

Chapter 618 of NAC

LCB File No. E008-09

**EMERGENCY REGULATION OF THE
DIVISION OF INDUSTRIAL RELATIONS OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

(Effective for 120 days from December 29, 2009)

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

Section 1. Chapter 618 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *As used in sections 3 to 13, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Approved OSHA-10 continuing education course” means a 5-hour training course, offered to a person, that meets or exceeds one-half of the time, pro rata, of the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor as they relate to the subject matter of OSHA-10 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates.*

Sec. 4. *“Approved OSHA-10 course” means a 10-hour course that is deemed approved by the Division pursuant to section 9 of this regulation.*

Sec. 5. *“Approved OSHA-30 continuing education course” means a 15-hour training course, offered to a person, that meets or exceeds one-half of the time, pro rata, of the guidelines issued by the Occupational Safety and Health Administration of the United States*

Department of Labor as they relate to the subject matter of OSHA-30 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates.

Sec. 6. *“Approved OSHA-30 course” means a 30-hour course that is deemed approved by the Division pursuant to section 9 of this regulation.*

Sec. 7. *“Qualified alternative course trainer” or “Qualified continuing education course trainer” means a person who possesses credentials in the field of safety that the Administrator determines to be adequate to prepare the person to act as alternative course trainer or a continuing education trainer, including, without limitation:*

(1) 5 years of experience in overseeing matters of occupational safety and health in the field of construction; or

(2) 3 years of experience in overseeing matters of occupational safety and health in the field of construction; plus

(a) a college degree in occupational safety and health;

(b) a certified safety professional designation; or

(c) a certified industrial hygienist designation.

Sec. 8. *“Valid completion card” means an unexpired completion card issued to a person for:*

1. An approved OSHA-10 course; or

2. An approved OSHA-30 course.

Sec. 9. 1. *An OSHA-10 course, offered to a person, that meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor as they relate to the subject matter of OSHA-10 training courses, including, without*

limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates, shall be deemed by the Division to be an approved OSHA-10 course.

2. An OSHA-30 course, offered to a person, that meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor as they relate to the subject matter of OSHA-30 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates, shall be deemed by the Division to be an approved OSHA-30 course.

Sec. 10. 1. *An employee may renew a valid completion card for an OSHA-10 course by completing an approved OSHA-10 course or approved OSHA-10 continuing education course before the expiration of the valid completion card. An employee who has renewed a valid completion card for an OSHA-10 course shall provide his or her employer with the valid completion card and written proof of completion of an approved OSHA-10 course or approved OSHA-10 continuing education course.*

2. An employee may renew a valid completion card for an OSHA-30 course by completing an approved OSHA-30 course or approved OSHA-30 continuing education course before the expiration of the valid completion card. An employee who has renewed a valid completion card for an OSHA-30 course shall provide his or her employer with the valid completion card and written proof of completion of an approved OSHA-30 course or approved OSHA-30 continuing education course.

Sec. 11. 1. *An employer shall provide to an employee and the Division, on request, written proof of completion of a course if the employer provides to the employee:*

(a) An approved OSHA-10 continuing education course; or

(b) An approved OSHA-30 continuing education course.

2. If an employer provides to an employee an approved OSHA-10 continuing education course or an approved OSHA-30 continuing education course, the employer shall retain a copy of the written proof of completion of the course for at least 5 years.

Sec. 12. *If an employer provides to an employee an OSHA-10 alternative course or an OSHA-30 alternative course, the employer shall:*

1. Provide to the employee written proof of completion of the course;

2. On request, provide to the Division written proof of completion of the course; and,

3. Retain a copy of the written proof of completion of the course for at least 1 year.

Sec. 13. *All courses described in sections 3 to 13, inclusive, of this regulation must be conducted and made available in a language and format that is understandable to each employee. OSHA-10 and OSHA-30 alternative courses must be conducted by a qualified alternative course trainer. OSHA-10 and the OSHA-30 continuing education courses must be conducted by a qualified continuing education course trainer.*

Sec. 14. 1. A construction worker who was hired before the effective date of this regulation shall comply with the provisions of this regulation by the later of:

(a) Fifteen days after the construction worker was hired; or

(b) January 1, 2010.

2. As used in this section, “construction worker” has the meaning ascribed to it in section 3.5 of Assembly Bill No. 148, chapter 432, Statutes of Nevada 2009, at page 2420.

Sec. 15. This regulation becomes effective upon approval of the Governor and upon filing with the Secretary of State.

STATEMENT OF EMERGENCY

As Administrator of the Division of Industrial Relations I am charged with administering chapter 618 of the NRS, the Nevada Occupational Safety and Health Act (OSH Act). Assembly Bill No. 148 (2009) amended the OSH Act to require employees on a construction site to receive certain health and safety training other matters related thereto. The Governor approved the bill on June 3, 2009. Sections 1 to 12, inclusive, and section 15 of the bill become effective on January 1, 2010.

The bill directs me to adopt regulations approving OSHA-10 and OSHA-30 courses, setting forth guidelines of job-specific training to qualify as continuing education and establishing how long an employer must maintain records for OSHA-10 and OSHA-30 alternative training. I am also authorized to adopt regulations necessary to carry out other provisions in the bill.

