

**PROPOSED REGULATION OF THE  
LABOR COMMISSIONER**

**LCB File No. R115-01**

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

AUTHORITY: §§1-5, 7, 9, 20 & 25, NRS 338.012; §6, NRS 338.012 and 338.040; §8, NRS 338.012 and 338.013; §10-14, NRS 338.012 and 338.070; §§15-17, NRS 338.012 and 338.015; §18, NRS 338.012 and 338.017; §19 & 21, NRS 338.012 and 338.020; §22-23, NRS 338.012, 338.020 and 338.030; §24, NRS 338.012 and 338.060.

**Section 1.** Chapter 338 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this regulation.

**Sec. 2.** *“Apprentice” means a person employed and individually registered in a bona fide apprenticeship program with:*

*1. The Bureau of Apprenticeship and Training of the Office of Apprenticeship, Training, Employer and Labor Services of the Employment and Training Administration of the United States Department of Labor or its successor; and*

*2. The state apprenticeship council pursuant to chapter 610 of NRS and any regulations adopted pursuant thereto.*

**Sec. 3.** *“Awarding body” means a public body, as that term is defined in NRS 338.010, or any authorized agent or representative of a public body.*

**Sec. 4.** *“Certified payroll report” means the record that a contractor or subcontractor engaged on a public work is required to submit to an awarding body pursuant to subsections 4 and 5 of NRS 338.070 with a statement of compliance as required pursuant to subsection 1 of*

*section 11 of this regulation for each month in which the contractor or subcontractor employs one or more workmen in connection with the public work.*

**Sec. 5.** *“Nonperformance payroll report” means the report that a contractor or subcontractor engaged on a public work is required to submit to an awarding body pursuant to section 10 of this regulation for each month in which the contractor or subcontractor does not employ any workmen in connection with the public work.*

**Sec. 6.** *As used in NRS 338.040, the labor commissioner will interpret:*

*1. “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.*

*2. “Necessary in the execution of the contract for the public work” to mean the performance of duties required to facilitate the construction, alternation or repair of the public work.*

**Sec. 7.** *The existence of a contract between an awarding body and a contractor is not a bar to the enforcement by the labor commissioner of the provisions of this chapter and NRS 338.010 to 338.090, inclusive.*

**Sec. 8.** *1. A contractor who has been awarded a contract for a public work shall report the name and address of each subcontractor whom the contractor engages for work on the public work as required pursuant to subsection 3 of NRS 338.013 on a form prescribed by the labor commissioner. The contractor shall include, without limitation, in the report:*

*(a) The name of the owner or principal of the subcontractor;*

*(b) The telephone number and facsimile number, if any, of the subcontractor; and*

*(c) The scope of work to be performed by the subcontractor in connection with the public work.*

*2. A contractor engaged on a public work has the burden of proof in substantiating that he reported any subcontractors whom he has engaged for work on the public work to the labor commissioner pursuant to subsection 3 of NRS 338.013.*

**Sec. 9. 1.** *For the purposes of this chapter and NRS 338.010 to 338.090, inclusive, a workman employed on a public work must be paid based on the type of work that the workman actually performs on the public work and in accordance with the recognized class of the workman.*

*2. Any person employed on a public work as an apprentice or listed on a certified payroll report as an apprentice who is not registered with the Bureau of Apprenticeship and Training of the Office of Apprenticeship, Training, Employer and Labor Services of the Employment and Training Administration of the United States Department of Labor or its successor and the state apprenticeship council must be paid not less than the applicable wage rate for the type of work actually performed by the person and in accordance with the applicable recognized class of workmen. Any person designated as an apprentice performing work at the site of a public work who exceeds the ratio of apprentices to journeymen authorized under the registered program of apprenticeship must be paid not less than the applicable wage rate for the type of work actually performed by the person and in accordance with the applicable recognized class of workmen.*

**Sec. 10. 1.** *If a contractor or subcontractor engaged on a public work does not employ any workmen in any calendar month during which he is engaged on the public work, the contractor or subcontractor shall, in lieu of submitting a certified payroll report pursuant to*

*subsections 4 and 5 of NRS 338.070 for that month, submit to the awarding body a nonperformance payroll report certifying that the contractor or subcontractor did not employ any workmen on the public work during that month.*

*2. A nonperformance payroll report must be completed on a form prescribed by the labor commissioner and must be submitted to the awarding body not later than 10 days after the end of a month in which the contractor or subcontractor did not employ any workmen on the public work.*

