

LCB File No. R022-06

**PROPOSED REGULATION OF THE
LABOR COMMISSIONER**

NOTICE OF HEARING AND INTENT TO ACT UPON A REGULATION

The Office of the Nevada Labor Commissioner is proposing the amendment of a regulation pertaining to Chapter 338 of Nevada Administrative Code. Workshops were held on November 30, 2005 in Carson City, Nevada and on December 7, 2005 in Las Vegas, Nevada for the purpose of soliciting comments and information from interested persons prior to drafting proposed regulations.

A public hearing will be held on April 7, 2006 at 9:00 am at the Nevada Department of Business and Industry Hearing Room located at 788 Fairview Drive, Carson City, Nevada and teleconferenced to the Nevada Department of Business and Industry Hearing Room located at 2501 E. Sahara, Suite 203, Las Vegas, Nevada. The purpose of the hearing is to solicit testimony from all interested persons regarding the amendment of a regulation that pertains to Chapter 338 of NAC. The due date for submitting written information will be April 8, 2006. **The hearing will be limited to the proposed regulation.**

A copy of all materials relating to the proposal may be obtained by contacting the

Office of the Labor Commissioner
675 Fairview Drive, Suite 226
Carson City, NV 89701
or by calling (775) 687-4850

This Notice of Hearing and Intent to Act upon Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Office of the Labor Commissioner
555 W. Washington Avenue Suite 4100
Las Vegas, NV

Carson City District Courthouse
885 E. Musser Street
Carson City, NV

Grant Sawyer State Office Building (Lobby)
555 E. Washington Avenue
Las Vegas, NV

Legislative Building
401 S. Carson Street
Carson City, NV

Office of the Labor Commissioner
675 Fairview Drive, Suite 226
Carson City, Nevada 89701

State of Nevada Bradley Building
2501 Sahara Avenue
Las Vegas, NV

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

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

The previous statutory definition of “supplier” in the current regulation was repealed by the Legislature in 2005.

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 Either the terms or the substance of the regulations to be adopted, amended, or repealed, or a description of the subjects and issues involved.

a. Conforming the regulation to the correct statutory citation.

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

a. **Adverse Effects:** No adverse effects are contemplated.

b. **Beneficial Effects:** Less confusion resulting from a single definition of supplier in NRS 338.

c. **Immediate effects:** See 3b.

d. **Long Term effects:** See 3b.

4. The estimated cost to the agency for enforcement of the proposed regulation.

It is not anticipated that the agency will see any increased costs as a result of these changes.

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. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulations would not duplicate the regulations of any other state or federal agency.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

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

The proposed regulations are not more stringent than federal regulations governing the same activities.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed regulation does not establish a new fee nor increases an existing fee.

Persons wishing to comment upon the proposed action of Office of the Labor Commissioner may appear at the scheduled hearing or may address their comments, data, views, or arguments, in written form, to Michael Tanchek, Nevada Labor Commissioner, 675 Fairview Drive, Suite 226, Carson City, Nevada 89701. Written submissions must be received by the Labor Commissioner on or before April 8, 2006. If no person who is directly affected by the proposed action appears

to request time to make an oral presentation, the Labor Commissioner may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted 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 notice and the regulation to be adopted will be available at the Labor Commissioner's website located at www.laborcommissioner.com, at the offices of the Labor Commissioner, located at 555 E. Washington Avenue, Suite 4100, Las Vegas, Nevada and 675 Fairview Drive, Suite 226, Carson City, Nevada, respectively, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also 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 agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

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EXPLANATION- Matter that is *italicized* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 338.012; NRS 233B.040-050;

Section 1. NAC 338.009 is hereby amended to read as follows:

NAC 338.009 Workmen deemed to be employed on public works: Interpretation of certain statutory terms. (NRS 338.012, 338.040)

1. As used in NRS 338.040, the Labor Commissioner will interpret:

(a) “Employed at the site of a public work” to mean the performance of work in the execution of a contract for a public work at the physical place or places at which the work is performed or at which a significant portion of the public work is constructed, altered or repaired if such place is established specifically for the execution of the contract for the public work or dedicated exclusively, or nearly so, to the execution of the contract for the public work.

(b) “Necessary in the execution of the contract for the public work” to mean the performance of duties required to construct, alter or repair the public work and without which the public work could not be completed.

2. As used in this section:

(a) “Site of a public work” includes job headquarters, a tool yard, batch plant, borrow pit or any other location that is established for the purpose of executing the contract for the public work or that is dedicated exclusively, or nearly so, to executing the contract for the public work. The term does not include a permanent home office, branch plant establishment, fabrication plant, tool yard or any other operation of a contractor, subcontractor or supplier if the location or the continued existence of the operation is determined without regard to a particular public work.

(b) “Supplier” has the meaning ascribed to it in ~~NRS 338.450~~ *NRS 338.010(20)*.