State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety

AKOSH Program Directive #15-01

Date: March 4, 2015

To: Keith Bailey, Chief of Enforcement
Krystyna Markiewicz, Chief of Consultation and Training

From: Grey Mitchell, Director

Subject: **AKOSH Local Emphasis Program**
Avalanche Safety Operations

Purpose:
This Program Directive establishes enforcement procedures to implement the AKOSH Local Emphasis Program (LEP) for avalanche safety operations.

Scope:
This instruction applies AKOSH wide and includes the following employer categories: helicopter skiing operators, backcountry outfitter and guiding operators, avalanche control operations and avalanche emergency response and cleanup operators. Inspections will focus on hazard assessment, personal protective equipment, hearing conservation, helicopter operations, employee training, blood borne pathogens and emergency action planning. However, inspections shall be expanded if serious hazards are observed.

References:
Alaska Occupational Safety and Health Act (AS 18.60.010 – AS 18.60.105)
Alaska Administrative Code (8 AAC 61.010 – 8 AAC 61.1960)
AKOSH Field Operations Manual (FOM – AKOSH PD 12-03)
US Heli-ski Operating Guidelines

Background:
Beginning in 2012, Alaska experienced workplace fatalities in the heli-skiing industry for three consecutive years. In 2014, AKOSH organized and held a stakeholder meeting for industry participants and interested parties to identify common issues and to discuss ways to reduce accidents. These efforts have promoted increased cooperation among the industry and resulted in several

requests for consultation services in 2015. This enforcement LEP is designed to ensure that a comprehensive approach is applied to reduce accidents related to avalanche hazards in the heli-skiing industry and in other industry categories where workers are exposed to avalanche hazards.

AKOSH enforcement will aspire to conduct a minimum of three inspections per year under this LEP. The hazards identified through the course of this LEP will be documented to assist with development of regulatory standards when hazards are identified that are not adequately covered by existing regulations.

AKOSH's Consultation and Training Program will continue to conduct outreach and develop guidance and recommendations related to avalanche safety hazards and related helicopter operations hazards and enforcement inspections conducted under the LEP will include providing employers and employees with applicable guidance and recommendations as outlined in appendices.

Details:
While heli-ski operators will be targeted under this emphasis program, this LEP will also target other industries and operations with avalanche hazard exposure. The Chief of AKOSH Enforcement shall identify targets for inspection using Workers' Compensation data, business and corporate licensing data, and local knowledge of employers with avalanche hazard exposure during the course of regular business operations. Sites will be randomly selected for inspection by location and combined whenever possible with other programmed and unprogrammed inspections. The targeting list will be periodically reviewed and updated on a biannual basis.

Inspections shall be assigned by the Chief of AKOSH Enforcement to maximize the efficiency and effectiveness of AKOSH resources with a goal toward conducting three inspections per year under this LEP. At the end of each federal fiscal year the AKOSH Chief of Enforcement will produce a summary report of the number of inspections conducted and hazards identified under this LEP.

Inspections shall include (but not be limited to) an evaluation of hazards related to:

> HELICOPTERS: The risk of mechanical failure or operational error including pilot error in the operation of helicopters and risks of helicopter travel in mountainous areas, especially in winter weather conditions. Helicopters are also very noisy by nature and require special hearing conservation programs and procedures. Fueling of helicopters is also a hazard for those performing such operations. PPE and training are of special concern.
>
> EQUIPMENT: There are risks that the equipment used during a Heli-Skiing trip such as, but not limited to, avalanche transceivers, avalanche flotation

devices, skis, snowboards, bindings, shovel, probe, radios, and helmets may not function as designed or as intended. The functionality of such equipment may not prevent injury or death. Inspection procedures for these items are of special note and documentation of these inspections should be available.

EXPLOSIVES: Avalanche control explosives present particular hazards to workers responsible for storage and use.

WEATHER: Weather conditions may be extreme and can change rapidly without warning. Emergency evacuation plans need to be broad based to identify these concerns and special procedures required.

TRAINING: Inspections should include a careful evaluation of the types of documented training provided to employees concerning hazard awareness, proper use of equipment, communication systems and devices, and other factors designed to recognize and mitigate exposure to hazards.

Inspections shall follow procedures established in the AKOSH Field Operations Manual. CSHO's conducting inspections under this LEP may expand the scope of the inspection when workplace hazards outside the scope of this LEP are identified. The opening conference should include an explanation that the inspection is the result of AKOSH's efforts to reduce accidents associated with avalanche and related operations, but that the scope of the inspection could be expanded if other hazards are identified during the course of the inspection.

