

LCB File No. R022-04

**PROPOSED REGULATION OF THE
STATE CONTRACTOR'S BOARD**

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Workshop and Hearing for the Adoption, Amendment or Repeal of Regulations
Of
The State of Nevada Contractors' Board**

The State of Nevada Contractors' Board ("Board") will hold a workshop and public hearing on Tuesday, March 16, 2004. The workshop will begin at 10:00 a.m. and the hearing will commence immediately following the workshop. The workshop and hearing will be video-conferenced between the Board's Henderson Office located at 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 and the Reno Office located at 9670 Gateway Drive, Reno, Nevada 89521. The purpose of the workshop and hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations that pertain to Chapter 624 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.060 and 233B.0603:

1. The need for and purpose of the proposed regulation or amendment.

The purpose of the proposed regulation is to amend Chapter 624 of the Nevada Administrative Code concerning the issuance of administrative citations.

2. Either the terms or the substance of the regulations to be adopted, amended or repealed or a description of the subjects and issues involved.

The proposed regulation sets forth procedures for the issuance of administrative citations and guidelines for assessment of administrative fines. A copy of the proposed regulation may be obtained by writing to the Board's offices at 9670 Gateway Drive, Reno, Nevada 89521.

3. The estimated economic effect of this proposed regulation on the business which it is to regulate and on the public.

(a) Adverse and beneficial effects.

The adoption of this regulation should be beneficial to the industry since it will allow for administrative citations to be issued for certain disciplinary matters rather than incurring the expense for attendance and participation in a hearing before the Board.

(b) Both immediate and long-term effects.

The immediate and long term effect of implementing an administrative citation procedure should provide for a more efficient manner in which to resolve certain disciplinary matters.

- 4. The estimated cost to the Agency for enforcement of the proposed regulation.**
The cost to the agency should be minimal.
- 5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.**
The proposed regulation does not overlap or duplicate any regulation of other state or local governmental entities.
- 6. If the regulation is required pursuant to federal law, a citation and description of the federal law.**
Does not apply.
- 7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**
Does not apply.
- 8. Whether proposed regulation establishes a new fee or increases an existing fee.**
Does not apply.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public workshop and hearing or may address their comments, data, views or arguments, in written form to the Executive Officer of the Nevada State Contractors' Board, 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 or in Reno at 9670 Gateway Drive, Suite 100, Reno, Nevada 89521. Written submissions must be received by the Board on or before Wednesday, March 10, 2004. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted, amended or repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notices and the regulation to be adopted will be available at the State Contractors' Board, 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 and 9670 Gateway Drive, Suite 100, Reno, Nevada 89521. In all counties in which an office of the Board is not maintained, a copy of this notice and the text of the proposed regulation will also be available for public inspection and copying at the main public library during business hours. This notice and the text of the proposed regulation will be available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the Board, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been mailed to all persons on the agency's mailing list of administrative regulations and posted at the following locations:

Washoe County Court House
Washoe County Library
Reno City Hall
Las Vegas City Hall
Sawyer State Building
Clark County Library
Offices of the State Contractors' Board in Reno and Henderson

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EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 624.361.

Section 1. Chapter 624 of NAC is hereby amended to read as follows:

NAC 624.725 Contents of Administrative Citation. (NRS 624.361) A written citation issued pursuant to NRS 624.341 must include, to the extent applicable:

1. The name and last known business or residential address of the licensee or applicant for a contractor's license;
2. A numbered identification of the licensee or applicant; ~~[including, without limitation, the social security number of the licensee or applicant, or the driver's license number of the licensee or applicant, including the name of the state which issued that driver's license];~~
3. The date on which the citation is issued;
4. The number of the citation;
5. A list of the sections of this chapter or chapter 624 of NRS which the licensee or applicant is alleged to have violated and a description of the alleged violation;
6. Corrective actions, if any, ordered against the licensee or applicant;
7. Administrative fines, if any, to be assessed against the licensee or applicant;
8. The reimbursement costs, if any, which the licensee or applicant is ordered to pay to cover the costs of any investigation;
9. The date by which the licensee or applicant must complete any corrective actions ordered;
10. The date by which the licensee or applicant must pay any administrative fines or reimbursement of investigative costs;
11. A description of the manner in which the licensee or applicant may contest the citation, including, without limitation, the period during which the licensee or applicant may contest the citation and the consequences of failing to contest the citation timely;
- ~~12. The signature of the person on whom the citation is served;~~
- ~~13. The signature of the investigator of the board who conducted the investigation against the licensee or applicant;~~

~~14. The signature of the supervisor of that investigator;]~~

~~[15]~~ 12. The signature of the executive officer or his designee; and

~~[16]~~ 13. Any other information required by the board.

14. The citation may be served on the licensee or applicant by personal service on the licensee or applicant or a designated representative or by certified mail to the address of record.

Sec. 2. Criteria to evaluate suitability of Order of Correction- Before including an order to correct in a citation, due consideration shall be given to the achievability of correction in accordance with, but not limited to, the following criteria:

(a) An order to correct is appropriate where it would not result in excessive destruction of or substantial waste of existing acceptable construction.

(b) An order to correct is appropriate where the owner of the construction project is willing to allow the cited licensee to correct.

