

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

LCB File No. R094-05

November 23, 2005

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

AUTHORITY: §§1, 2, 5 and 6, NRS 624.100; §3, NRS 624.276; §4, section 3 of chapter 478, Statutes of Nevada 2005, at page 2376 (NRS 624.925).

A REGULATION relating to contractors; establishing procedures to implement the statutory requirement that contractors who perform work concerning a residential pool or spa must file a bond or establish a cash deposit with the State Contractors' Board solely for the protection of consumers; providing a classification of licensing that authorizes a contractor who performs work concerning a residential pool or spa to install certain water and gas service lines in connection with that work; 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 and 3:

Sec. 2. *“Work concerning a residential swimming pool or spa” has the meaning ascribed to it in NRS 597.713.*

Sec. 3. 1. *An applicant for the issuance or renewal of a license to perform work concerning a residential pool or spa who is required to provide a bond or cash deposit solely for the protection of consumers pursuant to NRS 624.276 shall submit with his application an affidavit that sets forth:*

(a) The aggregate value of all contracts for work concerning a residential swimming pool or spa that the applicant entered into during the 12 months immediately preceding the date of his application;

(b) The aggregate value of all contracts for work concerning a residential swimming pool or spa that the applicant expects to enter into during the 12 months immediately following the date of his application;

(c) The average dollar value of all contracts for work concerning a residential swimming pool or spa that the applicant entered into during the 12 months immediately preceding the date of his application; and

(d) The number of contracts for work concerning a residential swimming pool or spa that are pending on the date of his application.

2. In fixing the amount of an applicant's bond or cash deposit, the Board will consider the applicant's financial and professional responsibility and the magnitude of his operations, but ordinarily the Board will base the amount of the bond or deposit on the greater of the aggregate value of all contracts for work concerning a residential swimming pool or spa that the applicant entered into during the 12 months immediately preceding the date of his application or the aggregate value of all contracts for work concerning a residential swimming pool or spa that the applicant expects to enter into during the 12 months immediately following the date of his application and fix the amount of the bond or deposit as follows:

<i>Aggregate value of contracts</i>	<i>Amount of bond or deposit</i>
<i>\$25,000 or less</i>	<i>\$10,000</i>
<i>25,001 to 50,000</i>	<i>15,000</i>
<i>50,001 to 100,000</i>	<i>30,000</i>
<i>100,001 to 250,000</i>	<i>50,000</i>
<i>250,001 to 500,000</i>	<i>100,000</i>

<i>500,001 to 1,000,000</i>	<i>200,000</i>
<i>1,000,001 to 5,000,000</i>	<i>300,000</i>
<i>more than 5,000,000.....</i>	<i>400,000</i>

3. The Board will notify an applicant who is required to provide a bond or cash deposit of the amount the Board has fixed.

4. An applicant who disagrees with the amount of the bond or deposit fixed by the Board may petition the Board to reconsider the amount. The petition must:

(a) Be addressed to the Executive Officer of the Board and filed with the Board within 10 days after the applicant receives notification of the amount;

(b) Set forth specific reasons why the amount fixed by the Board should be modified; and

(c) Include all documentary evidence in support of the petition that the applicant wishes the Board to consider.

↪ Within 30 days after receiving a timely filed petition, the Board or its designee will fully consider the issues raised in the petition, fix the amount of the bond or deposit and notify the applicant of the amount. The amount of the bond or deposit fixed after reconsideration may be less than, greater than or the same as, the amount originally fixed.

5. The Board will provide a blank form of a bond to each applicant required to provide such a bond. The bond will be in substantially the following form:

RESIDENTIAL POOL AND SPA LICENSE BOND
FOR THE PROTECTION OF CONSUMERS

License Bond No.:

KNOW ALL MEN BY THESE PRESENTS:

That, having a principal place of business in the city of, in the State of, as principal (hereinafter “Principal”), and, a corporation licensed to execute surety bonds under the provisions of the Nevada Insurance Code, and whose long-term obligations are rated “A” or better by a nationally recognized rating agency, as surety (hereinafter “Surety”), are held and firmly bound to the State of Nevada in the full and just sum of Dollars (\$) for which payment well and truly to be made, the Principal and Surety bind themselves, their respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

Whereas, the principal has applied for or holds a contractor’s license with the Nevada State Contractors’ Board pursuant to Chapter 624 of Nevada Revised Statutes to perform work concerning residential pools and spas.