CSHOs shall use professional judgment in determining areas of the work site and records that will be subject to inspection based on jobs or locations with the greatest potential to identify workplace hazards. CSHOs will not expose themselves to hazards and will not engage in helicopter travel or evaluate actual avalanche hazard locations without express approval from the Chief of AKOSH Enforcement.

Standard procedures in the AKOSH FOM for identifying violations, issuing citations, etc. shall be followed. Alaska's "general duty" clause (AS 18.60.075(4)) shall be used under circumstances where serious hazards causing or likely to cause death or serious physical harm to employees are identified.

As appropriate, the closing conference should include discussion of the employer's efforts to establish systems to protect employees from avalanche hazards. These efforts should be documented in the case file and in the inspection narrative to assist with identifying best practices for guidance documents and developing standards.

The AKOSH Chief of Enforcement shall communicate with Federal OSHA to assign an inspection code for data entry to allow for tracking and retrieval of data

in connection with this LEP. The AKOSH Chief of Consultation and Training shall ensure that an OIS code is established and assigned to visits under this LEP for tracking purposes. The AKOSH Chief of Enforcement shall ensure that the proper tracking code is entered in the OIS for inspections conducted under this LEP.

As of September 30, 2015, the AKOSH Chief of Enforcement shall meet with the AKOSH Chief of Consultation and Training to discuss issues and prepare a joint report of the hazards and the number of violations identified in association with this LEP along with any plans or recommendations for improving guidance documents and developing standards. The report shall be provided to the Director before November 1, 2015, with a recommendation regarding continuation of the LEP.

Implementation:
This program directive becomes effective immediately. It is anticipated that the LEP will terminate after the third year, unless extended in writing.

Please ensure that all members of your staff receive this program directive and the necessary coaching for implementation.

Clarifications: For the purpose of all OSHA Program Directive(s) adopted by AKOSH, the following terms are defined:

Where U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) refers to the following positions or locations, their equivalent in Alaska will be:

Area Director = Chief of Alaska Occupational Safety and Health (AKOSH) Enforcement section

Area Office = Labor Standards and Safety Division; AKOSH office located at 3301 Eagle Street, Suite 305, Anchorage, Alaska

Assistant Area Director = Chief of Alaska Occupational Safety and Health (AKOSH) Enforcement section

Assistant Secretary = Commissioner of the Alaska Department of Labor and Workforce Development

Deputy Assistant Secretary = Deputy Commissioner of the Alaska Department of Labor and Workforce Development

National Office = Commissioner's Office, Alaska Department of Labor and Workforce Development

OSHA = Alaska Occupational Safety and Health (AKOSH) Enforcement/ Compliance and Consultation & Training sections, located at 3301 Eagle Street, Suite 305, Anchorage, Alaska

Occupational Safety and Health Review Commission (OSHRC) = Alaska Occupational Safety and Health Review Board (AKOSHRB)

Regional Administrator = Director of Labor Standards and Safety, Alaska Department of Labor and Workforce Development

Regional Office = Alaska Department of Labor and Workforce Development, Labor Standards and Safety Division, Director's Office, 1111 W. 8th Street, Suite 304, Juneau, Alaska

RSOL = Department of Law

SST (Site Specific Targeting) = Industry Specific Targeting System (ISTS)

Secretary = Commissioner of the Alaska Department of Labor and Workforce Development

Distribution List:
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Appendix A

Additional Resources

Recommendations

The following guidelines will help reduce the risk of injury to employee in Heli-ski operations:

