

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066**

**LCB FILE R124-13**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 477.

**1. A clear and concise explanation of the need for the adopted regulation.**

This regulation is necessary to update the regulations to comply with existing statutory requirements due to legislative changes in the 2011 and 2013 general sessions. The proposed regulation provides for administrative citations, establishes a formal administrative hearing process, provides a process for appeals of decisions, orders or determinations of the State Fire Marshal to the State Board of Fire Services, provides for administrative fines by either the State Fire Marshal or the State Board of Fire Services, provides for formal conflict resolution process for persons who seek relief by an action the Division or one of its staff members has taken, requires written decisions of the State Fire Marshal be provided within a set time frame and posted as a public record following receipt from the public and outlines the due process procedure that the State Fire Marshal Division is required to follow.

**2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the regulations of the State Fire Marshal as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada State Fire Marshal Division (NSFM), [http://fire.nv.gov/Boards/Board\\_FS/](http://fire.nv.gov/Boards/Board_FS/), mailed to all county libraries in Nevada and posted at the following locations:

Board of Architecture Interior Design and Residential Design, 2080 E. Flamingo Rd., #120, Las Vegas, NV 89119

Board of Professional Engineers and Land Surveyors, 1755 East Plumb Lane, Reno, NV 89502

Carson City Fire Department, 777 South Stewart Street, Carson City, NV 89701

Central Lyon County Fire Department, 231 Corral Drive, Dayton, NV 89403

Clark County Fire Department, 575 East Flamingo Road, Las Vegas, NV 89119

Clark County Fire Department Training Center, 4425 West Tropicana Avenue, Las Vegas, NV 89103

Department of Public Safety, 500 Wright Way, Carson City, NV

East Fork Fire & Paramedic District, 1694 County Road, Minden, NV 89423

Elko Fire Department, 911 West Idaho Street, Elko, NV 89801

Ely Fire Department, 1780 Great Basin Blvd., Ely, NV 89301

Henderson Fire Department, 223 Lead Street, #141, Henderson, NV 89826

Las Vegas Fire and Rescue, 500 North Casino Center Blvd., Las Vegas, NV 89101

Nevada State Library, 100 South Stewart Street, Carson City, NV

Reno Fire Department, 1 East First Street, Reno, NV 89501  
Sparks Fire Department, 1605 Victorian Avenue, Sparks, NV 89431  
State Fire Marshal Division, 107 Jacobsen Way, Carson City, NV  
State Fire Marshal Division, 215 E. Bonanza, Las Vegas, NV  
State Fire Marshal Division, 3920 E. Idaho Street, Elko, NV

A public workshop was held on June 3, 2014, and the minutes of that workshop are attached hereto. During the course of the public workshop, the State Board of Fire Services received input from the public and local government representatives as follows. Note that all private business owners and representatives noted below are from “small businesses” as defined by Nevada law.

During the public workshop, the Board went through the initial draft of the regulation as published by the Legislative Counsel Bureau (LCB). The basis of the draft was pointed out by the Board staff as being derived from existing regulations of the State Contractor’s Board and the Department of Motor Vehicles. The Board discussed and accepted input from attendees to make numerous revisions to the language throughout the draft regulation. The administrative fine schedule was reviewed line by line with input provided by all attendees with the Board accepting the general consensus for each fine amount that surfaced during the discussions.

No written comments were received in advance of the public workshop.

Thereafter, on or about February 20, 2015, the State Board of Fire Services issued a Notice of Intent to Act Upon a Regulation which incorporated the proposed amendments from the June 3, 2014 workshop.

A public hearing was held on March 27, 2015, and the minutes of that hearing are attached hereto. At that hearing Mr. Doug Sartain, president of Certified Fire Protection, Inc., a Las Vegas based small business fire protection contractor and president of a fire protection contractor’s association based in southern Nevada. Mr. Sartain asked for clarification on the citation and fine procedure. The process in the Nevada Administrative Act in NRS Chapter 233B was outlined for those in attendance in answer to the question. Mr. Sartain stated his support for the proposed regulations with no recommended changes.

Mr. Lee Marx of American Fire & Electric, a Nevada small business fire protection contractor asked questions of staff regarding the checks and balances provided over the State Fire Marshal should a future official abuse the violation and citation process. The role of an administrative hearing officer independent of the State Fire Marshal investigation, the appeal process to the State Board of Fire Services and judicial review of any proceedings, all of which this regulation implements, were outlined. It was also pointed out that the process being adopted does not require the assessment of an administrative fine, but other actions such as corrective orders, probationary periods, continuing education requirements and letters of caution, all dependent on the severity of the violation were open to the administrative hearing officer and the Board of Fire Services on appeal. A motion was made and the Board approved to keep the regulation wording unchanged based on this wide ranging discussion.

Lynn Nielson representing the City of Henderson spoke in support of the regulation making no suggestions for changes in the document.