**Sec. 11. 1. Each certified payroll report:**

*(a) May be submitted on a form prescribed by the labor commissioner or in a format selected by the contractor or subcontractor that provides the information required pursuant to subsection 4 of NRS 338.070; and*

*(b) Must be accompanied by a statement of compliance, on a form prescribed by the labor commissioner, which is executed by the contractor or subcontractor and which certifies the truthfulness and accuracy of the payroll report.*

*2. A contractor or subcontractor shall report workmen on a certified payroll report for a public work based on:*

*(a) The type of work actually performed by the workmen; and*

*(b) In accordance with the recognized classes of workmen.*

FLUSH *Such a report must not include any hours of work performed by the workmen on another public work or private project.*

*3. When a contractor or subcontractor first lists an apprentice on a certified payroll report, the contractor or subcontractor must submit with that certified payroll report documentation to substantiate that the apprentice is registered with the Bureau of*

*Apprenticeship and Training of the Office of Apprenticeship, Training, Employer and Labor Services of the Employment and Training Administration of the United States Department of Labor or its successor and the state apprenticeship council.*

*4. Upon the request of the awarding body, a contractor or subcontractor engaged on a public work shall provide to the awarding body payroll records and any other records deemed necessary by the awarding body to verify the accuracy of information contained in any certified payroll report submitted by the contractor or subcontractor.*

*Sec. 12. 1. An awarding body shall cause to be affixed to each certified payroll report or nonperformance payroll report that the awarding body receives the actual date on which the awarding body received the certified payroll report or nonperformance payroll report.*

*2. An awarding body shall, upon request of the labor commissioner, submit a copy of a certified payroll report or a nonperformance payroll report to the labor commissioner.*

*Sec. 13. 1. An awarding body shall cause such an examination of the certified payroll reports of a contractor or subcontractor to be made as may be necessary to assure compliance with the provisions of this chapter and NRS 338.010 to 338.090, inclusive. Such an examination may include, without limitation:*

*(a) Verifications with employees of the contractor or subcontractor of the wages paid to and the type of work actually performed by those employees;*

*(b) Review of records and other data concerning the payroll of the contractor or subcontractor;*

*(c) Verification of the registration of apprentices; and*

*(d) Evidence of payments to fringe benefit plans.*

*2. In conducting an examination pursuant to this section, an awarding body shall verify:*

*(a) The accuracy of the reporting of workmen in the recognized classes of the workmen;  
and*

*(b) The ratio of apprentices to journeymen authorized under the registered program of apprenticeship.*

**Sec. 14. 1.** *Upon its own initiative or upon notice of a possible violation, an awarding body shall cause such an investigation to be made as may be necessary to determine whether a violation of this chapter or NRS 338.010 to 338.090, inclusive, was committed in the course of the execution of a contract for a public work that was awarded by the awarding body. Such an investigation must commence and conclude within a reasonable time, except that the investigation must not exceed 30 days unless the awarding body notifies the labor commissioner that the awarding body requires additional time to complete the investigation.*

*2. An awarding body may request the labor commissioner to issue subpoenas on behalf of the awarding body to assist the awarding body in its investigation.*

*3. In making a determination of whether a contractor or subcontractor violated this chapter or NRS 338.010 to 338.090, inclusive, an awarding body shall consider:*

*(a) Information contained in any claim or complaint against the contractor or subcontractor that was received by the labor commissioner;*

*(b) Oral or written statements made by employees of the contractor or subcontractor or witnesses during interviews conducted by the awarding body;*

*(c) Information contained in certified payroll reports applicable to the public work; and*

*(d) Any other information which could reasonably assist the awarding body in determining whether a violation was committed.*

4. *Upon the conclusion of its investigation, an awarding body shall issue, in writing, its determination of whether a contractor or subcontractor violated this chapter or NRS 338.010 to 338.090, inclusive, and shall transmit a copy of the determination to the labor commissioner.*

5. *If, after an investigation, an awarding body determines that a contractor or subcontractor has failed to pay the correct wages to workmen employed by the contractor or subcontractor in connection with a public work, the awarding body shall withhold and retain the wages due and owing to the workmen and any applicable penalties, and shall immediately notify the labor commissioner in writing of its determination and resulting actions.*

6. *In addition to transmitting a copy of its determination to the labor commissioner pursuant to subsection 4, an awarding body shall transmit to the labor commissioner the following information pertaining to the determination:*