- Provide instruction and hands-on training on safe handling and operation of ATVs to employees. Ensure that employees are competent in operating their specific ATV under the variety of conditions in which they will be driving.
- The major ATV manufacturers and distributors provide free hands-on training to purchasers of new ATVs and can provide additional training at a reasonable fee. The ATV Safety Institute (http:// www.svia.org) offers ATV classes that may be of assistance.
- Ensure that all likely ATV drivers have reviewed and understand the operator's manual.
- Ensure that all manufacturers' warnings are followed and that drivers review and understand them.
- Do not permit ATV drivers to carry passengers.
- Ensure that drivers wear proper helmets and boots. Where conditions require, ensure the use of goggles, gloves, and other safety clothing.
- Establish policies stating where ATV use is prohibited, such as on paved or public roads and in areas with high vehicular or heavy equipment traffic.
- Ensure that employees drive at appropriate speeds to allow for avoidance of potential hazards and the speed is appropriate for the type of terrain (e.g., mud, snow, ditches, gravel, etc.).
- Check the tire condition and pressure. Ensure that the throttle, brakes, and other controls are working properly. Ensure that headlight(s) and taillight(s) are working properly. o Test the steering before starting, initially at low speeds. Test the suspension system Ensure that ATV drivers report any damage or mechanical failures so that repairs can be made.
- Ensure that employees and all contractors using ATVs on your worksite are aware of any site-specific hazards, such as excavations, trenches, and areas where ATV use is prohibited.
- Establish a maintenance program for all ATVs that meet the manufacturer's recommendations to ensure proper ATV performance.
- Ensure that employees only haul items on the ATV in accordance with the manufacturer's specifications and never exceed the weight limit. Ensure loads are evenly distributed.
- Do not allow modification of ATVs without approval from the manufacturer.
- Monitor manufacturer's recalls and ensure prompt action when a recall is issued for your ATV(s).
- Training should include reviewing and becoming familiar with the operator's manual, and hands-on operation.
- Ensure that a pre-ride inspection of the ATV is performed
    - Check the tire condition and pressure.
    - Ensure that the throttle, brakes, and other controls are working properly.
    - Ensure that headlight(s) and taillight(s) are working properly.
    - Test the steering before starting, initially at low speeds.

  - Test the suspension system.
- Ensure that ATV drivers report any damage or mechanical failures so that repairs can be made.

References

1. U.S. Avalanche Accidents Reports http://www.avalanche.org/accidents.php

2. The NSP Avalanche Program http://www.nsp.org/EduPrograms/avalanche.aspx

Avalanche Resources

National Avalanche Center

American Avalanche Association
Friends of CAIC
National Avalanche Foundation
Recco Avalanche Rescue Technology
Recommendations for U.S. Avalanche Education

ATV Safety Resources

Centers for Disease Control and Prevention (CDC). All-Terrain Vehicle-Related Deaths - West Virginia, 1985-1997 (PDF). Morbidity and Mortality Weekly Report (MMWR) Volume 48, No. 1. January 15, 1999.

New Zealand Occupational Safety and Health Service. *Safe Use of ATVs on New Zealand Farms - Agricultural Guideline*. November 2002. http://www.osh.govt.nz/order/catalogue/pdf/atvguide2.pdf

Other Resources

U.S. Consumer Product Safety Commission (CPSC). **Skiing Helmets. An Evaluation of the Potential to Reduce Head Injury.** January 1999. http://www.cpsc.gov//PageFiles/108689/skihelm.pdf

U.S. Department of Labor (DOL), Bureau of Labor Statistics. BLS Statistics on Worker Safety and Health.

Alaska Stat. § 05.45.040. : Alaska Statutes - Section 05.45.040.: Required plan and patrol by ski area operators.

(a) A ski area operator shall prepare a plan of operation for each ski season and shall implement the plan throughout the ski season. A plan of operation must include written provisions for ski patrol, avalanche control, avalanche rescue, grooming procedures, tramway evacuation, hazard marking, missing person procedures, and first aid. Before the operation of the ski area for that season, the plan shall be reviewed and approved by the commissioner of natural resources except that if an agency of the United States manages the land on which the ski area operates, the plan shall be reviewed and approved by that agency. The commissioner of natural resources may require a ski area operator to pay a fee not to exceed the department's cost of reviewing the plan, and may adopt regulations to implement this subsection.

(b) A ski area operator shall provide a ski patrol whose members meet or exceed the training standards of the National Ski Patrol System, Inc. This subsection does not apply to a ski area if the operator transports skiers using only a single tramway consisting of a rope tow, the rope tow does not transport skiers more than 500 vertical feet, and the ski area is operated by a nonprofit corporation or a municipality. In this subsection, "nonprofit corporation" means a corporation that qualifies for exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).
(c) Notwithstanding any other law, the state and the commissioner of natural resources are not civilly liable for damages resulting from an act or omission in reviewing, approving, or disapproving a plan of operation under (a) of this section.

