

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

LCB FILE NO. R069-20I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/09/2020**

**PROPOSED REGULATION OF THE DIVISION OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
FOR THE AMENDMENT OF CHAPTER 618, NAC**

LCB File No. Unassigned

May 22, 2020

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

AUTHORITY: §§

A REGULATION relating to occupational safety; providing for _____; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 1. Chapter 618 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *The gravity of the violation is the primary consideration in determining penalty amounts and shall be the basis for calculating the basic penalty for serious and other-than-serious violations. To determine the gravity of a violation, the following two assessments shall be made:*

- 1. The severity of the injury or illness, which could result from the alleged violation; and*
- 2. The probability that an injury or illness could occur as a result of the alleged violation*

Sec. 3. *The classification of the violation of serious or other than serious, and the gravity of the violation shall be the determining factors in establishing the penalty for each violation.*

Sec. 4. *Prior to the issuance of a citation the Division may reduce the amount of a proposed penalty based on the size of the employer, the good faith of the employer, immediate abatement of a hazard and the history of previous violations. Adjustments to a gravity-based penalty are:*

1. A reduction based on the number of employees employed by the cited employer, not to exceed reductions of 70% of the penalty for employers with 10 or fewer employees;

2. A reduction based on the employer's demonstration of good faith in implementing an effective workplace safety program described in NRS 618.383, not to exceed reductions of 25% for a fully implemented and effective safety program as evaluated and recommended by the inspector;

3. A reduction based on the cited employer's immediate correction of the cited hazard, not to exceed 15% of the penalty. Immediate correction is limited to a timeframe of no more than 24 hours after the violation is identified during an inspection;

4. An adjustment based on the cited employer's history of previous safety and health inspections within the 5 years preceding the issuance of a citation, as follows: and

(a) A reduction of 10% may be applied to the penalty for employers which have been previously inspected with no citations issued;

(b) No adjustments will be provided to employers which have never been inspected; or

(c) An increase of 10% where an employer has been cited for a serious violation of high gravity, for repeated violations, for violations of a willful nature, or in instances where the employer has failed to abate or correct previously cited violations.

↪ The adjustments, if any, will be considered and applied in the order set forth in this regulation. A gravity-based penalty may not be reduced to an amount less than \$500 for any violation classified as serious.

5. Each district manager retains the authority to determine the appropriateness of any penalty adjustment, and may refuse to consider any penalty adjustment if the district manager

believes that imposing the full gravity-based penalty is necessary to achieve the appropriate deterrent effect.

Sec. 5. *The Division hereby adopts by reference the Emergency Eyewash and Shower Equipment, ANSI Z358.1, 2014 edition, published by American National Standards Institute. This publication is available from the American National Standards Institute, 1899 L Street NW, 11th Floor, Washington, DC 20036, by telephone at (202) 293-8020, or at internet address of <https://webstore.ansi.org/> at a cost of \$60.*

Sec. 6. NAC 618.358 is hereby amended to read as follows:

NAC 618.358 1. The Division hereby adopts by reference the standards of the American Society of Mechanical Engineers (ASME) set forth in:

(a) *Construction Tower Cranes*, B30.3, ~~[2004]~~ 2016 edition, published by the American Society of Mechanical Engineers. This publication is available from the American Society of Mechanical Engineers, Information Central Orders/Inquiries, ~~[P.O. Box 2300, Fairfield, New Jersey 07007-2300]~~ 150 Clove Road, Little Falls, NJ 07424-2100 , by telephone at (800) 843-2763 or at the Internet address <http://www.asme.org>, at a cost of \$ ~~[50]~~ 62.

(b) *Portal, Tower, and Pedestal Cranes*, B30.4, ~~[2003]~~ 2015 edition, published by the American Society of Mechanical Engineers. This publication is available from the American Society of Mechanical Engineers, Information Central Orders/Inquiries, ~~[P.O. Box 2300, Fairfield, New Jersey 07007-2300]~~ 150 Clove Road, Little Falls, NJ 07424-2100 , by telephone at (800) 843-2763 or at the Internet address <http://www.asme.org>, at a cost of \$ ~~[50]~~ 62.