- (a) A detailed narrative of the findings of the investigation;*
- (b) The name and address of the contractor or subcontractor and its responsible officers;*
- (c) A copy of the contract for the public work, or an excerpt of the portion of the contract that the labor commissioner determines is relevant, which must include, without limitation, information identifying the deadline by which bids on the contract were accepted, the date on which the contract was awarded and the scope of work performed by the contractor or subcontractor;*
- (d) Copies of any claims or complaints received by the awarding body from the labor commissioner relating to the investigation;*
- (e) Copies of the applicable certified payroll reports and nonperformance payroll reports submitted by the contractor or subcontractor;*

*(f) If applicable, signed interview statements of employees of the contractor or subcontractor; and*

*(g) If applicable, computations of penalties and back wages for each workman, including, without limitation, the name, address and social security number of the workman.*

*7. Within 20 days after receipt of a determination issued by an awarding body pursuant to subsection 4, the labor commissioner will:*

*(a) Return the determination to the awarding body with a directive for further investigation; or*

*(b) Affirm or modify the determination and, if any wages or penalties were withheld by the awarding body, direct the awarding body to forward to the labor commissioner the sums withheld for disbursement to the workmen.*

*Sec. 15. 1. If, pursuant to paragraph (b) of subsection 7 of section 14 of this regulation, the labor commissioner affirms or modifies a determination issued by an awarding body, the labor commissioner shall serve a copy of the affirmed or modified determination by certified mail on the contractor or subcontractor who was the subject of the investigation and any person who filed a claim or complaint with the labor commissioner related to the investigation.*

*2. A person who has been served a copy of a determination pursuant to subsection 1 and who is aggrieved by the determination may file a written objection with the labor commissioner within 15 days after the date of service of the determination. Such an objection must be accompanied by a short statement of the grounds for the objection and evidence substantiating the objection.*

*3. Except as otherwise provided in subsection 4, if an objection to a determination issued by an awarding body is filed with the labor commissioner within the period for objection*



*prescribed in subsection 2, the labor commissioner will, within 10 days after that period for objection has expired, schedule a hearing on the determination if:*

*(a) The determination issued by the awarding body included an assessment of back wages owed to workmen, an administrative penalty or fine or a recommendation of the imposition of a period of disqualification from public works against a contractor or subcontractor pursuant to NRS 338.017; or*

*(b) The determination issued by the awarding body did not include an assessment of back wages owed to workmen, an administrative penalty or fine or a recommendation of the imposition of a period of disqualification from public works against a contractor or subcontractor pursuant to NRS 338.017 but the labor commissioner determines that the objection has merit on other grounds after reviewing the determination and the information transmitted to him by the awarding body pursuant to subsection 6 of section 14 of this regulation.*

**4. If:**

*(a) An objection is filed with the labor commissioner within the period for objection prescribed in subsection 2 and the determination does not meet the requirements of paragraph (a) or (b) of subsection 3; or*

*(b) An objection was not filed with the labor commissioner within the period for objection prescribed in subsection 2,*

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*the determination of the awarding body is deemed to be the final order of the labor commissioner on the matter.*

**5. If, after holding a hearing scheduled pursuant to subsection 3 on a determination issued by an awarding body, the labor commissioner finds that a contractor or subcontractor**

*violated this chapter or NRS 338.010 to 338.090, inclusive, the labor commissioner will issue a written determination, which will include, without limitation, the relevant facts and applicable laws on which the determination was based. The labor commissioner will serve a copy of the determination by certified mail on the contractor or subcontractor who was the subject of the investigation and any person who filed a claim or complaint with the labor commissioner related to the investigation. A determination issued by the labor commissioner pursuant to this subsection is deemed to be the final order of the labor commissioner on the matter.*

**Sec. 16. 1.** *If, after an investigation conducted or caused to be conducted by the labor commissioner, the labor commissioner finds that a person, including, without limitation, the officers, agents or employees of a public body, has violated this chapter or NRS 338.010 to 338.090, inclusive, the labor commissioner will issue a written determination, which will include, without limitation, the relevant facts and applicable laws on which the determination was based. The labor commissioner will serve a copy of the determination by certified mail on the person who is found to have committed the violation and any other person who filed a claim or complaint with the labor commissioner related to the investigation.*

*2. A person who has been served a copy of a determination issued by the labor commissioner pursuant to subsection 1 and who is aggrieved by the determination may file a written objection with the labor commissioner within 15 days after the date of service of the determination. Such an objection must be accompanied by a short statement of the grounds for the objection and evidence substantiating the objection.*