•Section 05.45.010. Limitation on actions arising from skiing.
•Section 05.45.020. Effect of violations.
•Section 05.45.030. Duties of passengers.
•Section 05.45.040. Required plan and patrol by ski area operators.
•Section 05.45.050. Required signs for tramways; duties of operators.
•Section 05.45.060. Required signs for trails and slopes; duties of operators.
•Section 05.45.070. Other duties of ski area operators.
•Section 05.45.080. Skiers outside marked boundaries.
•Section 05.45.090. Reckless skiers; revocation of skiing privileges.
•Section 05.45.100. Duties and responsibilities of skiers.
•Section 05.45.110. Competition; immunity for ski area operator.
•Section 05.45.120. Use of liability releases.
•Section 05.45.200. Definitions.
•Section 05.45.210. Short title.

Links/Citations to the websites listed above are offered for the reader's convenience. Since AKOSH does not control the information contained in these websites, AKOSH cannot assure the accuracy, relevance, timeliness, or completeness of all of this information. Moreover, providing links/citations to such websites does not constitute an endorsement of the websites, or their content, nor does it suggest that these websites are the exclusive or most useful sources of relevant information.

Appendix B

Additional Resources

HELI-SKI U.S. ASSOCIATION, INC.
Heli-Skiing Safety & Operating Guidelines
http://heliskius.org/wp-content/uploads/2014/01/HSOG.pdf

OSHA citing Wolf Creek after ski patroller's death
(http://sports.espn.go.com/action/freeskiing/news/story?id=6390617)

Past OSHA citations and fines for ski areas

Most of these citations and fines were reduced or deferred after negotiations between OSHA and the ski areas.

2003: OSHA cites Vail Resorts for three violations totaling $128,250 in connection with the November 2002 death of a 28-year-old snowmaker who drowned in an underground snowmaking vault.

2006: California's Division of Occupational Safety and Health cites Mammoth ski area for several violations totaling $50,000 in connection with the April 2006 deaths of three ski patrollers who fell into a volcanic fumarole and were overcome by carbon dioxide.

2007: OSHA cites Crested Butte ski area for two violations totaling $67,500 in connection with the death of a grooming- machine operator.

2009: OSHA cites Aspen Skiing Co. for five violations totaling $20,900 after a 19-year-old snowmaker died after crashing a snowmobile on Snowmass in December 2008 and was not found until the next morning.

2010: OSHA cites Wolf Creek ski area for three violations totaling $17,000 following an investigation into the death of patrol director Scott Kay, who died in an avalanche while conducting avalanche mitigation work.

https://www.osha.gov/dep/fatcat/dep_fatcat.html

Alaska Ski Safety Statutes

Sec. 05.45.010. Limitation on actions arising from skiing

Notwithstanding any other provision of law, a person may not bring an action against a ski area operator for an injury resulting from an inherent danger and risk of skiing.

History: (§ 2 ch 63 SLA 1994)

Notes Applicable To Entire Title

Revisor's Notes.—The provisions of this title were redrafted in 1985 to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982, and in 1981, 1985, 1989, 1994, and 2004 to make other minor word changes.

Notes Applicable To Entire Chapter

Cross References.—For safety, inspection and regulation of recreational devices, see AS 05.20; for legislative findings and purpose in connection with the enactment of this chapter, see § 1, ch. 63, SLA 1994 in the Temporary and Special Acts.

Sec. 05.45.020. Effect of violations

(a) A ski area operator or other person who violates a requirement of this chapter, a provision of a plan of operation prepared under AS 05.45.040, or a regulation adopted by the Department of Labor and Workforce Development under AS 05.20.070 is negligent and civilly liable to the extent the violation causes injury to a person or damage to property.

(b) Notwithstanding the provisions of AS 09.17.080,

(1) the limitation of liability described under AS 05.45.010 is a complete defense in an action against a ski area operator for an injury if an inherent danger or risk of skiing is determined to be a contributory factor in the resulting injury, unless the ski area operator has violated a requirement of this chapter, a provision of a plan of operation prepared under AS 05.45.040, or a regulation adopted by the Department of Labor and Workforce Development under AS 05.20.070;

(2) a violation of the passenger duties imposed under AS 05.45.030 or skier duties imposed under AS 05.45.100 is a complete defense in an action against a ski area operator if the violation is determined to be a contributory factor in the resulting injury, unless the ski area operator has violated a requirement of this chapter, a provision of a plan of operation prepared under AS 05.45.040, or a regulation adopted by the Department of Labor and Workforce Development under AS 05.20.070.

(c) If the ski area operator is determined to have violated a requirement of this chapter, a provision of a plan of operation prepared under AS 05.45.040, or a regulation adopted by the Department of Labor and Workforce Development under AS 05.20.070, the provisions of AS 09.17.080 apply in an action against a ski area operator for an injury resulting from the violation.