(c) *Mobile and Locomotive Cranes*, B30.5, ~~[2004]~~ 2018 edition, published by the American Society of Mechanical Engineers. This publication is available from the American Society of Mechanical Engineers, Information Central Orders/Inquiries, ~~[P.O. Box 2300, Fairfield, New~~

~~Jersey 07007-2300~~ *150 Clove Road, Little Falls, NJ 07424-2100* , by telephone at (800) 843-2763 or at the Internet address <http://www.asme.org>, at a cost of \$ ~~80~~ 94.

2. If a revision or addendum to any publication adopted by reference pursuant to this section is published, the Division will review the revision or addendum to determine its suitability for this State. If the Division determines that the revision or addendum is not suitable for this State, the Division will hold a public hearing to review the determination and give notice of that hearing within 6 months after the date of the publication of the revision or addendum. If, after the hearing, the Division does not revise its determination, the Division will give notice that the revision or addendum is not suitable for this State within 30 days after the hearing. If the Division does not give such notice, the revision or addendum becomes part of the publication adopted by reference in this section.

Sec. 7. NAC 618.369 is hereby amended to read as follows:

NAC 618.369 A certifying authority shall notify in writing the Nevada Occupational Safety and Health Administration, ~~[1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074]~~ *3360 W. Sahara Avenue, Suite 200, Las Vegas, NV 89102* , within 5 working days after the certifying authority denies a certificate of operation for a tower crane.

Sec. 8. NAC 618.384 is hereby amended to read as follows:

NAC 618.384 A certifying authority shall notify in writing the Nevada Occupational Safety and Health Administration, ~~[1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074]~~ *3360 W. Sahara Avenue, Suite 200, Las Vegas, NV 89102* , within 5 working days after the certifying authority denies a certificate of operation for a crane which is used to erect or dismantle a tower crane.

Sec. 9. NAC 618.394 is hereby amended to read as follows:

NAC 618.394 1. Except in an emergency, at least 15 working days before a tower crane is erected or dismantled, the prime contractor for the project which requires the use of a crane to erect or dismantle a tower crane shall submit to the Enforcement Section for its review a plan for the erection or dismantling of the tower crane.

2. The plan required pursuant to subsection 1 must set forth:

(a) The recommendations of the manufacturer of the tower crane for the erection or dismantling of the crane;

(b) The weight of each component of the tower crane which must be lifted during the erection or dismantling of the crane;

(c) A diagram of the riggings which shows the points of attachment of the riggings to the crane and the size and capacity of the hardware used to attach the riggings to the crane;

(d) Any point of potential interference between the crane, the load and existing structures;

(e) Any special requirement for supporting the outriggers and tracks of the crane, including a statement addressing any conditions of the ground;

(f) A study which shows:

(1) The location of the crane which will be used to erect or dismantle the tower crane in plan and profile view that specifically notes the locations of the initial lift and final placement of the components of the tower crane;

(2) The configuration of the boom, counterweights and attachments for the lift of each component; and

(3) The maximum lifting capacity of the crane as specified on the load rating chart of the crane and the actual weight of the anticipated loads;

(g) A description of the sequence of steps to be followed to erect or dismantle the tower crane and any special requirements for the safe execution of each step;

(h) The procedure for communication and assignment of responsibility among:

(1) The members of the crew which erects or dismantles the tower crane;

(2) The person who supervises the erection or dismantling of the tower crane; and

(3) The operator of the tower crane and the operators of any machinery which is required to erect or dismantle the tower crane;

(i) A description of the manner in which the clear zone required pursuant to NAC 618.397 will be maintained;

(j) The name of any person who will operate the tower crane or any other crane used to erect or dismantle the tower crane; ~~and~~

(k) A copy of the certificate of operation of each crane used to erect or dismantle the tower crane; *and*

(l) A copy of any instructions provided by the manufacturer of the crane being erected or dismantled, describing the steps identified by the manufacturer which are necessary to safely erect or dismantle the crane .

3. A copy of the plan required pursuant to subsection 2 must be maintained at the location where the tower crane is erected or dismantled.

4. The prime contractor shall ensure that a meeting is conducted at the location where the tower crane will be erected or dismantled immediately before the tower crane is erected or dismantled to review the plan and the manner in which a clear zone will be established. The following persons shall attend the meeting:

(a) The members of the crew which erects or dismantles the tower crane;

- (b) The person who supervises the erection or dismantling of the tower crane;
- (c) The operator of the tower crane and the operators of any machinery which is required to erect or dismantle the tower crane;
- (d) A representative of the prime contractor;
- (e) A representative of the owner of the tower crane, if the owner of the tower crane is not already represented at the meeting; and
- (f) A representative of the owner or lessee of the property upon which the tower crane will be erected or dismantled.