*3. Except as otherwise provided in subsection 4, if an objection to a determination issued by the labor commissioner pursuant to subsection 1 is filed with the labor commissioner*

*within the period for objection prescribed in subsection 2, the labor commissioner will, within 10 days after that period for objection has expired, schedule a hearing on the determination if:*

*(a) The determination issued by the labor commissioner included an assessment of back wages owed to workmen, an administrative penalty or fine or an imposition of a period of disqualification from public works against a contractor or subcontractor pursuant to NRS 338.017; or*

*(b) The determination issued by the labor commissioner did not include an assessment of back wages owed to workmen, an administrative penalty or fine or an imposition of a period of disqualification from public works against a contractor or subcontractor pursuant to NRS 338.017 but the labor commissioner determines that the objection has merit on other grounds.*

*4. If:*

*(a) An objection is filed with the labor commissioner within the period for objection prescribed in subsection 2 and the determination does not meet the requirements of paragraph (a) or (b) of subsection 3; or*

*(b) An objection was not filed with the labor commissioner within the period for objection prescribed in subsection 2,*

FLUSH *the determination issued by the labor commissioner pursuant to this section is deemed to be the final order of the labor commissioner on the matter.*

*5. If, after holding a hearing scheduled pursuant to subsection 3 on a determination issued by labor commissioner pursuant to subsection 1, the labor commissioner finds that a person, including, without limitation, the officers, agents or employees of a public body, has violated this chapter or NRS 338.010 to 338.090, inclusive, the labor commissioner will issue a written determination, which will include, without limitation, the relevant facts and applicable*

*laws on which the determination was based. The labor commissioner will serve a copy of the determination by certified mail on the person who is found to have committed the violation and any other person who filed a claim or complaint with the labor commissioner related to the investigation. A determination issued by the labor commissioner pursuant to this subsection is deemed to be the final order of the labor commissioner on the matter.*

**Sec. 17. 1.** *At a hearing held by the labor commissioner on a determination issued by an awarding body or the labor commissioner, a party may:*

*(a) Provide additional evidence or refute the evidence in the determination.*

*(b) Call and examine witnesses. The party who is calling a witness must provide notice of the hearing to the witness. A party may request the labor commissioner to issue a subpoena requiring the attendance of a witness.*

*2. After such a hearing, the labor commissioner will issue his decision on the determination, including, without limitation, his findings of fact and conclusions of law based on the evidence presented and matters officially noticed at the hearing.*

**Sec. 18. 1.** *If multiple periods of disqualification are imposed against a contractor or subcontractor pursuant to NRS 338.017, the periods of disqualification must run consecutively.*

*2. The labor commissioner will maintain a list of contractors and subcontractors that have been disqualified temporarily from being awarded a contract for a public work pursuant to NRS 338.017 and will make that information available to the public upon request, including, without limitation, on the website that the labor commissioner maintains on the Internet or its successor.*

**Sec. 19. 1.** *Except as otherwise provided in subsection 4, for the purposes of establishing the prevailing rate of wages paid to each recognized class of workmen in a locality, the recognized classes of workmen and the scope of work descriptions for those classes are:*

*(a) Air balance technician. The duties of an air balance technician include, without limitation, inspecting, testing, adjusting and balancing heating, cooling and ventilation systems using specialized tools and testing equipment to attain performance standards specified in the design of the systems.*

*(b) Alarm installer. The duties of an alarm installer include, without limitation:*

*(1) Installing electrical protective signaling systems used to provide notification of fire, burglary or other irregularities on the premises of the subscriber of the system;*

*(2) Installing of wiring and signaling units;*

*(3) Following blueprints of electrical layouts and building plans;*

*(4) Using hand and power tools, and soldering irons; and*

*(5) Repairing electrical protective signaling systems.*

*(c) Asbestos worker or mechanical insulator. The duties of an asbestos worker or mechanical insulator include, without limitation:*

*(1) Covering and lining structures with asbestos, cork, canvas, tar paper, magnesia and related materials;*

*(2) Using saws, knives, rasps, trowels and other implements and tools; and*

*(3) A specialization in providing blown-in insulation.*

*(d) Boilermaker. The duties of a boilermaker include, without limitation:*

*(1) Constructing, assembling, maintaining and repairing stationary steam boilers and boiler house auxiliaries;*

*(2) Aligning structures or plate sections to assemble boiler frame tanks or vats;*