History: (§ 2 ch 63 SLA 1994)

Notes: Revisor's Notes.—In 1999, "Department of Labor" was changed to "Department of Labor and Workforce Development" in each subsection in accordance with § 90, ch. 58, SLA 1999.

User Note: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.030. Duties of passengers

(a) A passenger may not board a tramway if the passenger does not have

(1) sufficient physical dexterity or ability and knowledge to negotiate or use the facility safely; or
(2) the assistance of a person authorized by the ski area operator to assist a skier.

(b) A passenger may not
(1) embark upon or disembark from a tramway except at a designated area unless reasonably necessary to prevent injury to the passenger or others; this paragraph does not apply if the tramway stops and the operator assists the passengers to disembark from the tramway;
(2) intentionally throw or expel an object from a tramway while riding on the tramway, except as permitted by the operator;
(3) act while riding on a tramway in a manner that may interfere with proper or safe operation of the tramway;
(4) engage in conduct that may contribute to or cause injury to a person;
(5) intentionally place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or another surface lift an object that could cause another skier to fall;
(6) embark upon a tramway marked as closed;
(7) disobey instructions posted in accordance with this chapter or oral instructions by the ski area operator regarding the proper or safe use of a tramway unless the oral instructions are contrary to this chapter or contrary to posted instructions.

History: (§ 2 ch 63 SLA 1994)

User Note: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.040. Required plan and patrol by ski area operators

(a) A ski area operator shall prepare a plan of operation for each ski season and shall implement the plan throughout the ski season. A plan of operation must include written provisions for ski patrol, avalanche control, avalanche rescue, grooming procedures, tramway evacuation, hazard marking, missing person procedures, and first aid. Before the operation of the ski area for that season, the plan shall be reviewed and approved by the commissioner of natural resources except that if an agency of the United States manages the land on which the ski area operates, the plan shall be reviewed and approved by that agency. The commissioner of natural resources may require a ski area operator to pay a fee not to exceed the department's cost of reviewing the plan, and may adopt regulations to implement this subsection.
(b) A ski area operator shall provide a ski patrol whose members meet or exceed the training standards of the National Ski Patrol System, Inc. This subsection does not apply to a ski area if the operator transports skiers using only a single tramway consisting of a rope tow, the rope tow does not transport skiers more than 500 vertical feet, and the ski area is operated by a nonprofit corporation or a municipality. In this subsection, "nonprofit corporation" means a corporation that qualifies for exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).
(c) Notwithstanding any other law, the state and the commissioner of natural resources are not civilly liable for damages resulting from an act or omission in reviewing, approving, or disapproving a plan of operation under (a) of this section.

History: (§ 2 ch 63 SLA 1994)

User Note: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.050. Required signs for tramways; duties of operators

(a) A ski area operator who operates a tramway shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each tramway, readable in conditions of ordinary visibility, and where applicable adequately lighted for nighttime passengers. Signs shall be posted

(1) at or near the loading point of each tramway, regardless of the type, advising that a person not familiar with the operation of the device must ask the operator of the device for assistance and instruction;

(2) in the interior of each two-car and multicar tramway showing

(A) the maximum capacity in pounds of the car and the maximum number of passengers allowed;

(B) instructions for procedures in emergencies;

(3) in a conspicuous place at each loading area of two-car and multicar tramways stating the maximum capacity in pounds of the car and the maximum number of passengers allowed;

(4) at all chair lifts stating the following:

(A) "Prepare to Unload," which shall be located not less than 50 feet ahead of the unloading area;

(B) "Keep Ski Tips Up," which shall be located ahead of any point where the skis may come in contact with a platform or the snow surface;

(C) "Unload Here," which shall be located at the point designated for unloading;

(D) "Stop Gate," which shall be located where applicable;

(E) "Remove Pole Straps from Wrists," which shall be located prominently at each loading area;

(F) "Check for Loose Clothing and Equipment," which shall be located before the "Prepare to Unload" sign;

(5) at all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, stating the following:

(A) "Remove Pole Straps from Wrists," which shall be placed at or near the loading area;

(B) "Stay in Tracks," "Unload Here," and "Safety Gate," which shall be located where applicable;

(C) "Prepare to Unload," which shall be located not less than 50 feet ahead of each unloading area;

(6) near the boarding area of all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, advising passengers to check to be certain that clothing, scarves, and hair will not become entangled with the lift;

(7) at or near the boarding area of all lifts, stating the skier's duty set out in AS 05.45.100(c)(2).