NOW, THEREFORE, this bond is made in favor of the State of Nevada solely for the benefit of a consumer who entered into a contract with a contractor to perform work concerning a residential pool or spa and:

- (a) Is damaged by the failure of the contractor to perform the contract or to remove liens filed against the property; or*
- (b) Is injured by any unlawful act or omission of the contractor in the performance of a contract.*

If an action is commenced on this bond, the Surety shall notify the Board of the action within thirty (30) days after: (a) being served with a complaint and summons; or (b) the action is commenced, whichever occurs first. The total aggregate liability of the Surety for all claims shall be limited to the face amount of the bond, irrespective of the number of years the bond is in force or the number of claims filed. The Surety shall have the right to terminate its suretyship under this obligation by serving written notice of its election so to do upon the State Contractors' Board, at its office in Reno, Nevada, by certified mail at least sixty (60) days prior to the date of termination of suretyship. Thereafter, the Surety shall be discharged from liability hereunder for any default of the Principal occurring after the date of termination. The liability of the Surety shall be confined to acts, omissions or defaults of the Principal occurring subsequent to the effective date hereof.

NO ACTION MAY BE COMMENCED on this bond after the expiration of two (2) years following the commission of the act upon which the action is based.

IN THE EVENT the Surety shall make any payments hereunder, without awaiting Court action, the bond amount shall be reduced to the extent of any payment made by the Surety in good faith under the bond, provided the Surety shall notify the Board, in writing, within ten (10) days of any payments made hereunder.

IN WITNESS WHEREOF, the Principal and said Surety have executed this instrument on the day of,, to be effective on the day of,

By: By:.....
(SIGNATURE OF NEVADA AGENT) (SIGNATURE OF PRINCIPAL)

Agent License No.:

Address:

Surety:.....

.....

.....

(SIGNATURE OF ATTORNEY-IN-FACT)

POWER OF ATTORNEY MUST BE ATTACHED

6. An applicant required to provide a bond or cash deposit must file the properly executed bond on the form provided by the Board or establish the deposit within 30 days after receiving the original or reconsidered notification from the Board of the amount of the bond or deposit required.

Sec. 4. NAC 624.150 is hereby amended to read as follows:

624.150 The subclassifications of a license designated classification A and the work authorized for persons licensed in the respective subclassifications are:

1. AIRPORTS (subclassification A-1): The construction, alteration and repair of airports, including any navigational equipment, lights, beacons, markers, taxiways, runways, hangars and terminals.

2. HIGHWAYS (subclassification A-2): The construction of highways, roads, streets and other public ways used for vehicular travel, including any drains, tunnels, bridges and other appurtenances to the construction.

3. DAMS AND RESERVOIRS (subclassification A-3): The construction, whether from earth, masonry, steel or concrete, or any combination of these materials, of dams and reservoirs designed to obstruct, control or use water, including the relocation of existing structures, any

necessary excavation and the construction of embankments, foundations, piles, piers, spillways, tunnels, roadways and other incidental work.

4. BRIDGES (subclassification A-4): The installation, construction, alteration and repair of bridges which are fabricated of steel, masonry, concrete or other suitable materials, and are designed for use by pedestrians or moving traffic, and any abutments, foundations, piles, piers, culverts, roadways and other appurtenances to the bridges.

5. DIAMOND AND CORE DRILLING (subclassification A-5): The obtainment by diamond or core drilling, of concrete, soil and rock.

6. DRILLING OF OIL, GAS AND EXPLORATORY WELLS (subclassification A-6): The drilling, altering and repair of existing or new oil, gas or exploratory wells, including the casing, packing and installation of pumps and other supplemental material, equipment or structures.

7. EXCAVATING AND GRADING (subclassification A-7): The digging, movement and placement of material forming the surface of the earth, other than water, with hand and power tools, machines and explosives to cut, fill, excavate, grade, backfill and perform other similar excavating, grading and trenching operations.

8. SEALING AND STRIPING OF ASPHALTIC SURFACES (subclassification A-8): The filling of cracks and voids in existing asphaltic surfaces, the application of sealants and the installation of precast bumpers, traffic signs, nonelectrical markers and striping on the surfaces.

9. PIERS AND FOUNDATIONS (subclassification A-9): The examination, excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter or repair piers, piles, footings and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below.

10. COMMERCIAL AND RESIDENTIAL POOLS (subclassification A-10): The construction, alteration and repair of commercial and residential pools and spas, used for swimming, therapy or decoration, including any appurtenant equipment. The sub-classifications of this subclassification are:

(a) RESIDENTIAL POOLS (sub-subclassification A-10a): The construction, alteration and repair of residential pools and spas, used for swimming, therapy or decoration, including any appurtenant equipment.

(b) RESIDENTIAL SPAS (sub-subclassification A-10b): The construction and repair of residential spas, including any appurtenant equipment.

(c) REPAIR OF POOLS AND SPAS (sub-subclassification A-10c): The repair and replacement of plaster, coping and coating of pool decks on residential pools and spas.

