

**ADOPTED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R048-06

Effective September 18, 2006

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

AUTHORITY: §§1-7, NRS 455.133, 703.025, 704.260 and 704.280.

A REGULATION relating to subsurface installations; revising provisions governing the marking location of subsurface installations; and providing other matters properly relating thereto.

Section 1. Chapter 455 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *“Marking practices in the industry” means the marking standards adopted by reference in section 3 of this regulation.*

Sec. 3. 1. *The Commission hereby adopts by reference the marking standards described in the:*

(a) “Uniform Color Code”;

(b) “Guidelines for Excavation Delineation”; and

(c) “Guidelines for Operator’s Facility Field Delineation,”

↪ as set forth in Appendix B of Best Practices Version 3.0, published by the Common Ground Alliance.

2. A copy of this publication can be obtained from the Common Ground Alliance, free of charge, at the Internet address <http://www.commongroundalliance.com/>.

Sec. 4. *If there is a conflict between the marking practices in the industry and the other provisions of this chapter, the other provisions of this chapter control.*

Sec. 5. NAC 455.010 is hereby amended to read as follows:

455.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 455.015 to 455.095, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. NAC 455.115 is hereby amended to read as follows:

455.115 1. Except as otherwise provided in subsections 3 and 4, an excavator who marks the proposed area of an excavation or demolition pursuant to the provisions of subparagraph (2) of paragraph (b) of subsection 1 of NRS 455.110 shall mark:

(a) The area before submitting a notification; and

(b) Only the area that can reasonably be excavated or demolished within 14 calendar days after the date the excavator submitted the notification of the excavation or demolition to the association for operators pursuant to the provisions of NRS 455.110.

2. An excavator marking the proposed area of an excavation or demolition pursuant to subsection 1 shall mark *in a manner consistent with the marking practices in the industry and shall mark* with white:

(a) The perimeter of the proposed excavation or demolition; or

(b) The centerline and width of the proposed excavation or demolition.

3. If an excavator and all the operators of subsurface installations in the affected area of the proposed excavation or demolition agree to identify the proposed area of the excavation or demolition in another manner pursuant to the provisions of subparagraph (2) of paragraph (b) of subsection 1 of NRS 455.110, the excavator shall comply with the terms of that agreement.

4. Pursuant to subsection 1 of NRS 455.110, an excavator conducting an excavation or demolition that will expose only a subsurface installation owned or operated by the excavator is not required to notify an association for operators pursuant to NRS 455.110.

Sec. 7. NAC 455.130 is hereby amended to read as follows:

455.130 **1.** Except *as otherwise provided in subsection 2 or* when otherwise agreed to by an operator and an excavator, an operator marking the approximate location of a subsurface installation that has been located and identified pursuant to the provisions of NAC 455.125 shall mark the approximate location of the subsurface installation ~~using the following colors for the markings:~~

~~—1.— Pursuant to the provisions of NRS 455.133, safety red must be used for electrical power, distribution and transmission installations, conduit for traffic signals and street lights and municipal electric installations.~~

~~—2.— Pursuant to the provisions of NRS 455.133, high-visibility safety yellow must be used for gas distribution and transmission installations, oil distribution and transmission installations, and installations containing or transporting dangerous materials, products or steam.~~

~~—3.— Pursuant to the provisions of NRS 455.133, safety alert orange must be used for telephone and telegraph installations, police and fire communication installations and cable television installations.~~

~~—4.— Pursuant to the provisions of NRS 455.133, safety precaution blue must be used for water installations and slurry pipelines.~~

~~—5.— Pursuant to the provisions of NRS 455.133, safety green must be used for sewer and storm drain installations.~~

~~—6.— Safety purple must be used for reclaimed water installations.~~

~~7. Pink must be used for temporary survey markings.] in a manner consistent with the marking practices in the industry.~~

2. The requirement of marking the approximate location of a subsurface installation does not apply to an individual irrigation system for landscaping or to a playing field.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R048-06**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R048-06 which pertain to chapter 455 of the Nevada Administrative Code on August 29, 2006.