(b) Signs not specified by (a) of this section may be posted at the discretion of the ski area operator.

(c) A ski area operator, before opening the tramway to the public each day, shall inspect the tramway for the presence and visibility of the signs required by (a) of this section.

(d) A ski area operator shall post and maintain signs that are required by (a) of this section in a manner that they may be viewed during conditions of ordinary visibility.

HISTORY: (§ 2 ch 63 SLA 1994)JHMoss

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.060. Required signs for trails and slopes; duties of operators

(a) A ski area operator shall maintain a sign and marking system as required in this section in addition to that required by AS 05.45.050. All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.
(b) A ski area operator shall post a sign recognizable to skiers proceeding to the uphill loading point of each base area lift that depicts and explains signs and symbols that the skier may encounter at the ski area. The sign must include the following:

(1) the least difficult trails and slopes, designated by a green circle and the word "easier";
(2) the most difficult trails and slopes, designated by a black diamond and the words "most difficult"; trails intended for expert skiers may be marked with a double black diamond and the words "expert only";
(3) the trails and slopes that have a degree of difficulty that falls between the green circle and the black diamond designation, designated by a blue square and the words "more difficult";
(4) danger areas designated by a red exclamation point inside a yellow triangle with a red band around the triangle and the word "danger" printed beneath the emblem;
(5) closed trails or slopes designated by a sign with a circle or octagon around a figure in the shape of a skier with a band running diagonally across the sign from the upper right-hand side to the lower left-hand side and with the word "closed" printed beneath the emblem.

(c) If applicable, a sign shall be placed at or near the loading point of each tramway as follows: WARNING: This lift services (most difficult) or (most difficult and more difficult) or (more difficult) slopes only.
(d) If a particular trail or slope or portion of a trail or slope is closed to the public by a ski area operator, the operator shall place a sign notifying the public of that fact at each identified entrance of each portion of the trail or slope involved. A slope without an entrance defined by terrain or forest growth may be closed with a line of signs in a manner readily visible to skiers under conditions of ordinary visibility. This subsection does not apply if the trail or slope is closed with ropes or fences.
(e) A ski area operator shall

(1) place a sign at or near the beginning of each trail or slope, which must contain the appropriate symbol of the relative degree of difficulty of that particular trail or slope as described in (b) of this section; this paragraph does not apply to a slope or trail designated "easier" that to a skier is substantially visible in its entirety under conditions of ordinary visibility before beginning to ski the slope or trail;
(2) mark the ski area boundaries in a fashion readily visible to skiers under conditions of ordinary visibility;
(3) mark that portion of the boundary with signs as required by (b)(5) of this section if the owner of land adjoining a ski area closes all or part of the land and notifies the ski area operator of the closure;
(4) mark hydrants, water pipes, and all other man-made structures on slopes and trails that are not readily visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet and adequately and appropriately cover man-made structures that create obstructions with a shock absorbent material that will lessen injuries; any type of marker is sufficient, including wooden poles, flags, or signs, if the marker is visible from a distance of 100 feet and if the marker itself does not constitute a serious hazard to skiers; in this paragraph, "man-made structures" does not include variations in steepness or terrain, whether natural or as a result of slope design, snow making, grooming operations, roads and catwalks, or other terrain modifications;
(5) mark exposed forest growth, rocks, stumps, streambeds, trees, or other natural objects that are located on a slope or trail that is regularly used by skiers or that is regularly packed and

prepared by a ski area operator using a snow vehicle and attached implements and that are not readily visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet;
(6) mark roads, catwalks, cliffs, or other terrain modifications that are not readily visible to skiers under conditions of ordinary visibility from a distance of at least 100 feet;
(7) post and maintain signs that contain the warning notice specified in (g) of this section; the notice shall be placed in a clearly visible location at the ski area where lift tickets and ski school lessons are sold and in a position to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift; the signs may not be smaller than three feet by three feet and must be white with black and red letters as specified in this paragraph; the word "WARNING" must appear on the sign in red letters; the warning notice specified in this paragraph must appear on the sign in black letters with each letter to be a minimum of one inch in height.