*(3) Following blueprints;*

*(4) Using hand and power tools, plumb bobs, levels, wedges, dogs and turnbuckles;*

*(5) Assisting in the testing of assembled vessels, directing cleaning of boilers and boiler furnaces; and*

*(6) Inspecting and repairing boiler fittings, including, without limitation, safety valves, regulators, automatic-control mechanisms, water columns and auxiliary machines.*

*(e) Bricklayer. The duties of a bricklayer include, without limitation:*

*(1) Laying materials, including, without limitation, brick, structural tile and blocks of concrete, cinder, glass, gypsum and terra cotta, but not including stone, to construct or repair walls, partitions, arches, sewers and other structures;*

*(2) Laying and aligning bricks, blocks or tiles to build or repair structures for high temperature equipment, including, without limitation, cupola, kilns, ovens and furnaces;*

*(3) Fastening or fusing brick or other building material to structures with wire clamps, anchor holes, torches or cement; and*

*(4) Breaking or cutting bricks, tiles or blocks to size, by using a hammer, a power saw or the edge of a trowel.*

*(f) Carpenter. The duties of a carpenter include, without limitation:*

*(1) Constructing, erecting, installing and repairing structures and fixtures made of wood, plywood and wallboard;*

*(2) Using carpenter's hand and power tools;*

*(3) Building and repairing cabinets, doors, framework, floors and other wooden fixtures;*

*(4) Performing work in connection with the installation, erection or application of:*

*(I) Drywall;*

*(II) Lathing;*

*(III) Wall partitions;*

*(IV) EFIS panels;*

*(V) Pre-cast concrete and concrete form work, including, without limitation, layout, fabrication, construction of wood panel forms and frame walls; and*

*(VI) Plywood decking, including, without limitation, carrying, stacking, installation and removal of the plywood and the plywood decking;*

*(5) Cutting, setting, removing, relocating and stacking of beam sides and soffits, bracing and pads; and*

*(6) Handling, building, erecting and disassembling of self-supporting scaffolds that are more than 14 feet in height.*

*(g) Cement mason. The duties of a cement mason include, without limitation:*

*(1) Smoothing and finishing surfaces of poured concrete floors, walls, sidewalks and curbs to specified textures;*

*(2) Using hand and power tools, including, without limitation, floats, trowels and screeds;*

*(3) Moving discharge chutes to direct concrete into forms;*

*(4) Removing rough and defective spots from the surface of concrete through the use of a power grinder or a chisel and hammer;*

- (5) Patching holes with fresh concrete or an epoxy compound;*
- (6) Molding expansion joints and edges through the use of edging tools, jointers and straightedges; and*
- (7) Mixing cement with the use of a hoe or concrete mixing machine.*
- (h) Communication technician. The duties of a communication technician include, without limitation:*
- (1) Examining or testing of equipment to determine defects using blueprints and electrical measuring instruments;*
- (2) Using hand tools to assemble and install data communication lines and equipment computer systems, antennas and towers;*
- (3) Dissassembling equipment to adjust, repair or replace parts using hand tools;*
- (4) Starting up, programming and documenting systems;*
- (5) Installing cable, device trim, mounting and termination; and*
- (6) Measuring, cutting, splicing, connecting, soldering and installing wire and cable.*
- (i) Communication technician installer. The duties of a communication technician installer:*
- (1) Include, without limitation, pulling cable and trimming devices on field circuits and loops.*
- (2) Do not include energizing or performing work on any energized circuits, loops or other equipment.*
- (j) Electrician lineman. The duties of an electrician lineman include, without limitation:*



*(1) Erecting and repairing wood poles and prefabricated light duty metal towers, cable and related equipment to construct transmission and distribution power lines used to conduct electrical energy between generating stations, substations and consumers;*

*(2) Directing and assisting electrician groundmen in attaching cross arms, insulators, lightning arresters, switches, wire conductors and auxiliary equipment to poles and towers in preparation of erecting the poles or towers; and*

*(3) Climbing erected poles or towers and installing equipment such as transformers.*

*(k) Electrician groundman. The duties of an electrician groundman:*

*(1) Include, without limitation:*

*(I) Working under the direct supervision of linemen including the operation of jack-hammers and manhalls; and*

*(II) Loading and unloading of materials and equipment.*

*(2) Does not include climbing poles, towers or other structures or working in the proximity of energized lines or equipment.*

*(l) Electrician-neon signs. The duties of an electrician-neon signs include, without limitation, installing, servicing and repairing plastic neon and illuminated signs.*