(c) An order to correct is appropriate where it appears to the Executive Officer or his designee that the cited licensee has competence or ability to correct.

Sec. 3. Order to Correct -- Alternative Compliance 1. A cited licensee may comply with an order of correction by having and paying for another properly licensed contractor to perform the corrective work. The cited licensee remains responsible for any failure to fully comply with the order to correct.

2. An order of correction may, but need not, contain the alternative that the cited person may pay a specified sum to the owner of the construction project in lieu of correcting.

Sec. 4. Time Required To Correct. (NRS 624.341) 1. Where an order to correct is included in a citation, consideration shall be given to the time required to correct in accordance with, but not limited to, the following criteria:

(a) Accepted industry practice in that area relating to performance of such work under certain climate or weather conditions.

(b) A reasonable time in which to obtain necessary materials.

(c) The number of working days the construction project will be made accessible by the owner for corrections.

2. The time permitted to correct must be not less than 15 business days.

Sec. 5. *Order to Correct-Extension of Time: If the cited person, after exercising substantial efforts and reasonable diligence, is unable to complete the correction within the time allowed because of conditions beyond his control, he may request an extension of time in which to correct. Such request must be made in writing, and must be made prior to the expiration of the time allowed in the order to correct. An extension may be granted upon showing of good cause which determination is within the discretion of the Executive Officer or his designee. If a request for extension of time is not made prior to the expiration of time allowed in the order to correct, failure to correct within the time allowed shall constitute a violation of NRS 624.302 (2).*

Sec. 6. *Guidelines for Assessments of Administrative Fines. (NRS 624.361(3) 1. The recommended guidelines for assessing administrative fines are designed to assist in assuring that the Board’s obligation to protect the public health, safety and welfare is met with consistency. Each case is unique, with its own evidence and possible mitigating or aggravated circumstances. The Board or its Designee shall evaluate each case individually and exercise impartial judgment in assessing administrative fines that best suit each case.*

2. When an administrative citation lists more than one violation, the amount of assessed administrative fine shall be stated separately for each section violated.

3. In assessing an administrative fine pursuant to NRS 624.341, the Board or its Designee shall give due consideration to the following guidelines:

<i>NRS Violation</i>	<i>Minimum Administrative Fine</i>	<i>Maximum Administrative Fine</i>
<i>624.301(1)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.301(2)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.301(3)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.301(4)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.301(5)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.3011(1) (a)</i>	<i>\$500.</i>	<i>\$2,000</i>
<i>624.3011(b)(1)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.3011(b)(2)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.3011(b)(3)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.3011(b)(4)</i>	<i>\$500.</i>	<i>\$2,000.</i>

624.3012(1)	\$1,000.	\$3,000.
624.3012(2)	\$1,000.	\$3,000.
624.3012(3)	\$500.	\$2,000.
624.3013(1)	\$250.	\$1,000.
624.3013(2)	\$1,000.	\$3,000.
624.3013(3)	\$500.	\$2,000.
624.3013(4)	\$250.	\$1,000.
624.3013(5)	\$50.	\$1,000.
624.3014(1)(a)	\$100.	\$500.
624.3014(1)(b)	\$100.	\$500.
624.3014(2)(a)	\$1,000.	\$3,000.
624.3014(2)(b)	\$1,000.	\$3,000.
624.3014(2)(c)	\$1,000.	\$3,000.
624.3014(2)(d)	\$1,000.	\$3,000.
624.3014(2)(e)	\$1,000.	\$3,000.
624.3014(3)	\$1,000.	\$3,000.
624.3015(1)	\$250.	\$2,000
624.3015(2)	\$500 or 10% of the bid, whichever is larger	\$2,000 or 50% of the bid, whichever is larger
624.3015(3)	\$500.	\$2,000.
624.3015(4)	\$500.	\$2,000.
624.3015(5)	\$250.	\$1,000.
624.3016(1)	\$250.	\$3000.
624.3016(2)	\$250.	\$3000.
624.3016(3)	\$500.	\$2000.
624.3016(4)	\$250.	\$1,000.
624.3016(5)	\$500.	\$2,000.
624.3016(6)	\$250.	\$1000.
624.3016(7)	\$250.	\$2000.
624.3016(8)	\$250.	\$750.

<i>624.3016(9)</i>	<i>\$100.</i>	<i>\$500.</i>
<i>624.3016(10)</i>	<i>\$500</i>	<i>\$2000.</i>
<i>624.3017(1)</i>	<i>\$500.</i>	<i>\$2,000.</i>
<i>624.3017(2)</i>	<i>\$50.</i>	<i>\$250.</i>
<i>624.3017(3)</i>	<i>\$100.</i>	<i>\$500.</i>
<i>624.302(1)</i>	<i>\$1,000.</i>	<i>\$3,000.</i>
<i>624.302(5)</i>	<i>\$250.</i>	<i>\$1,000.</i>
<i>624.302(6)</i>	<i>\$250.</i>	<i>\$1,000.</i>
<i>624.520</i>	<i>\$100.</i>	<i>\$250.</i>
<i>624.700</i>	<i>\$500.</i>	<i>\$2,000.</i>
<i>624.720</i>	<i>\$500.</i>	<i>\$1,000.</i>