Pursuant to this direction and authority, I scheduled and conducted a public workshop on July 30, 2009. Thereafter, in September 2009 I submitted draft regulations to the Legislative Counsel Bureau. By the latter part of November 2009 the Legislative Council Bureau had reviewed, revised and returned the regulations (LCB File No. R141-09P) to me. Accordingly, I scheduled a public hearing on the regulations for December 22, 2009. In addition, based on the effective date of the bill, I requested that the Legislative Commission's Subcommittee to Review Regulations meet to approve the regulations pursuant to 233B.0681.

On November 24, 2009 the subcommittee met but declined to approve the regulations; instead, the subcommittee suggested I adopt emergency regulations. On December 22, I participated in the public hearing on the regulations. As a result to the comments, I made certain changes to the Legislative Council Bureau's draft. Specifically, I deleted the language in

section 13, added a definition for “Qualified alternative course trainer” and “Qualified continuing education course trainer” and made other changes related thereto.

Given the suggestion of the subcommittee, the direction to adopt regulations and the effective date of the bill, I hereby declare an emergency exists pursuant to NRS 233B.0613.

Therefore, I request that the Governor of the State of Nevada endorse this Statement of Emergency so that regulations approving OSHA-10 and OSHA-30 courses, setting forth guidelines of job-specific training to qualify as continuing education, establishing how long an employer must maintain records for OSHA-10 and OSHA-30 alternative training course and other matters related thereto, can be adopted prior to the effective date of Assembly Bill No. 148 (2009), January 1, 2010.

Dated this 29th day of December, 2009.

_____/S/
Donald E. Jayne, CPCU
Administrator
Division of Industrial Relations

I hereby endorse the Statement of Emergency prepared by the Administrator of the Division of Industrial Relations, Department of Business and Industry.

Dated this 29th day of December, 2009.

_____/S/
Jim Gibbons, Governor
State of Nevada

**INFORMATIONAL STATEMENT FOR EMERGENCY REGULATION
DIVISION OF INDUSTRIAL RELATIONS
DEPARTMENT OF BUSINESS AND INDUSTRY
STATE OF NEVADA**

The Administrator of the Division of Industrial Relations, Department of Business and Industry, State of Nevada has determined an emergency exists regarding the regulations necessary to implement Assembly Bill 148 (2009). Therefore, pursuant to NRS 233B.0613, the Administrator is proposing emergency regulations. The regulations and the Statement of Emergency have been endorsed by Jim Gibbons, Governor, State of Nevada.

The full text of an original copy of the regulations and Statement of Emergency with the Governor's endorsement, and following Informational Statement, are being filed with the Office of the Secretary of State pursuant to subsection 3 of NRS 233B.070. As provided in NRS 233B.066, the Informational Statement does not contain paragraphs (a) to (d), inclusive, of subsection 1 of this statute.

Statement of the estimated economic effect of the regulations on the businesses which it is to regulate and on the public:

Businesses (Adverse/Immediate and long term): The adverse economic effect of the regulations is unknown. Businesses engaged in construction work may or may not pay the cost of OSHA-10/30 training or for employee time to attend training. If a business does not pay for training or an employee's time to attend training, the adverse economic impact is probably minimal. Conversely, if a business pays for training and/or an employee's time, the adverse economic impact, depending on the number and type of employees (supervisor/ non-supervisor), could be significant. The requirement for OSHA-10/30 training is a new requirement. Accordingly, if there are adverse economic effects, they will be more acute in the immediate future; in the long term, the effects will be more moderate, given the 5 year period for renewal of OSHA-10/30 training and continuing education.

Businesses (Beneficial/ Immediate and long term): The beneficial economic impact of the regulations will depend on reduction of the number and magnitude of workplace accidents and injuries achieved by requiring OSHA-10/30 training. The Division is unable to predict whether there is a difference between the immediate and long term beneficial effect of the regulations.

Public (Adverse/ Immediate and long term): As with businesses, the adverse economic effect of the regulations is unknown. Similarly, if businesses engaged in construction work do not pay for OSHA-10/30 or employee's time to attend training, there will be no adverse economic effect to pass on the public. On the other hand, if a business does pay for training and/or and employee's time, the cost, or a portion of the cost, may be passed on to the public.

Public (Beneficial/Immediate and long term): Like businesses, the beneficial economic impact of the regulations depends on the reduction of the number and magnitude of workplace accidents and injuries achieved by requiring OSHA-10/30 training. The Division is unable to predict

whether there is a difference between the immediate and long term beneficial effect of the regulations.

Statement identifying methods used by agency in determining impact of a small business prepared pursuant to subsection 3 of NRS 233B.0608: The Division considered the purpose and scope of Assembly Bill 148 and necessary regulations. Based on this review, the Division found the impact was difficult to measure because some businesses may chose to pay for OSHA-10/30 training and employee time for training while others may not.

Estimated cost of enforcement of proposed regulations: The Division does not anticipate any additional cost for enforcing the proposed regulations.

Description of any overlap or duplication of existing state or federal regulations: None.

A summary of the regulations if it includes provisions that are more stringent than similar federal regulations: There are no similar federal regulations.

If the regulations impose a new fee or increases an existing fee, the total amount the agency expects to collect and the manner in which the money will be used: The regulations do not impose a new fee or increase an existing fee.

Dated this 29th day of December, 2009.

_____/S/
Donald E. Jayne, CPCU
Administrator
Division of Industrial Relations