Sec. 10. NAC 618.462 is hereby amended to read as follows:

NAC 618.462 1. A person applying for a license as a photovoltaic installer must:

- (a) Comply with the requirements set forth in NRS 618.922 and 618.924; ~~and~~
- (b) Pay an application fee of \$25 *for the first examination and \$25 for each subsequent examination an applicant takes; and*
- (c) *Provide a government issued identification card .*

2. An applicant must notify the Enforcement Section of a change in his or her mailing address within 15 working days after the change occurs.

Sec. 11. NAC 618.5115 is hereby amended to read as follows:

NAC 618.5115 An employer that manufactures explosives must comply with the requirements set forth in 29 C.F.R. § 1910.119, relating to process safety management of highly hazardous chemicals, which is hereby adopted by reference. A copy of 29 C.F.R. Parts 1900-1910 may be obtained for \$ ~~42~~ 49 by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800.

Sec. 12. NAC 618.5116 is hereby amended to read as follows:

NAC 618.5116 An employer that manufactures explosives must comply with the requirements relating to the storage of explosives that are set forth in 27 C.F.R. §§ ~~[55.201]~~ *555.201* et seq., which is hereby adopted by reference. A copy of 27 C.F.R. Parts ~~[1-199 may be obtained for \$57]~~ *1-39 may be obtained for \$66, Parts 40-399 for \$67, and Parts 400-end for \$22* by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800.

Sec. 13. NAC 618.5531 is hereby amended to read as follows:

NAC 618.5531 1. Any container used to store ammonium perchlorate:

(a) Must be approved by the Enforcement Section or comply with the standards set forth in ~~[49 C.F.R. § 173.239a, as it existed on July 1, 1990]~~ *49 C.F.R. § 173.127* , for containers used in the transportation of ammonium perchlorate.

(b) Must be examined before use for the presence of any foreign material.

(c) Must not be stacked on top of another such container.

2. Any container designated for disposal must be visually inspected for contamination by ammonium perchlorate and thoroughly cleaned before disposal.

Sec. 14. NAC 618.544 is hereby amended to read as follows:

NAC 618.544 1. The contents of the document required by NRS 618.376 that sets forth the rights and responsibilities of employers and employees to promote safety in the workplace must conform with “Nevada Workplace Safety: Your Rights and Responsibilities,” SCATS Form IE, 0-302, published by the Division. The Division will publish “Nevada Workplace Safety: Your Rights and Responsibilities” in English, Spanish and any other language the Division determines is appropriate.

2. The contents of the ~~[videotape]~~ *video* required by NRS 618.376 that sets forth the rights and responsibilities of employers and employees to promote safety in the workplace must conform with “Safety in the Workplace,” produced by the Division. The Division will produce “Safety in the Workplace” in English, Spanish and any other language the Division determines is appropriate.

Sec. 15. NAC 618.6373 is hereby amended to read as follows:

NAC 618.6373 A hearing must be stenographically reported or recorded ~~[on magnetic tape]~~ *with an audio recording device* . Copies of the transcript may be obtained by the parties upon the filing of a written application with the reporter and the payment of fees at the rate provided in the agreement with the reporter or the Enforcement Section.

Sec. 16. NAC 618.6434 is hereby amended to read as follows:

NAC 618.6434 1. At the beginning of an inspection, an inspector shall:

(a) Present his or her credentials to the owner, operator or agent in charge at the place of employment to be inspected;

(b) Explain the nature and purpose of the inspection;

(c) Indicate generally the scope of the inspection; and

(d) Designate the records the inspector wishes to review, but such a designation does not preclude access to additional records.

2. An inspector may take environmental samples and take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques in conducting the inspection, and question privately any employer, owner, agent or employee of the place of employment being inspected. As used in this subsection, the phrase “employ other reasonable investigative techniques” includes, without limitation, the use of devices to measure the exposure of employees to hazardous elements ~~[and]~~, the attachment of personal sampling equipment such

as dosimeters, pumps, badges and other similar devices to employees to monitor the exposure of the employees , *and the use of any other equipment necessary to document suspected employee exposure to hazards at the discretion of the inspector* .

