

MEMORANDUM
DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT

STATE OF ALASKA
Labor Standards & Safety Division

TO: All Labor Standards and Safety Staff

DATE: February 20, 2008

FILE NO: WHPL # 143 Revised

PHONE: (907) 465-4855

FROM: Grey Mitchell 
Director

SUBJECT: W&H Service of Cease and
Desist Orders for Certificates of
Fitness

Wage and Hour personnel conducting onsite inspections frequently encounter persons working in trades requiring Certificates of Fitness. The purpose of serving an Order to Cease and Desist form for working without a Certificate of Fitness is to positively identify the violator(s), advise violators of the requirement of Alaska Statute and to encourage employers/employees to come into compliance with statutes concerning public health, safety, and welfare.

If while conducting onsite inspections W&H personnel have a reasonable belief that an employer/employee has engaged in unlawful activity, an Order to Cease and Desist should be issued to stop the unlawful activity. The alleged violations must be based on the actual first hand observations of W&H personnel, the statements of witnesses or statements made by the violators themselves. However, unless you have a mechanical inspector with you to testify that the activity is subject to a particular code adopted by law, you should check the block indicating that the activity "*may be*" in violation. Enter the information that led you to allege the potential violation. Enter the information that led you to allege the potential violation in the description of activity section after the "*other*" box on the form.

The Order to Cease and Desist is self-explanatory and simple to complete. Attempt to fill in valid Driver's License number. A Date of Birth is helpful, but cannot by itself be considered a form of positive identification. Attempt to verify that the residence address is correct. If the address is a post office box, ask for a physical address. Although the form includes a block for a Social Security Number do not collect that number which is subject to Privacy Act protections.

When Wage & Hour personnel are issuing C&D Orders during onsite inspections the C&D Order number may not be known at the time of issuance. W&H personnel can call Mechanical Inspection (MI Anc) at 269-4925, option #1 for the C&D Order number or obtain it at a later more convenient time. After returning from an onsite inspection where a C&D Order has been issued, or as soon as practical, remember to log the C&D Order number with MI in Anchorage.

When completed, the person who prepared the C&D Order will sign the C&D form by order of the Commissioner. The Certificate of Service at the bottom right, should be completed by the issuer or, in the case of a mailed order, by the person mailing the order.

If the Order to Cease and Desist is issued by Certified Mail, an accompanying letter should be included explaining the circumstances causing the order to be issued. This letter should provide the date and place of the apparent offense, and a brief explanation of what Alaska Statute, or portion of the Alaska Administrative Code has been violated. A sample letter is attached.

If issued personally, please provide a short memorandum to be filed with the Order to Cease and Desist should the order be appealed or becomes part of a later litigation.

Finally, services of any C&D Orders are an item that must be reported on the Trip Report. Be sure to advise employers when serving the order on them that the penalty for violating the C&D Order may be \$500 per day per violator. However, be polite and avoid the appearance of "heavy-handedness" when doing so.

Sample completed forms are attached for reference.

Attachments: Sample Cease and Desist Letter
 Cease and Desist Form

Date

Contractor Name
Address

Subject: Order to Cease and Desist

I have recently received information that you may have acted as an electrician, employed by Service Electric, on a residential project in Seward, Alaska, during January 2000. A review of records maintained by this office disclosed that you have never held a Journeyman Certificate of Fitness in the State of Alaska, and have not renewed your Electrician Trainee Certificate since 1997.

Alaska Statute 18.62.010, Certificate of fitness required states:

In connection with work performed subject to the standards established in AS 18.60.580 (electrical) and AS 18.60.705 (plumbing), a person may not be employed without a certificate of fitness to perform the work, except that a certificate of fitness may not be required of employees of an electric utility that does not have within its service area any portion of a city or unified municipality having more than 2,500 population." (Note: AS 18.60.580 adopts the NEC as the electrical standard and AS 18.60.705 adopts the Uniform Plumbing Code in the State of Alaska).

The enclosed Order to Cease and Desist is an administrative action designed to educate and familiarize you with the legal requirements of current Alaska law. Violation of these statutes constitutes a criminal misdemeanor and continued violation could subject you to criminal or civil action. Should you require further information on the Alaska Certificate of Fitness please call the Mechanical Inspection Section at (907) 269-4925, option 1.

Sincerely,

Investigator Name
Title

cc: Dept of Commerce, Community and Economic Development, Division of
Corporations Business and Professional Licensing, Juneau



**STATE OF ALASKA
DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT
LABOR STANDARDS AND SAFETY DIVISION
CEASE AND DESIST ORDER _____**

TO:
NAME: Individuals Name **DATE OF BIRTH:** _____
D/B/A: Business Name **DRIVER'S LICENSE #:** _____
ADDRESS: _____ **SOCIAL SECURITY #:** _____
CITY/STATE: _____

As a result of an investigation conducted by the State of Alaska, Department of Labor and Workforce Development Division of Labor Standards and Safety on Month and year , at, location , Alaska, it has been determined that you **ARE** engaged in the following activity:

- work subject to the National Electrical Code.
- work subject to the National Electrical Safety Code.
- work subject to the Uniform Plumbing Code.
- acting as an Electrical Administrator
- acting as a Mechanical Administrator.
- working as a contractor.
- Other:

- ALASKA STATUTES PROHIBIT:**
- employing a person without a Certificate of Fitness – (Alaska Statute 18.62.070)
 - working without a Certificate of Fitness – (Alaska Statute 18.62.010)
 - employing an unlicensed Specialty Sub Contractor (Alaska Statute 08.18.011(b))
 - acting as an administrator without a license (Electrical - Alaska Statute 08.40.090) – (Mechanical - Alaska Statute 08.40.260)
 - Working without a contractor license (Alaska Statute 08.18.011 (a))
 - Other:

Pursuant to authority granted the Department of Labor and Workforce Development by **AK Statute 08.18.121(f), AK Statute 18.62.060, 8 AAC 90.205(c) and AK Statute 23.05.060(5)** you are hereby ordered to immediately cease and desist from further activity described above in the State of Alaska.

Continuing the activity in violation of a cease and desist order is a criminal offense and will be prosecuted.

By Order of:

COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT

*****CERTIFICATE OF SERVICE*****

Signature

Printed or typed name

Title

Dated: _____

I, _____ , hereby
 certify that I served a copy of this Order
 by giving a copy to _____ on _____

Signature **Date**