(f) A ski lift ticket sold or made available for sale to skiers by a ski area operator must contain in clearly readable print the warning notice specified in (g) of this section.
(g) The signs described in (e)(7) of this section and the lift tickets described in (f) of this section must contain the following warning notice:

WARNING

Under Alaska law, the risk of an injury to person or property resulting from any of the inherent dangers and risks of skiing rests with the skier. Inherent dangers and risks of skiing include changing weather conditions; existing and changing snow conditions; bare spots, rocks, stumps and trees; collisions with natural objects, man-made objects, or other skiers; variations in terrain; and the failure of skiers to ski within their own abilities.

HISTORY: (§ 2 ch 63 SLA 1994)

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.070. Other duties of ski area operators

(a) A ski area operator shall equip a motorized snow-grooming vehicle with a light visible at any time the vehicle is moving on or in the vicinity of a ski slope or trail.
(b) When maintenance equipment is being employed to maintain or groom a ski slope or trail while the ski slope or trail is open to the public, the ski area operator shall place a conspicuous notice regarding the maintenance or grooming at or near the top of that ski slope or trail.
(c) A motor vehicle operated on the ski slope or trails of a ski area shall be equipped with at least
(1) one lighted head lamp;
(2) one lighted red tail lamp;
(3) a brake system maintained in operable condition; and
(4) a fluorescent flag at least 40 square inches mounted at least six feet above the bottom of the tracks.
(d) A ski area operator shall make available at reasonable fees, instruction and education regarding the inherent danger and risk of skiing and the duties imposed on skiers under this chapter. Notice of the availability of the instruction and education required under this subsection shall be placed in a clearly visible location at the ski area where lift tickets and ski school lessons are sold, in a position to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift, and printed on equipment rental agreements.

HISTORY: (§ 2 ch 63 SLA 1994)

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.080. Skiers outside marked boundaries

A ski area operator does not have a duty arising out of the operator's status as a ski area operator to a skier skiing beyond the area boundaries if the boundaries are marked as required by AS 05.45.060(e)(2).

HISTORY: (§ 2 ch 63 SLA 1994)

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.090. Reckless skiers; revocation of skiing privileges

(a) A ski area operator shall develop and maintain a written policy covering situations involving reckless skiers, including a definition of reckless skiing, procedures for approaching and warning skiers regarding reckless conduct, and procedures for taking action against reckless skiers, including revocation of ski privileges. A ski area operator shall designate ski patrol personnel responsible for implementing the ski area operator's policy regarding reckless skiers.
(b) A ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges. This section may not be construed to create an affirmative duty on the part of the ski area operator to protect skiers from their own or from another skier's carelessness or recklessness.

HISTORY: (§ 2 ch 63 SLA 1994)

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.100. Duties and responsibilities of skiers

(a) A skier is responsible for knowing the range of the skier's own ability to negotiate a ski slope or trail and to ski within the limits of the skier's ability. A skier is responsible for an injury to a person or property resulting from an inherent danger and risk of skiing, except that a skier is not precluded under this chapter from suing another skier for an injury to person or property resulting from the other skier's acts or omissions. Notwithstanding any other provision of law, the risk of a skier's collision with another skier is not an inherent danger or risk of skiing in an action by one skier against another.

(b) A skier has the duty to maintain control of the skier's speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, a person skiing downhill has the primary duty to avoid collision with a person or object below the skier.

(c) A skier may not
(1) ski on a ski slope or trail that has been posted as "closed" under AS 05.45.060(b)(5) and (d);

(2) use a ski unless the ski is equipped with a strap or other device capable of stopping the ski should the ski become unattached from the skier;
(3) cross the uphill track of a J-bar, T-bar, platter pull, or rope tow except at locations designated by the operator, or place an object in an uphill track;
(4) move uphill on a tramway or use a ski slope or trail while the skier's ability is impaired by the influence of alcohol or a controlled substance as defined in AS 11.71.900 or other drug;
(5) knowingly enter upon public or private land from an adjoining ski area when the land has been closed by an owner and is posted by the owner or by the ski area operator under AS 05.45.060(e)(3).