3. In taking photographs and sampling, an inspector shall take such reasonable precautions as are necessary to ensure that his or her actions with any flash, spark-producing or other type of equipment is not hazardous. An inspector shall comply with all safety and health rules established by the employer for that place of employment, and shall wear and use appropriate protective clothing and equipment.

4. An inspection must be conducted in such a manner as to preclude unreasonable disruption of the operations of the place of employment being inspected.

5. At the conclusion of the inspection, an inspector shall confer with the employer or the employer's representative to advise the employer or representative informally of any apparent safety or health violations disclosed by the inspection. During such a conference, the inspector shall afford the employer or the employer's representative the opportunity to bring to the attention of the inspector any pertinent information regarding conditions at the place of employment.

Sec. 17. NAC 618.6464 is hereby amended to read as follows:

NAC 618.6464 1. An inspector may issue appropriate citations and notices of proposed penalties with respect to an imminent danger even though, after being informed of the danger, the employer immediately eliminates the imminence of the danger and initiates steps to abate it.

2. If the inspector is not satisfied that the employer will eliminate the danger, the inspector shall:

(a) Inform the employer and the affected employees of the danger and that he or she will recommend that the Administrator issue an emergency order pursuant to NRS 618.545; and

(b) Upon the approval of the Administrator, deliver or cause to be delivered Form ~~OSHES-8~~ *NVOSHA-8* , Emergency Restraining Order to Remove Alleged Imminent Danger, to the employer or a representative of the employer.

Sec. 18. NAC 618.695 is hereby amended to read as follows:

NAC 618.695 1. Before the Board is notified of an appeal or contest, all papers required to be filed must be filed with the Chief at 400 West King Street, Suite ~~200~~ *201*, Carson City, Nevada 89703. After the Board is notified of an appeal or contest, all papers required to be filed must be filed with the Board at the address given in the notice of the appeal or contest.

2. Except as otherwise ordered by the Chief or the Board, all papers required to be filed must be filed by first-class certified mail, return receipt requested, or by personal delivery, with an affidavit of service.

3. The filing is effective at the time of mailing.

Sec. 19. NAC 618.907 is hereby amended to read as follows:

NAC 618.907 1. An occupant of a building may not be exposed to an 8-hour time-weighted-average of airborne asbestos fibers in excess of 0.01 asbestos fibers per cubic centimeter of air. The amount of fibers in the air must be determined using the field sampling protocol and analytical method set forth in Appendix A of Subpart E of 40 C.F.R. Part 763. An air sample volume of at least 600 liters must be sampled at a maximum flow rate of 10 liters per minute.

2. If an owner of a building discovers that the quantity of airborne asbestos therein exceeds the level set forth in subsection 1, the owner shall post in a conspicuous place within the building or structure, including all entrances, a written notice to all occupants that the levels of airborne asbestos exceed the level set forth in subsection 1. The notice must be at least 8 inches by 11 inches

in size and must consist of not less than 10 characters per inch in size. The owner shall immediately notify the Enforcement Section of the excess levels of asbestos.

3. An owner of a building shall comply with the requirements for the communication of hazards set forth in 29 C.F.R. § 1910.1001(j) and 29 C.F.R. § 1926.1101(k).

4. If an asbestos consultant discovers that the quantity of airborne asbestos in a building or facility exceeds the level set forth in subsection 1, the consultant shall immediately notify the owner of the excessive levels and notify the Division in writing within 10 working days that the building or facility owner was notified of the excessive airborne asbestos levels.

Sec. 20. NAC 618.910 is hereby amended to read as follows:

NAC 618.910 1. A person who wishes to apply for an initial license as a contractor, supervisor, abatement worker or consultant must submit a signed, completed application with all necessary documentation to the Enforcement Section on a form provided by the Enforcement Section, *including providing a government issued identification card.*

2. An application for initial licensing must be delivered to the Enforcement Section at ~~[400 West King Street, Suite 200, Carson City, Nevada 89703]~~ *3360 W. Sahara Avenue, Suite 100A, Las Vegas, NV 89102 or 4600 Kietzke Lane, Suite F-153, Reno, NV 89502 .*

3. The Enforcement Section may, within 30 days after the receipt of an application, require further information to determine whether the application should be approved or denied.

4. If the Enforcement Section requests further information from an applicant and does not receive that information within 60 days after the date of the request, the application will be considered abandoned and the request for an initial license will be denied.