*(m) Electrician wireman. The duties of an electrician wireman include, without limitation:*

*(1) Laying out plans, installing, testing and repairing wiring, electrical fixtures, apparatus and control equipment;*

*(2) Measuring, cutting, bending, threading, assembling and installing electrical conduit by using tools including, without limitation, a hacksaw, pipe threader or conduit bender;*

*(3) Pulling wiring through conduit;*

*(4) Splicing wires by stripping insulation from terminal leads, using a knife or pliers, or soldering wires together and applying tape or terminal caps;*

*(5) Connecting wiring to lighting fixtures and power equipment using hand tools;*

*(6) Installing control and distribution apparatus, including, without limitation, switches, relays and circuit breakers, and fastening such apparatus into place using hand tools and power tools;*

*(7) Connecting power cables to equipment, including, without limitation, electric ranges and motors, and installing grounding leads;*

*(8) Testing the continuity of a circuit to ensure electrical compatibility and safety of components using testing instruments, including, without limitation, an ohmmeter, a battery and buzzer, and an oscilloscope; and*

*(9) As necessary, cutting and welding steel structural members using flame cutting and welding equipment.*

*(n) Elevator constructor. The duties of an elevator constructor include, without limitation, assembling, installing, repairing and maintaining electric and hydraulic freight and passenger elevators, escalators and dumbwaiters.*

*(o) Fence erector. The duties of a fence erector include, without limitation:*

*(1) Erecting and repairing chain link and wooden fences using hand and power tools;*

*(2) Mixing and pouring concrete around bases of posts and tamping soil into post hole to embed post;*

*(3) Digging post holes with a spade, post hole digger or power driven auger;*

*(4) Aligning posts through the use of lines or by sighting; and*

*(5) Verifying vertical alignment of posts with a plumb bob or spirit level.*

*(p) Floor coverer. The duties of a floor coverer include, without limitation:*

*(1) Applying blocks, strips or sheets of shock-absorbing, sound-deadening or decorative covering to floors, walls and cabinets;*

*(2) Measuring and cutting, covering materials, such as rubber, linoleum or cork tile and foundation material such as felt, using rule, straightedge, linoleum knife and snips;*

*(3) Spreading adhesive cement over floor to cement foundation material to floor for sound-deadening, and to prevent covering from wearing at the board joints; and*

*(4) Rolling finished floors to smooth the floor and press cement into base and covering.*

*(q) Glazier. The duties of a glazier include, without limitation:*

*(1) Installing glass in windows, doorways, showers, bathtubs, skylights and display cases;*

*(2) Installing glass on surfaces, including, without limitation, fronts of buildings, interior walls, ceilings and tabletops;*

*(3) Installing pre-assembled framework for windows and doors designed to be fitted with glass panels, including stained glass windows, by using hand tools;*

*(4) Covering mirrors with protective material to prevent damage; and*

*(5) Loading, unloading and arranging mirrors on trucks.*

*(r) Highway striper. The duties of a highway striper include, without limitation:*

*(1) Erecting and repairing guardrails, highways markers and snow fences by using hand tools, nails and power tools;*

*(2) Painting highways, streets and parking surfaces by using manually propelled or mechanically propelled machines, brushes, rollers or spray guns; and*

*(3) Installing any device or application of any material used in lieu of paint for traffic direction, including, without limitation, buttons, tapes, plastics, rumble bars and other similar materials.*

*(s) Hod carrier-brick mason tender. The duties of a hod carrier-brick mason tender include, without limitation:*

*(1) Assisting brick masons, bricklayers and stonemasons by performing duties of lesser skill needed to be a brick mason, bricklayer or stonemason;*

*(2) Mixing, packing, wheeling and tempering mortar and fire clay;*

*(3) Mixing, supplying and holding materials or tools;*

*(4) Mixing, handling and conveying all other materials used by brick masons, bricklayers and stone masons;*

*(5) Building scaffolds, trestles, boxes and swinging staging;*

*(6) Hanging cables and placing putlogs;*

*(7) Carrying bricks and mortar in a hod; and*

*(8) Cleaning work area and equipment.*

*(t) Hod carrier-plaster tender. The duties of a hod carrier-plaster tender include, without limitation:*

*(1) Serving plasterers in any capacity;*

*(2) Handling materials after the materials are delivered as used by a plasterer;*

*(3) Building and handling all necessary trestle, scaffolding and planking of scaffolding for plasterers and lathers; and*

