

8 AAC is amended by adding a new chapter to read:

**Chapter 100. Referrals By Commissioner.**

**Section**

- 10. Reporting labor violations
- 20. Referral to Department of Administration
- 30. Primary contractor referral
- 40. Applicability

**8 AAC 100.010. Reporting labor violations.** (a) When, as a result of an investigation or enforcement action conducted under the authority of any statute administered or enforced by the Department of Labor and Workforce Development, the director of the division responsible for enforcing the statute finds that any person has committed a willful or aggravated violation of the statute or any regulation adopted thereunder, the director shall make a report of that violation to the commissioner.

(1) A violation will be considered willful for purposes of this section if the person committing the violation

(A) has been cited for two or more substantially similar violations within the preceding 5 years, and those citations have not been contested or have become final and not appealable;

(B) has been formally adjudicated in a judicial or administrative forum as having committed two or more substantially similar violations within the preceding five years;

(C) had actual knowledge of the statutory or regulatory provision being violated prior to committing the violation; or

(D) failed to take reasonable steps to learn of the particular provision violated.

(2) A violation will be considered aggravated under this chapter if

(A) the violation contributed to the injury or death of any person;

(B) any person was injured or died during a violation of AS 23.30.075;

(C) the person committing the violation failed to timely make any required report to any governmental agency regarding the violation or injury;

(D) the person committing the violation falsified records, concealed records, or took any other action to conceal the violation; or

(E) the person committing the violation transferred assets to any other person or entity to avoid liability or collection of a fine or debt owed because of a violation.

(3) If a statute administered or enforced by the Department contains or incorporates a different definition of “aggravated” or “willful,” the definitions sections (1) and (2) above shall be used for purposes of this chapter.

(b) The director of any division of the department shall make a report to the commissioner of any instance of a person failing to comply with any stop work order or cease and desist order issued under the authority of any statute administered by the department.

(c) If the director of any division obtains knowledge that any person who conducts business within the state of Alaska has been debarred or placed on a debarment list by any

municipal, state, or federal agency, the director shall make a report to the commissioner of this debarment. (Eff. \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 23.05.010 AS 23.05.060

**8 AAC 100.020. Referral to Department of Administration.** The commissioner may refer any person reported under 8 AAC 100.010 to the Department of Administration with the recommendation that the Department of Administration initiate debarment proceedings under AS 36.30.635. The recommendation shall be in writing, and shall detail the relevant facts and circumstances leading to the recommendation, and to the extent allowed by law be accompanied by any relevant documents. (Eff. \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 23.05.010 AS 23.05.060

**8 AAC 100.030. Primary contractor referral.** If a subcontractor is eligible for referral for debarment under this chapter, the commissioner may also refer the primary contractor who contracted with the subcontractor if

(a) the primary contractor knew or should have known the subcontractor had a history of committing violations;

(b) the primary contractor assisted or abetted the subcontractor in committing the violation;

(c) the primary contractor knew or should have known about the violation but failed to take any action to abate or report the violation; or

(d) the statute or regulation violated by the subcontractor makes the primary contractor responsible for the violation as well. (Eff. \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

Register \_\_\_\_\_, \_\_\_\_\_ 20\_\_ LABOR AND WORKFORCE DEV.

**Authority:** AS 23.05.010 AS 23.05.060

**8 AAC 100.040. Applicability.** This chapter shall not apply to any violation which could result in debarment under AS 36.05.090 or under AS 23.30.080(e). (Eff. \_\_/\_\_/\_\_\_\_, Register \_\_\_)

**Authority:** AS 23.05.010 AS 23.05.060