5. An applicant must include his or her mailing address on the application and immediately notify the Enforcement Section of any change in that address. Any notification of a change of

address received by the Enforcement Section acts as an amendment to the original application. The address stated on the original application or as amended must be the proper mailing address for all filings, postings and communications made by mail between the Enforcement Section and the applicant.

6. A license issued by the Enforcement Section is valid:

(a) Until the expiration date of the certificate for a training course or a refresher training course;

or

(b) For 1 year,

↳ whichever occurs earlier.

Sec. 21. NAC 618.913 is hereby amended to read as follows:

NAC 618.913 1. A licensee must submit an application for the renewal of his or her license before the license expires.

2. An application for the renewal of a license must be submitted on a form provided by the Enforcement Section and delivered to the Enforcement Section at ~~[400 West King Street, Suite 200, Carson City, Nevada 89703]~~ *3360 W. Sahara Avenue, Suite 100A, Las Vegas, NV 89102 or 4600 Kietzke Lane, Suite F-153, Reno, NV 89502 .*

3. An application must be accompanied by:

(a) Evidence that the applicant has, within the preceding 12 months, completed a refresher training course approved by the EPA for his or her discipline; and

(b) The applicable fee for renewal.

4. The renewal of a license is not effective until final action on the application is taken by the Enforcement Section.

5. An application for the renewal of a license must include the applicant's mailing address. The applicant shall immediately notify the Enforcement Section of any change in that address. Any notification of a change of address received by the Enforcement Section acts as an immediate amendment to the original application. The address stated on the original application or amended application must be the proper mailing address for all filings, postings and communications made by mail between the Enforcement Section and the licensee.

6. Before the license of a contractor or consultant may be renewed, the contractor or consultant must abate all conditions for which the contractor or consultant has been issued a citation by the Enforcement Section and pay all fines due to the Division.

Sec. 22. NAC 618.918 is hereby amended to read as follows:

NAC 618.918 To maintain his or her license, a contractor must:

1. Ensure that proper notification of any proposed project for the abatement of asbestos is given in writing to the Enforcement Section;
2. Ensure that records of all projects for the abatement of asbestos the contractor performs are maintained and retained for at least 30 years in accordance with 29 C.F.R. § 1926.33;
3. Ensure that a supervisor who is properly trained and licensed pursuant to NAC 618.850 to 618.986, inclusive, remains present at the site if any asbestos activity is being carried out as part of a project for the abatement of asbestos;
4. Ensure that all abatement workers and supervisors in the contractor's employ are properly trained and licensed;
5. Establish and carry out a program for respiratory protection and submit a written copy of the program to the Enforcement Section;

6. Provide each of his or her employees who engages in activities for the abatement of asbestos with the necessary protective gear and clothing;

7. Provide or make available to all employees who engage in activities for the abatement of asbestos, a written medical monitoring program;

8. Establish and carry out a written program for monitoring air for projects for the abatement of asbestos to protect employees who may be exposed to airborne asbestos fibers;

9. Ensure that all asbestos activities performed are carried out pursuant to the provisions of NAC 618.850 to 618.986, inclusive;

10. Provide employees of the Enforcement Section with the use of a supplied air system to use during inspections of the work area if a supplied air system is being used for activities for the abatement of asbestos at that location ;

11. Provide containment viewports to readily observe asbestos abatement work inside the containment area on all projects for the abatement of asbestos;

12. Not provide inspector consultant services for the purpose of contract bidding on abatement work on an asbestos abatement project; and

13. Refrain from providing any services as an asbestos inspector, management planner, consultant, project designer or project engineer on an asbestos abatement project, unless specifically granted an exemption by the Division.

Sec. 23. NAC 618.919 is hereby amended to read as follows:

NAC 618.919 1. A person who has complied with all of the requirements to be a contractor, except the requirements relating to experience, may apply to the Enforcement Section for permission to be a limited contractor.

2. An application made pursuant to subsection 1 must be made in writing and delivered to the Chief at ~~[400 West King Street, Suite 200, Carson City, Nevada 89703]~~ *3360 W. Sahara Avenue, Suite 100A, Las Vegas, NV 89102 or 4600 Kietzke Lane, Suite F-153, Reno, NV 89502 .*

3. Permission to act as a limited contractor:

(a) Authorizes the limited contractor to perform a progression of projects for the abatement of asbestos, from simple inexpensive projects to difficult and complex projects;

(b) Is effective upon notification by the Enforcement Section; and

(c) Is limited to those situations where a project for the abatement of asbestos is supervised by a licensed supervisor who is experienced in the type of project performed.