(d) A skier shall stay clear of snow grooming equipment, vehicles, lift towers, signs, and other equipment on the ski slopes and trails.
(e) A skier has the duty to heed all posted information and other warnings and to refrain from acting in a manner that may cause or contribute to the injury of the skier or others. Evidence that the signs required by AS 05.45.050 and 05.45.060 were present, visible, and readable at the beginning of a given day creates a presumption that all skiers using the ski area on that day have seen and understood the signs.
(f) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, a skier has the duty to avoid moving skiers already on the ski slope or trail.
(g) Except for the purpose of securing aid for a person injured in the collision, a skier involved in a collision with another skier or person that results in an injury may not leave the vicinity of the collision before giving the skier's name and current address to the other person involved in the collision and to an employee of the ski area operator or a member of the voluntary ski patrol. A person who leaves the scene of a collision to obtain aid shall give the person's name and current address as required by this subsection after obtaining aid.
(h) A person who violates a provision of (c) or (g) of this section is guilty of a violation as defined in AS 11.81.900. The commissioner of natural resources, a person designated by the ski area operator who is authorized by the commissioner, or an employee of the Department of Natural Resources authorized by the commissioner may issue a citation in accordance with the provisions of AS 41.21.960 to a person who violates (c) or (g) of this section within a ski area.
(i) The supreme court shall establish by rule or order a schedule of bail amounts that may be forfeited without a court appearance for a violation of (c) or (g) of this section.

HISTORY: (§ 2 ch 63 SLA 1994; am §§ 1, 2 ch 64 SLA 2004)

NOTES: EFFECT OF AMENDMENTS.—The 2004 amendment, effective September 14, 2004, deleted "over which the state has jurisdiction" at the end of subsection (h), and added subsection (i).

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.110. Competition; immunity for ski area operator

(a) The ski area operator shall, before the beginning of a ski competition, allow an athlete who will ski in the competition a reasonable visual inspection of the course or area where the competition is to be held.
(b) An athlete skiing in competition assumes the risk of all course or area conditions, including weather and snow conditions, course construction or layout, and obstacles that a visual inspection would have revealed. A ski area operator is not liable for injury to an athlete who skis in competition and who is injured as a result of a risk described in this subsection.

HISTORY: (§ 2 ch 63 SLA 1994)

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.120. Use of liability releases

(a) A ski area operator may not require a skier to sign an agreement releasing the ski area operator from liability in exchange for the right to ride a ski area tramway and ski in the ski area. A release that violates this subsection is void and may not be enforced.
(b) Notwithstanding (a) of this section, a ski area operator may
(1) require a special event coach, participant, helper, spectator, or rental customer to sign an agreement releasing the ski area operator from liability in exchange for the right to coach, participate, assist in, or observe the special event; or
(2) use a release agreement required by a third party as a condition of operating a rental program or special event at the ski area.
(c) In this section, "special event" means an event, pass, race, program, rental program, or service that offers competition or other benefits in addition to a ticket representing the right to ride a ski area tramway and ski on the ski slopes or trails, whether or not additional consideration is paid.

HISTORY: (§ 2 ch 63 SLA 1994)

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

Sec. 05.45.200. Definitions
In this chapter,

(1) "base area lift" means a tramway that skiers ordinarily use without first using some other tramway;
(2) "conditions of ordinary visibility" means daylight or, where applicable, nighttime, in no precipitating weather;
(3) "inherent danger and risk of skiing" means a danger or condition that is an integral part of the sport of skiing, including changing weather conditions; snow conditions as they exist or may change, including ice, hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface or subsurface conditions including bare spots, forest growth, rocks, stumps, streams, streambeds, and trees, or other natural objects, and collisions with natural objects; impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, other man-made structures, and their components; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including roads and catwalks or other terrain modifications; collision with other skiers; and the failure of skiers to ski within their own abilities; the term "inherent danger and risk of skiing" does not include the negligence of a ski area operator under AS 05.45.020, or acts or omissions of a ski area operator involving the use or operation of ski lifts;
(4) "injury" means property damage, personal injury, or death;
(5) "passenger" means a person who is lawfully using a tramway;
(6) "ski area" means all downhill ski slopes or trails and other places under the control of a downhill ski area operator; "ski area" does not include a cross-country ski trail;
(7) "ski area operator" means a person having operational responsibility for a downhill ski area, and includes an agency of the state or a political subdivision of the state;
(8) "skier" means an individual using a downhill ski area for the purpose of

(A) skiing;
(B) sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, a snowboard, or another skiing or sliding device; or
(C) using any of the facilities of a ski area, including ski slopes and trails;
(9) "ski slopes or trails" means those areas designated by a ski area operator to be used by a skier;
(10) "tramway" means a device that is a passenger tramway, aerial or surface lift, ski lift, or rope tow regulated under AS 05.20.

HISTORY: (§ 2 ch 63 SLA 1994)
USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

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