*(4) Building mortar boxes, mortar boards and stands.*

*(u) Ironworker. The duties of an ironworker include, without limitation:*

*(1) Performing duties, as part of a crew, to raise, place and unite girders, columns and other structural steel members to form completed structures or structures frameworks;*

*(2) Setting up hoisting equipment for raising and placing structural steel members;*

*(3) Fastening steel members to cable of hoist, using chains, cable or rope;*

*(4) Forcing steel members into final position using turnbuckles, crowbars, jacks, hand tools;*

*(5) Aligning rivet holes in steel members with corresponding holes in previously placed steel members by driving drift pins or handle of wrench through holes;*

*(6) Bolting aligned steel members to keep them in position until the steel members can be permanently riveted, bolted or welded into place;*

*(7) Cutting and welding steel members;*

*(8) Installing and repairing gates, iron doors, monorails, cableways, tramways, flagpoles, iron fences and roof decking;*

*(9) Corrugated sheets when attached to steel frames, including insulation;*

*(10) Installing metal forms;*

*(11) Stud welding of all iron, steel and metal;*

*(12) Loading, unloading, hoisting, handling, signaling, placing and erecting of all pre-stressed and precast materials;*

*(13) Installing insulated and non-insulated panels;*

*(14) Handling and setting all types of steel and metal joists; and*

*(15) Handling, racking sorting, cutting, bending, hoisting, placing, burning, welding and tying all material used to reinforce concrete construction.*

*(v) Laborer. The duties of a laborer include, without limitation:*

*(1) Performing tasks in accordance with classifications and skill levels recognized in a jurisdiction and as published by the labor commissioner in the annual determination of the prevailing rates of wages; and*

*(2) Tending to or assisting other skilled craftsmen.*

*(w) Marble mason. The duties of a marble mason include, without limitation:*

*(1) Cutting, tooling and setting marble slabs in floors and walls of buildings and renovating and polishing marble slabs previously set in buildings;*

*(2) Trimming, facing and cutting marble to a specific size using a power saw, cutting and facing equipment, and hand tools;*

*(3) Drilling holes in marble slabs and attaching brackets;*

*(4) Spreading mortar on the bottom and sides of a marble slab and on the side of adjacent marble slabs;*

*(5) Setting blocks in positions, tamping a marble slab into place and anchoring bracket attachments with wire;*

*(6) Filling joints between marble slabs with grout and removing excess grout with a sponge;*

*(7) Cleaning and beveling cracks and chips on marble slabs using hand tools and power tools;*

*(8) Heating cracked or chipped areas of a marble slab with a blowtorch and filling the defect with a composition mastic that matches the grain of the marble slab; and*

*(9) Polishing marble slabs and other ornamental stone to a high luster by using hand tools and power tools.*

*(x) Millwright. The duties of a millwright include, without limitation:*

*(1) Installing machinery and equipment according to layout plans, blueprints and other drawings in industrial establishments by using hoists, lift trucks, hand tools and power tools;*

*(2) Dismantling machines by using hammers, wrenches, crowbars and other hand tools;*

*(3) Moving machinery and equipment by using hoists, dollies, rollers and trucks;*

*(4) Assembling and installing equipment, including, without limitation, shafting, conveyors and tram rails, by using hand tools and power tools;*

*(5) Constructing foundations for machines by using hand tools and building materials, including, without limitation, wood, cement and steel;*

*(6) Assembling machines and bolting, welding, riveting or otherwise fastening them to a foundation or other structure by using hand tools and power tools; and*

*(7) Repairing and lubricating machines and equipment.*

*(y) Operating engineer. The duties of an operating engineer include, without limitation:*

*(1) Performing tasks in accordance with classifications and skill levels recognized in a jurisdiction and as published by the labor commissioner in the determination of the prevailing rates of wages;*

*(2) Operating several types of power construction equipment, including, without limitation, compressors, pumps, hoists, derricks, cranes, shovels, tractors, scrapers and motor graders, to excavate, move or grade earth, erect structures or pours concrete or other hard surface pavement; and*

*(3) Repairing and maintaining equipment used by an operating engineer in the performance of his duties.*

*(z) Painter. The duties of a painter include, without limitation:*

*(1) Painting walls, equipment, buildings, bridges and other structural surfaces by using brushes, rollers and spray guns;*

*(2) Removing old paint to prepare surfaces before painting the surface;*

*(3) Mixing colors or oils to obtain desired color or consistency;*

*(4) Sanding surfaces between coats and polishing final coat to a specified finish;*