Notice date: 6/1/2006
Hearing date: 8/15/2006

Date of adoption by agency: 8/29/2006
Filing date: 9/18/2006

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

A Combined Notice of Intent to Amend/Adopt/Repeal Regulations, Notice of Workshop, and Notice of Hearing concerning proposed revisions to NAC 455 was issued on March 17, 2006. Because substantive changes were made to the proposed language during the workshop on June 1, 2006 the hearing that was to be held later that day had to be rescheduled for August 14, 2006. The Commission also sought comment on the proposed regulation in the Combined Notice. The Combined Notice, including the request for comments, was published in the Elko Daily Free Press, Las Vegas Review Journal, Nevada Appeal, Reno Gazette Journal, and Tonopah Times-Bonanza. Additionally, the notices were mailed to county clerks, county libraries and all persons who requested inclusion on the Commission's service list.

The following represents a summary of the written comments that were filed with the Commission:

Washoe County School District filed comments with the Commission on May 1, 2006 supporting the language in Section 2 of the proposed regulations.

AT&T Nevada filed comments on May, 18, 2006 supporting the language of the proposed regulations.

Southwest Gas Corporation ("Southwest") filed comments on May 18, 2006 suggesting that the Commission include additional sections of NAC 455 in its rulemaking.

At the workshop Nevada Power Company ("NPC") and Sierra Pacific Power Company ("Sierra) presented written comments.

The following represents a summary of the public responses that were made to the Commission at the duly-noticed workshop held on June 1, 2006:

Using proposed draft regulations circulated at the workshop by SWG, which were based on the noticed proposed language, the participating parties were able to agree upon consensus language which incorporated the written responses filed with the Commission as well as the statutory mandate from Senate Bill 146.

The participating parties were: Regulatory Operations Staff of the Commission ("Staff"), Washoe County School District, AT&T Nevada, SWG, NPC&Sierra, Embarq, and USA North.

The following represents a summary of the public responses that were made to the Commission at the duly-noticed hearing held on August 14, 2006:

Staff, NPC&Sierra, AT&T Nevada, SWG, Embarq, and Washoe County School District all supported the LCB version of the proposed regulation that was filed with the Commission on July 3, 2006.

A copy of the summary may be obtained by calling the Commission at (775) 684-6100 or (702) 486-2600, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

- 2. The number of persons who**
 - (a) Attended the workshop: 12**
 - (b) Testified at the workshop: 4**
 - (c) Attended the hearing: 8**
 - (d) Testified at the hearing: 1**
 - (e) Submitted to the agency written comments:**
 - workshop: 4
 - hearing: 1

Written Comments were submitted to the Commission by Staff, SWG, NPC&Sierra, AT&T Nevada, and Washoe County School District.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notice placed in the newspapers mentioned in the response to question #1 above, by direct mailings to interested persons on the Commission's mailing list and by posting of notices at county libraries, courthouses and the Commission's website.

Appearances were made at the foregoing workshops and hearing by interested persons including representatives of: Staff, Washoe County School District, AT&T Nevada, SWG, NPC&Sierra, Embarq, and USA North.

Written comments were received as set forth in the responses to questions 1 and 2(e) above.

Written comments and response comments were filed with the Commission on May 18, 2006 pursuant to the Commission-issued Request for Comments.

A summary of the comments is contained in answer #1 above.

A copy of the summary may be obtained by calling the Commission at (775) 684-6100 or (702) 486-2600, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The proposed regulation was drafted in accordance with the June 1, 2006 workshop participants' suggestions and consensus draft language. No changes were made at the hearing on August 14, 2006 before the regulation was adopted by the Commission at a duly-noticed agenda meeting on August 23, 2006.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both intermediate and long-term effects.**

The Commission completed a small business impact statement pursuant to NRS 233B.0608. Staff recommended, and the Commission found, that the proposed regulations do not impose a direct and significant economic burden upon small businesses nor do they directly restrict the formation, operation, or expansion of a small business.

The Commission cannot estimate the specific economic effect in dollars of the entire regulation upon the public or businesses at this time.

The regulation revises NAC 455 regarding the attachment of a permanent device on subsurface installations. This device will allow detection of the installation from the ground surface. The operator who marks the subsurface installation must use the identifying criteria and colors adopted by Commission regulation. In adopting such regulations, the Commission was required by the Nevada Legislature to use nationally accepted standards for the identifying criteria and colors for marking subsurface installations.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The Commission does not anticipate any increased costs associated with enforcement of the adopted regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Commission is not aware of any overlap or duplication by this regulation of any regulation of any other local, state or federal government agencies.

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

The Commission is not aware of any provision in this regulation that is more stringent than a federal regulation which regulates the same activity.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The Commission is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.