Sec. 24. NAC 618.923 is hereby amended to read as follows:

NAC 618.923 1. A person who has complied with all the requirements to be a supervisor, except for the requirements relating to experience, may apply to the Enforcement Section for permission to be a probationary supervisor.

2. An application made pursuant to subsection 1 must be made in writing and delivered to the Chief at ~~[400 West King Street, Suite 200, Carson City, Nevada 89703]~~ *3360 W. Sahara Avenue, Suite 200, Las Vegas, NV 89102 .*

3. A person may act as a probationary supervisor for not more than 4 consecutive months.

4. Permission to act as a probationary supervisor is effective upon notification by the Enforcement Section and is limited to those situations where a project for the abatement of asbestos must have other licensed supervisors present to assist the probationary supervisory in organizing the work site and overseeing the project.

Sec. 25. NAC 618.934 is hereby amended to read as follows:

NAC 618.934 1. A person who has complied with all of the requirements to be an inspector, except for the requirements relating to experience, may apply to the Enforcement Section for permission to be an inspector trainee.

2. An application made pursuant to subsection 1 must be made in writing and delivered to the Chief at ~~[400 West King Street, Suite 200, Carson City, Nevada 89703]~~ *3360 W. Sahara Avenue, Suite 200, Las Vegas, NV 89102* .

3. Permission to act as an inspector trainee is effective upon notification by the Enforcement Section and is limited to those situations in which all services provided as an inspector trainee will be rendered under the direct supervisions of a licensed inspector or management planner.

Sec. 26. NAC 618.944 is hereby amended to read as follows:

NAC 618.944 1. A person who has complied with all of the requirements to be a monitor, except the requirement relating to experience, may apply to the Enforcement Section for permission to be a monitor trainee.

2. An application made pursuant to subsection 1 must be made in writing and delivered to the Chief at ~~[400 West King Street, Suite 200, Carson City, Nevada 89703]~~ *3360 W. Sahara Avenue, Suite 200, Las Vegas, NV 89102* .

3. Permission to act as a monitor trainee is effective upon notification by the Enforcement Section and is limited to those situations in which all services provided as a monitor trainee will be rendered under the direct supervision of a licensed monitor.

Sec. 27. NAC 618.951 is hereby amended to read as follows:

NAC 618.951 1. Activities for the abatement of asbestos involving vinyl asbestos tile, exterior asbestos roofing material, exterior asbestos siding, drywall joint compound and other

nonfriable materials containing asbestos are exempt from the requirements of NAC 618.850 to 618.986, inclusive.

2. To remain eligible for the exemption set forth in subsection 1, the activities must be performed in accordance with 29 C.F.R. § 1910.1001 and 29 C.F.R. § 1926.1101, and practices must be maintained to ensure that materials containing asbestos are:

- (a) Not sanded, power sawed or drilled;
- (b) Removed in the largest sections practicable and carefully lowered to the ground;
- (c) Handled carefully to minimize breakage throughout removal, handling and transportation to an authorized disposal site; ~~and~~
- (d) Wetted before removal and during subsequent handling, to the extent practicable ; *and*
- (e) Not use any other mechanical means that would negate the exemption of non-friability .*

Sec. 28. NAC 618.952 is hereby amended to read as follows:

NAC 618.952 1. A person may request the Enforcement Section to determine whether an activity is an activity for the abatement of asbestos and subject to the requirements of NAC 618.850 to 618.986, inclusive, by requesting the Enforcement Section to issue a declaratory order.

2. Any request for a declaratory order must be submitted in the form of a written petition and submitted to the Chief at ~~[400 West King Street, Suite 200, Carson City, Nevada 89703]~~ *3360 W.*

Sahara Avenue, Suite 200, Las Vegas, NV 89102 . The petition must describe:

- (a) The material containing asbestos;
- (b) The proposed activity;
- (c) The site at which the activity will be conducted;
- (d) The nature of the work to be done; and
- (e) The results of any tests conducted on samples of material to be disturbed or encapsulated.

3. The Enforcement Section will issue a declaratory order in writing not later than 15 days after receiving a written petition. The order must be signed by the Chief.

