006, Register 178**

**Authority:** AS 18.63.020 AS 18.63.060

**8 AAC 61.860. Fee and duration of certificate**

- (a) An applicant shall pay a fee of \$100 to the department for a hazardous painting certificate and \$25 for a duplicate certificate.
- (b) A certificate is valid for three years after the date of issuance.

**History: Eff. 5/14/89, Register 110; am 6/14/2006, Register 178**

**Authority:** AS 18.63.020 AS 18.63.030 AS 18.63.060

**8 AAC 61.865. Renewal of certificate; refresher course**

- (a) A hazardous painting certificate issued under 8 AAC 61.855 will be renewed by the department if the certificate holder attends, and successfully completes, at least an 8-hour refresher course conducted by a training program approved under 8 AAC 61.800 - 8 AAC 61.890. The refresher course must include instruction in the following:
  - (1) changes in state or federal regulations pertaining to painting practices and procedures;
  - (2) changes in the state of the art of painting practices, procedures, personal protection, and engineering controls;
  - (3) new hazardous paints and hazardous paint contents that have become available since the certificate holder received his or her current certificate, and the techniques for applying these new paints; and
  - (4) review of the training requirements set out in 8 AAC 61.845 for wearing air-supplied respirators, compressed air systems, confined space entry, and medical implications from working with paints.
- (b) A certificate renewed under this section is valid for three years after the date of issuance.
- (c) The certificate holder need not take the refresher course from the same training program that provided previous training or refresher courses.
- (d) The fee for renewal of a certificate is \$100.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.020 AS 18.63.040 AS 18.63.060

**8 AAC 61.870. Revocation of certificate**

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

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

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

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

(b) If the department revokes a certificate, the department will promptly notify the certificate holder in writing of the reason for the revocation and of the procedure under 8 AAC 61.880 for appealing the revocation.

(c) If the certificate holder does not appeal the revocation to the commissioner within the time set in 8 AAC 61.880, the revocation takes effect on the day following the last day for filing an appeal. If the certificate holder appeals the revocation to the commissioner within the time set in 8 AAC 61.880, the certificate remains valid until the commissioner rules on the appeal.

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

(e) In determining the period of ineligibility under (d) of this section, the department will consider the circumstances upon which the revocation is based.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.060

### **8 AAC 61.875. Withdrawal of training program approval**

(a) The department will, in its discretion, withdraw its approval under 8 AAC 61.800 - 8 AAC 61.890 of a training program if the operator of the training program

(1) provides false information to the department;

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

(3) fails to adequately test a trainee as required by 8 AAC 61.850; or

(4) violates any other provision of 8 AAC 61.800 - 8 AAC 61.850.

- (b) If the department withdraws approval of a training program, the department will promptly notify the operator of the program, in writing, of the reason for the withdrawal of approval and the procedure under 8 AAC 61.880 for appealing the withdrawal.
- (c) A training program for which approval has been withdrawn under this section is ineligible for approval for a period of at least 90 days, but not exceeding one year after the effective date of the withdrawal, as determined by the department.
- (d) In determining the period of ineligibility under (c) of this section, the department will consider the severity of the violation upon which the withdrawal of program approval is based.
- (e) After the period of ineligibility specified by the department under (c) of this section has expired, the operator of the training program may apply to the department for re-approval. The application must meet the requirements of 8 AAC 61.815 and must provide documentation that the deficiency for which the department withdrew approval has been corrected.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.040 AS 18.63.060

### **8 AAC 61.880. Appeals**

- (a) A revocation under 8 AAC 61.870, a withdrawal under 8 AAC 61.875, or a citation and penalty under 8 AAC 61.885 is final unless the person affected files an appeal with the commissioner within 30 calendar days after receipt of the notice of revocation, notice of withdrawal, or citation and penalty. The appeal must be in writing and must include
  - (1) a specification of objections to the department's findings, and a concise summary of facts in support of each objection; and
  - (2) a description of the relief sought.
- (b) The commissioner's decision will be based upon the department record, and will state the facts relied upon by the commissioner in deciding the matter.
- (c) The commissioner will, in his or her discretion, hold a hearing on the appeal to supplement the department record if clarification or additional facts are necessary for a proper resolution of the appeal.
- (d) A copy of the commissioner's decision will be sent to the appellant by certified mail within 10 days after receipt of the appeal if a hearing is not held, or within 10 days after the date of the hearing if a hearing is held. The decision will include a statement of the appellant's right to further appeal.

**History: Eff. 5/14/89, Register 110; am 8/8/90, Register 115**

**Authority:** AS 18.63.060

**8 AAC 61.885. Citations and penalties**

(a) As provided in AS 18.63.050 (2) and 18.63.070, the department will issue a citation, with a penalty, to a person who employs or contracts with a professional painter to perform hazardous painting if the professional painter does not have a certificate issued under 8 AAC 61.800 - 8 AAC 61.890. The department will also impose a civil penalty on a person who provides a falsified hazardous painting certificate to an employer or makes a false statement to an employer or the department regarding the person's certification. The department will consider the severity of the violation in determining the amount of a penalty under this subsection.

(b) The department will issue a citation with penalty, as provided in AS 18.63.050 (3) and 18.63.070, to a professional painter who uses a falsified hazardous painting certificate to obtain employment for which certification is required under AS 18.63 and 8 AAC 61.800 - 8 AAC 61.890.

(c) For purposes of (a) of this section, a separate citation will be issued for each professional painter who is not certified as required by AS 18.63 and 8 AAC 61.800 - 8 AAC 61.890. Each citation will, in the department's discretion, include a separate penalty.

**History: Eff. 5/14/89, Register 110; am 8/8/90, Register 115**

**Authority:** AS 18.63.010 AS 18.63.050 AS 18.63.070

**8 AAC 61.890. Definitions**

(a) In 8 AAC 61.800 - 8 AAC 61.890,

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

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

(3) "hazardous paints" means paints that contain or are combined with a toxic or hazardous substance, as defined in AS 18.60.105 , and that are used in vaporized, liquid, or particulate form to create a coating that will adhere to a surface to protect or preserve the surface; "hazardous paints" do not include water-based paints that do not contain emulsion epoxies or isocyanates.

(b) As defined in AS 18.63.100 , "professional painter"

(1) includes

(A) a person who is performing painting work subject to the contractor registration requirements of AS 08.18;

(B) a person who is employed as a painter; and

(C) a person who spends more than 48 hours in any 30-day period performing painting work;

(2) does not include

(A) a person who performs painting on an incidental basis; and

(B) a person who is a corporate officer or employee of a contractor engaged in the business of painting, but who does not supervise painting operations or handle and apply paints.

(c) As used in 8 AAC 61.800 - 8 AAC 61.890 and in AS 18.63, "perform" and "performing" include direct supervision.

**History: Eff. 5/14/89, Register 110**

**Authority:** AS 18.63.010 AS 18.63.040 AS 18.63.060

**Editor's note:** As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125 (b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.