

**PROPOSED REGULATION OF THE
STATE CONTRACTORS' BOARD**

LCB File No. R022-04

March 15, 2004

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

AUTHORITY: §§1-5 and 7-11, NRS 624.100 and 624.361; §6, NRS 624.100, 624.300, 624.361 and 624.710.

A REGULATION relating to the State Contractors' Board; setting forth the manner in which the Board may issue administrative citations which include orders for corrective action; prescribing minimum and maximum administrative fines for certain violations; and providing other matters properly relating thereto.

Section 1. Chapter 624 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *In addition to any other factors that the Board uses to determine whether an administrative citation issued pursuant to NRS 624.341 should include an order for corrective action, the Board will consider:*

1. Whether compliance with such an order would result in excessive destruction or substantial waste to the existing construction on the construction project;

2. The willingness of the owner of the construction project to allow such corrective action; and

3. A determination by the Executive Officer or his designee that the licensee is able to perform the corrective action.

Sec. 3. *In determining the time permitted for compliance with an order for corrective action, as required to be stated in a written citation pursuant to NRS 624.341, the Board will determine the time for compliance with the order by considering, without limitation:*

1. The accepted industry practice regarding the performance of the work necessary to comply with the order for corrective action, in the climate or weather conditions of the area in which the construction project is located.

2. The number of days during which the owner of the construction project will make the site of the construction project available for the contractor to comply with the order for corrective action.

3. The time necessary to obtain materials required for the contractor to comply with the order for corrective action.

Sec. 4. *If a licensee who is issued an administrative citation pursuant to NRS 624.341 which includes an order for corrective action hires and pays another licensee to perform the corrective action pursuant to subparagraph (3) of paragraph (f) of subsection 1 of NRS 624.300, the cited licensee is responsible for any failure of the hired licensee to comply with the order for corrective action included in the citation.*

Sec. 5. *1. A licensee who is issued an administrative citation pursuant to NRS 624.341 which includes an order for corrective action may request an extension of time to comply with the order.*

2. A request for an extension made pursuant to this section must:

(a) Be submitted in writing to the Executive Officer;

(b) Set forth an explanation of the efforts made by the licensee to comply with the order for corrective action; and

(c) Be received by the Executive Officer or his designee before the expiration of the time allowed for compliance with the order set forth in the citation.

3. The Executive Officer or his designee may, upon a showing of good cause, grant a request for an extension made pursuant to this section.

Sec. 6. *If the Board or its designee issues an administrative citation pursuant to NRS 624.341 which includes an administrative fine, each such fine assessed by the Board or its designee must:*

1. Specify the violation for which the licensee is being cited; and

2. Be in an amount which is not less than the minimum amount or more than the maximum amount as set forth in this subsection:

<i>Violation</i>	<i>Minimum Fine</i>	<i>Maximum Fine</i>
<i>NRS 624.301</i>	<i>\$1,000</i>	<i>\$3,000</i>
<i>Paragraph (a) of subsection 1 or subparagraph (4) of paragraph (b) of subsection 1 of NRS 624.3011</i>	<i>500</i>	<i>2,000</i>

<i>Violation</i>	<i>Minimum Fine</i>	<i>Maximum Fine</i>
<i>Subparagraph (1), (2) or (3) of paragraph (b) of subsection 1 of NRS 624.3011</i>	<i>1,000</i>	<i>3,000</i>
<i>Subsection 1 or 2 of NRS 624.3012</i>	<i>1,000</i>	<i>3,000</i>
<i>Subsection 3 of NRS 624.3012</i>	<i>500</i>	<i>2,000</i>
<i>Subsection 1 or 4 of NRS 624.3013</i>	<i>250</i>	<i>1,000</i>
<i>Subsection 2 of NRS 624.3013</i>	<i>\$1,000</i>	<i>\$3,000</i>
<i>Subsection 3 of NRS 624.3013</i>	<i>500</i>	<i>2,000</i>

<i>Violation</i>	<i>Minimum Fine</i>	<i>Maximum Fine</i>
<i>Subsection 5 of NRS 624.3013</i>	<i>50</i>	<i>1,000</i>
<i>Subsection 1 of NRS 624.3014</i>	<i>100</i>	<i>500</i>
<i>Subsection 2 or 3 of NRS 624.3014</i>	<i>1,000</i>	<i>3,000</i>
<i>Subsection 1 of NRS 624.3015</i>	<i>250</i>	<i>2,000</i>
<i>Subsection 2 of NRS 624.3015</i>	<i>500 or 10% of the bid, whichever is greater</i>	<i>2,000 or 50% of the bid, whichever is greater</i>
<i>Subsection 3 or 4 of NRS 624.3015</i>	<i>500</i>	<i>2,000</i>
<i>Subsection 5 of NRS 624.3015</i>	<i>250</i>	<i>1,000</i>