(d) POOLS AND SPAS OF FIBERGLASS (sub-subclassification A-10d): The construction and repair of residential pools and spas which are made of fiberglass.

(e) MAINTENANCE AND REPAIR OF POOLS AND SPAS (sub-subclassification A-10e): The alteration and repair of plaster, tile, coping, pumps, filters, heaters, decking, pool painting, timers, controls and lights on residential and commercial spas, pools, fountains, waterfalls and ponds.

***(f) WATER AND GAS LINES FOR POOLS AND SPAS (sub-subclassification A-10f):
The installation of water and gas service lines from the point of service to the pool equipment.***

11. RECYCLING ASPHALT (subclassification A-11): The scarifications of existing asphaltic mat, the raking of the asphalt into rows, its pulverization, the incorporation of necessary additives, the aeration, spreading and compacting of the asphalt and the application of a coating composed of such ingredients as asphaltic concrete or slurry.

12. EXCAVATING, GRADING, TRENCHING AND SURFACING (subclassification A-12): All work authorized for a license of subclassification A-7 and the mixing, fabrication and placement of pavement and surfaces consisting of graded mineral aggregates, asphalt or concrete products.

13. WRECKING BUILDINGS (subclassification A-13): The wrecking of existing structures by the use of tools, equipment or explosives, and the raising, cribbing and underpinning of buildings and other structures so that alterations, repairs and new substructures may be constructed under the retained and undisturbed portion of the building or other structure.

14. STEEL ERECTION AND INDUSTRIAL MACHINERY (subclassification A-14): The fabrication and erection of steel shapes and plates, regardless of shape or size, to be used as structural members, including any related riveting, welding and rigging, and the installation of any industrial machinery.

15. SEWERS, DRAINS AND PIPES (subclassification A-15): The laying of cast-iron, steel, concrete, vitreous and nonvitreous pipe for sewers, drains and irrigation, including any related excavating, grading, trenching, backfilling, paving and surfacing, and the fabrication and erection of cesspools and septic tanks.

16. PAVING OF STREETS, DRIVEWAYS AND PARKING LOTS (subclassification A-16): Examination, excavation, grading, compacting, alteration and repair in the application of asphalt to streets, driveways, parking lots, boat ramps, and landing strips and taxiways for an airport.

17. LINES TO TRANSMIT ELECTRICITY (subclassification A-17): The installation, alteration and repair of primary overhead lines which transmit electricity, including the erection

of poles, towers, anchors, guys, transformers, substations, circuit breakers and any other related hardware, equipment or systems.

18. FARM IRRIGATION (subclassification A-18): The excavation, fabrication, installation, alteration and repair of pipes, pumps, fixtures and any other material and equipment used in or incidental to systems for irrigating crops.

19. PIPELINE AND CONDUITS (subclassification A-19): The fabrication and installation of electrical conduits only, and pipelines including the trenching, boring, shoring, backfilling, compacting, paving, surfacing and application of protective coatings necessary to complete only the installation of the pipes and conduits. A person who holds a subclassification A-19 may perform any of the work authorized for the following subclassifications:

(a) Water (subclassification A-19a).

(b) Gas (subclassification A-19b).

20. INDUSTRIAL PIPING (subclassification A-20): The fabrication and installation of pipes for the transmission of steam, gases, chemicals and other substances required for industrial manufacturing or commercial operations and any related excavation, trenching and backfilling.

21. FENCING AND GUARDRAILS (subclassification A-21): The assembling, cutting, shaping, fabricating and installing of wood or metal fencing, guardrails, signs and nonelectric markers for highways, equipment for playgrounds and supplemental materials.

22. UNCLASSIFIED (subclassification A-22): Work limited in scope by the Board to a specialty which is supported by the licensee's knowledge and experience in a trade or craft and which is not included in the other subclassifications of a license in classification A.

23. REMOVAL OF ASBESTOS (subclassification A-23): The cleaning, handling, repair, removal, encapsulation, enclosure, hauling and disposal of, or other work with, materials containing asbestos.

Sec. 5. NAC 624.695 is hereby amended to read as follows:

624.695 As used in NAC 624.695 to 624.697, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 624.69505 to 624.6956, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. NAC 624.6954 is hereby amended to read as follows:

624.6954 “Contractor” means a person licensed pursuant to the provisions of chapter 624 of NRS ~~[whose scope of work includes the construction, repair, restoration, alteration or improvement of any]~~ *who performs work concerning a* residential swimming pool or spa ~~. [; regardless of use, including the repair or replacement of existing equipment or the installation of new equipment, as necessary. The scope of such work includes layout, excavation, operation of construction pumps for removal of water, steelwork, construction of floors, installation of gunite, fiberglass, tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, construction of decks, installation of housing for pool equipment and installation of packaged pool heaters.]~~