4. A declaratory order may be appealed to the Administrator within 15 days after it is issued. An order not appealed within that time is final.

Sec. 29. NAC 618.954 is hereby amended to read as follows:

NAC 618.954 1. A contractor intending to engage in a project for the abatement of asbestos shall notify the Enforcement Section of the project on a form provided by the Enforcement Section.

2. The completed form must be received by the Enforcement Section at least 10 *calendar* days before any on-site work is begun at the project.

3. The form must be accompanied by:

(a) A fee of \$100 for a project which is greater than a project for spot repairs, but less than 260 linear feet or 160 square feet.

(b) A fee of \$400 for a project which is greater than 260 linear feet or 160 square feet, but less than 2,600 linear feet or 1,600 square feet.

(c) A fee of \$1,000 for a project which is greater than 2,600 linear feet or 1,600 square feet.

4. The owner of a building or structure will not be required to pay notification fees totaling more than \$2,000 in any calendar year.

5. A form is not complete until the appropriate fee is received by the Enforcement Section. If an owner of a building or structure engages in any additional projects for the abatement of asbestos after paying a combined total of \$2,000 in fees in any calendar year pursuant to this section, no additional fee is required for that additional project.

Sec. 30. NAC 618.955 is hereby amended to read as follows:

NAC 618.955 A contractor who engages in an emergency asbestos project shall:

1. Notify the Enforcement Section of the project by telephone at ~~[(775) 687-5240]~~ (702) 486-9020, within 24 hours after the commencement of the project; and
2. Give written notification of the project to the Enforcement Section, postmarked not later than 48 hours after the commencement of the project.

Sec. 31. NAC 618.956 is hereby amended to read as follows:

NAC 618.956 1. Before an area of a structure or building where a project for the abatement of asbestos was performed is allowed to be reoccupied, the contractor shall obtain final clearance from a monitor *referring to the limitations on airborne asbestos exposure set forth in subsection 1 of NAC 618.907* . The monitor may not be an employee of the contractor or the owner of the building or structure, unless a variance is granted by the Division.

2. After all the materials containing asbestos have been removed and the work area has been washed and vacuumed using a vacuum with high efficiency particulate air filtration, the work area must be:

- (a) Inspected by the monitor for visible residue;
- (b) Recleaned where necessary; and
- (c) Allowed to dry completely.

3. Before issuing a final clearance, the monitor shall conduct final clearance tests by collecting where feasible:

- (a) Air samples using aggressive sampling techniques; and
- (b) Five air monitoring samples from each containment area. The minimum air sample volume must be 1,200 liters sampled at a maximum flow rate of 10 liters per minute.

4. The average concentration of airborne asbestos fiber in all final clearance tests must be equal to or below 0.01 fibers per cubic centimeter of air. The samples must be analyzed using the

method set forth in Appendices A and B of 29 C.F.R. § 1926.1101, Appendix A of Subpart E of 40 C.F.R. Part 763 or Method No. 7400, entitled “Asbestos and Other Fibers by PCM.” These results are required on all samples taken before the containment barrier and exhaust air filtration system are removed. If those results are not obtained, the area must be rewashed and allowed to dry and samples must be taken again.

5. The monitor shall determine whether the requirements set forth in this section for final clearance tests are feasible for the work area. If the monitor determines that they are not and uses an alternate method for monitoring the air, he or she shall describe the rationale for using that method in the final clearance documents.

6. After the monitor has made the determination that the requirements of this section have been satisfied and the area is safe from any asbestos hazard, he or she shall direct the contractor to apply a lock down agent to all surfaces where material containing asbestos was removed, unless a variance is granted by the Division. After the agent is applied, the monitor shall prepare the final clearance documentation and the remaining equipment and containment barrier may be removed.

7. The monitor shall deliver the final clearance documentation to the owner of the building or structure, and deliver a copy of all reports and documents, including the final clearance, to the contractor and, if requested by the Enforcement Section, to the Enforcement Section.

8. The monitor may determine the accuracy of a phase contrast microscopy final clearance sample that is more than 0.01 fibers per cubic centimeter of air by reanalyzing the sample by transmission electron microscopy by using Method No. 7402, entitled “Asbestos by TEM-7402” adopted by reference in NAC 618.906.

9. The monitor shall ensure that the area of a structure or building where a project for the abatement of asbestos was performed is safe to be reoccupied.