<i>Violation</i>	<i>Minimum Fine</i>	<i>Maximum Fine</i>
<i>Subsection 1 or 2 of NRS 624.3016</i>	<i>250</i>	<i>3,000</i>
<i>Subsection 3, 5 or 10 of NRS 624.3016</i>	<i>500</i>	<i>2,000</i>
<i>Subsection 4 or 6 of NRS 624.3016</i>	<i>250</i>	<i>1,000</i>
<i>Subsection 7 of NRS 624.3016</i>	<i>250</i>	<i>2,000</i>
<i>Subsection 8 of NRS 624.3016</i>	<i>250</i>	<i>750</i>
<i>Subsection 9 of NRS 624.3016</i>	<i>100</i>	<i>500</i>

<i>Violation</i>	<i>Minimum Fine</i>	<i>Maximum Fine</i>
<i>Subsection 1 of NRS 624.3017</i>	<i>500</i>	<i>2,000</i>
<i>Subsection 2 of NRS 624.3017</i>	<i>50</i>	<i>250</i>
<i>Subsection 3 of NRS 624.3017</i>	<i>100</i>	<i>500</i>
<i>Subsection 1 of NRS 624.302</i>	<i>1,000</i>	<i>3,000</i>
<i>NRS 624.700</i>	<i>250</i>	<i>1,000</i>
<i>NRS 624.700</i>	<i>500</i>	<i>2,000</i>
<i>NRS 624.720</i>	<i>500</i>	<i>1,000</i>

Sec. 7. NAC 624.6975 is hereby amended to read as follows:

624.6975 As used in NAC 624.6975 to 624.7296, inclusive, *and sections 1 to 6, inclusive, of this regulation* unless the context otherwise requires, the words and terms defined in NAC 624.6978 to 624.6987, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NAC 624.725 is hereby amended to read as follows:

624.725 A written *administrative* citation issued pursuant to NRS 624.341 *may be served by personal service on the licensee or applicant for a contractor's license, or a designated representative thereof, or by certified mail to the address of record of the licensee or applicant and* 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.]~~ The signature of the Executive Officer or his designee; and
- ~~{16.}~~ 13. Any other information required by the Board.

Sec. 9. NAC 624.7253 is hereby amended to read as follows:

624.7253 1. The provisions of NAC 624.6975 to 624.7296, inclusive, *and sections 1 to 6, inclusive, of this regulation*, govern practices in any contested case before the Board and the Board will liberally construe those provisions to determine all matters before the Board in a just, speedy and economical manner.

2. The Board may allow a deviation from the provisions of NAC 624.6975 to 624.7296, inclusive, *and sections 1 to 6, inclusive, of this regulation*, if the Board determines that the deviation would not have a material adverse effect on the substantial interests of the parties and good cause for the deviation exists. If the Board allows such a deviation, it will include in the record the deviation and the reasons for the deviation.

Sec. 10. NAC 624.7256 is hereby amended to read as follows:

624.7256 1. The Board will:

(a) Set the date, time and place of a hearing for a contested case; and

(b) At least 21 days before the hearing, send a copy of the complaint and notice of hearing by certified mail, return receipt requested, to the respondent at the address on file with the board, or by personal service in the manner provided in NRS for service in civil actions. The complaint and notice of hearing may be included in the same document. A proof of service must be attached to the original of any document that is served by mail.

2. There is a rebuttable presumption that a complaint and notice of hearing has been received by a respondent 10 days after the date the complaint and notice of hearing is deposited with the United States Postal System.

3. An objection that any notice required by NAC 624.6975 to 624.7296, inclusive, *and sections 1 to 6, inclusive, of this regulation*, was not provided in the manner set forth in those provisions will be deemed waived unless the objection is raised by the respondent before the introduction of any evidence into the record at a hearing of the Board.

Sec. 11. NAC 624.7296 is hereby amended to read as follows:

624.7296 Except as otherwise provided by law, in computing periods for the purposes of carrying out the provisions of NAC 624.6975 to 624.7296, inclusive, *and sections 1 to 6, inclusive, of this regulation*, the first day on which any act occurs that causes a period to begin to run is not counted, and the last day of the period is counted, unless the last day is a Saturday, Sunday or legal holiday. If the last day is a Saturday, Sunday or legal holiday, the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.