Ken Young of A1 National Fire in Las Vegas asked for clarification of the effect on NAC section 477.470 in applying the proposed regulation. Response from the staff was that each investigation is treated on a case-by-case basis with past experience being to determine whether the infraction was the result of a systemic problem with a company or an issue with an individual employee. If the company discovers a problem and takes corrective action, the State Fire Marshal has not, and does not ever intend to, punish a company for fixing problems and making their customer whole. Mr. Young also raised a concern regarding that a reporting requirement may have been left out of the existing NAC chapter 477 that is not part of this rulemaking process. Mr. Young was informed that at the time of the next code update and review of NAC chapter 477 that issue could be brought up and corrected, if necessary, and he would be very welcome to participate in the process. As there were no changes suggested, the Board took no further action on this comment.

Two written comments were received in advance of the public hearing and two written comments were submitted to the Board during the public hearing. (See Exhibit C attached.)

The two written comments were received during the hearing. One was from Mr. Mark Silverman of Allstate Fire Equipment, Las Vegas, NV, a Nevada based small business. Mr. Silverman supported the regulation citing that the proposal would hold individuals and companies accountable.

The second written comment received during the public hearing was from Mr. Frank Cook of Countrywide Fire Services, Inc., also a Nevada based small business. Mr. Cook wrote that his company fully supports the regulation in LCB File #R124-13.

Prior to the public hearing, the Board staff received two written correspondences by way of email. The first was received March 16, 2015, from Mr. Tad Halcomb, from American Fire Equipment Sales and Service Corporation, Reno, NV. Mr. Halcomb expressed concern regarding expanding his company into other cities across the I-80 corridor and how his cost of business might increase by the imposition of fines for violations of state law. He did state that his business type did need regulation “to ensure properly trained technicians are in the field performing the life safety work in a manner that satisfies Nevada State Fire Marshal’s responsibilities.”

A second email correspondence was also received March 16, 2015, from Mr. Ray Lafaver, also of American Fire Equipment Sales and Service Corporation, location unknown. Mr. Lafaver complimented Mr. Halcomb on his letter to the Board. The Board considered the comments from both Mr. Halcomb and Mr. Lafaver and asked if Mr. Halcomb or anyone else from American Fire Equipment was present to further comment on the subject. With no response, the Board discussed the matter raised by Mr. Halcomb’s letter and Mr. Lafaver’s email and approved a motion not to change the regulation as it provided adequate new safeguards as written to address Mr. Halcomb’s concerns and Mr. Lafaver’s email correspondence.

Upon completing their review of the written comments received, the Board passed a motion to approve the regulation in LCB File #124-13, as revised in the LCB draft dated October 16, 2014, with unanimous approval from the voting members of the Board present.

A copy of this summary of the public response to the proposed regulation may be obtained from the State Fire Marshal Division, 107 Jacobsen Way, Carson City, Nevada 89701, 775-684-7525, or email to [djohnston@dps.state.nv.us](mailto:djohnston@dps.state.nv.us).

**3. The number persons who:**

**(a) Attended each hearing:** June 3, 2014 – 51; March 27, 2015: 31

**(b) Testified at each hearing:** June 3, 2014 – 34; March 27, 2015: 8

**(c) Submitted to the agency written comments:** No written comments were submitted for the public workshop and five written comments were received for the public hearing.

**4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency:**

Attendees are listed in the attachment marked as Exhibits A (public workshop attendance) and B (public hearing attendance). The written comments received prior to or during the public hearing are attached as Exhibit C. Those testifying are identified in the certified minutes of both the public workshop (Exhibit D) and the public hearing (Exhibit E).

**5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. In addition, a mailing (by post or by electronic if email addresses were available) was made to all fire protection license holders of record with the Division with notice of the public workshop and the public hearing. The summary may be obtained as instructed in the response to question #2.

**6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted on March 27, 2015 and included the changes made by the Board based on input noted at the public workshop held on June 3, 2014. No other changes were made by the Board at the public hearing on March 27, 2015.

**7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

**(a) Both adverse and beneficial effects; and**

**(b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects:

**Adverse effect:** No adverse effects are anticipated as no new requirements or restrictions are proposed by the regulation.

**Beneficial effect:** The proposed regulation provides for due process for all fire protection contractors and their employees; provides a formal process when a person disagrees with a decision of the State Fire Marshal, including the ability to appeal to the State Board of Fire Services; and provides a written record of all decisions and opinions of the State Fire Marshal and posts such records for public inspection. Establishing such processes will provide consistency, predictability and certainty to the fire protection industry as to the practices and operation of the Nevada State Fire Marshal Division.

(b) Both immediate and long-term effects:

**Immediate effect:** The effect of the new processes noted above will become effective immediately upon approval of this regulation.

**Long-term effect:** A consistent approach to fire protection industry issues, documentation of State Fire Marshal decisions, and provision of a formal due process with an avenue to appeal decisions, determinations and orders, will provide a predictable and consistent method of applying the fire protection codes for business operations statewide.

**8. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of this regulation.

**9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed regulation duplicates.

**10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are no federal regulations that apply.

**11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not provide a new fee or change an existing fee.

**SEE COPY FILED WITH THE SECRETARY OF STATE FOR EXHIBITS A-E.**