

ALASKA DEPARTMENT OF LABOR
NOTICE OF APPLICATION for
PERMANENT VARIANCE and
EX PARTE INTERIM ORDER (VAR 02-01)

1. Notice of Application

Energy Recovery Services, Inc. (ERSI), 2020 Viking Drive, Anchorage, AK 99501 has made application under AS 18.60.077 for a variance from the safety and health standard prescribed in 29 C.F.R. 1910.106 section (b)(4)(iv)(g) Flammable and Combustible Liquids. The standard requires that the inlet of the fill pipe be located outside of buildings at a location free from any source of ignition and not less than 5 feet away from any building opening. It also requires that the inlet of the fill pipe be closed and liquidtight when not in use and the fill connection be properly identified.

The place of employment subject to this application is Energy Recovery Services, Inc. (ERSI), 2020 Viking Drive, Anchorage, AK 99501.

A variance is requested by Energy Recovery Services that would allow them to retain the inlet fill pipe located within the building, in an area specifically designed for potential spill containment. ERSI states that the fill pipe is fitted with a camlock fitting and there are valves located on both sides of the fitting to isolate any potential leak. Two persons are always present attending to the filling process. The process of transferring fuel from the truck through the inlet pipe into the tank is accomplished by a pump located at the tank itself, which suctions the fuel from the truck into the tank. The entire building contains an air exhaust system which thoroughly exhausts any potential vapors during the process. It is felt that placing the inlet fill pipe outside the building would create safety and health concerns. Presently there is no spill prevention or containment system outside the building. There is no protection from weather to keep water, frost or snow off the camlock fitting. Nor is there protection for employees from potential vapors.

The applicant certifies that all affected employees have been informed of this application and have been advised of their right to request a hearing and that copies of the application have been posted at the ERSI facility located at 2020 Viking Drive, Anchorage, AK 99501.

A copy of this application is available upon request from the Commissioner of Labor, P.O. Box 21149, Juneau, AK 99802-1149. Persons, including employees, who believe that they would be affected by the grant or denial of this variance application, may request a hearing. Any request must be directed to the Commissioner of Labor at the above address, by October 12, 2001, and must contain the following information:

- a. A concise statement of fact showing how you would be affected by the grant or denial of this variance;

- b. Any statement in the application with which you disagree, and a concise summary of the evidence that you would supply in support of your arguments; and
- c. Any views or arguments on any issue of fact or law presented.

The Commissioner will not hold a hearing unless specifically requested as outlined above, unless a hearing is determined necessary.

If you are a person with a disability who needs a special modification in order to comment on the proposed variance, please contact Lillian Prevette in Juneau, Alaska, at (907) 465-6005 no later than October 1, 2001, to make any necessary arrangements.

Interested parties also may submit written comments, views or arguments regarding the application to the Commissioner of Labor by close of business on October 12, 2001.

2. Interim Order

A variance is requested by Energy Recovery Services that would allow them to retain the inlet fill pipe located within the building, in an area specifically designed for potential spill containment. ERSI states that the fill pipe is fitted with a camlock fitting. There are valves located on both sides of the fitting to isolate any potential leak. Two persons are always present attending to the filling process. The process of transferring fuel from the truck through the inlet pipe into the tank is accomplished by a pump located at the tank itself, which suctions the fuel from the truck into the tank. The entire building contains an air exhaust system which thoroughly exhausts any potential vapors during the process. Placing the inlet fill pipe outside the building would create safety and health concerns. Presently there is no spill prevention or containment system outside the building. There is no protection from weather to keep water, frost or snow off the camlock fitting. Nor is there protection for employees from potential vapors.

The Department has reviewed the application and is satisfied that the ERSI facility at 2020 Viking Drive, Anchorage, AK is at least as safe and healthful as required by the standard, provided all of the conditions of this interim order are met.

Therefore, under authority of 8 AAC 61.340(c), an interim order is granted to Energy Recovery Services, Inc.. Under this interim order, Energy Recovery Services, Inc. is authorized to provide safe and healthful working conditions by having the inlet fill pipe located inside the building at 2020 Viking Drive, Anchorage, AK beginning on October 12, 2001 and extending to close of business on November 12, 2001.

This interim order is granted on the condition that the applicant follows the procedures outlined below:

- (A) Flashpoint of the oil being transferred is tested.

Any violation of this condition will result in the immediate revocation of this interim order, and may result in the issuance of a willful violation.

3. Effective Date

This interim order shall be effective on the date it is signed and remain in effect until a decision is rendered on the application for the variance.

September 6, 2001

Date

Ed Flanagan, Commissioner
Department of Labor and Workforce Development