*(5) Cutting stencils and brushing and spraying lettering and decorations on surfaces;*

*(6) Washing and treating surfaces with oil, turpentine, mildew remover or other preparations;*

*(7) Filing cracks, holes and joints with caulk putty, plaster or other filler by using caulking gun or putty knife; and*

*(8) Erecting scaffolding or setting up ladders used to work above ground level.*

*(aa) Piledriver. The duties of a piledriver include, without limitation, operating pile drivers mounted on skids, barge, crawler, treads or locomotive crane to drive pilings as foundations for structures including, without limitation, buildings, bridges and pier.*

*(bb) Pipefitter. The duties of a pipefitter include, without limitation:*

*(1) Assembling, installing and maintaining pipe systems, pipe supports and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating, sprinkling and industrial and processing systems;*

*(2) Cutting, threading and hammering pipe to specifications using tools, including, without limitation, saws, cutting torches and pipe threaders and benders;*

*(3) Attaching pipes to walls, structures and fixtures, including, without limitation, radiators or tanks, using brackets, clamps, tools or welding equipment;*



*(4) Modifying and maintaining pipe systems and related machines and equipment components using hand tools and power tools;*

*(5) Coating non-ferrous piping materials by dipping in mixture of molten tin and lead to prevent erosion, or galvanic and electrolytic action;*

*(6) Before pipe installation, cutting and boring holes in structures, including, without limitation, bulkheads, decks, walls and mains, using hand tools and power tools; and*

*(7) Operating motorized pumps to remove water from flooded manholes, basements and facility floors.*

*(cc) Plasterer. The duties of a plasterer include, without limitation:*

*(1) Applying coats of plaster onto interior or exterior walls, ceiling or partitions of buildings to produce a finished surface according to blueprints, architects' drawings and oral instruction;*

*(2) Creating decorative textures in finish coat by using sand, pebbles or stones;*

*(3) Mixing mortar to a desired consistency and erecting scaffolding;*

*(4) Installing guide wires on exterior surfaces of buildings to indicate thickness of plaster or stucco;*

*(5) Applying weatherproof, decorative covering to exterior surfaces of a building;*

*(6) Molding and installing ornamental plaster pieces, panels and trim; and*

*(7) Directing workers to mix plaster to a desired consistency.*

*(dd) Plumber. The duties of a plumber include, without limitation:*

*(1) Assembling, installing and repairing pipes, fittings and fixtures for heating, water and drainage systems;*

*(2) Repairing and maintaining plumbing by replacing defective washers, repairing or mending broken pipes, and opening clogged drains;*

*(3) Assembling pipe sections, tubing and fittings by using screws, bolts, solder, plastic solvent and caulking;*

*(4) Installing pipe assemblies, fittings, valves and fixtures, including, without limitation, sinks, toilets and tubs, by using hand tools and power tools;*

*(5) Cutting openings in structures to accommodate pipe and pipe fittings by using hand tools and power tools; and*

*(6) Filling pipes and plumbing fixtures with water or air and observing pressure gauges to detect and locate leaks.*

*(ee) Refrigeration mechanic. The duties of a refrigeration mechanic include, without limitation:*

*(1) Installing and repairing industrial and commercial refrigeration systems;*

*(2) Mounting compressors, condensers and other refrigeration components to the frame of a refrigerator by using hand tools and acetylene welding equipment;*

*(3) Assembling structural and functional components needed for refrigeration, including, without limitation, controls, switches, gauges, wiring harnesses, valves, pumps, compressors, condensers, cores and pipes;*

*(4) Installing expansion and control valves by using hand tools and acetylene welding equipment;*

*(5) Cutting, bending, threading and connecting pipe from functional components to water, power or refrigeration systems; and*

*(6) Fabricating and assembling components and structural portions of a refrigeration system by using hand tools, power tools and welding equipment.*

*(ff) Roofer. The duties of a roofer include, without limitation:*

*(1) Installing and covering roofs of structure with slate, asphalt, wood and other related materials, other than sheet metal, by using brushes, knives, punches, hammers and other tools; and*

*(2) Spraying roofs, sidings and walls with material to bind, seal, insulate or soundproof sections of a structures.*

*(gg) Sheet metal worker. The duties of a sheet metal worker include, without limitation:*

*(1) Planning, laying out, fabricating, assembling, installing and repairing roofs, parts, equipment and other products made out of sheet metal;*

*(2) Setting up and operating fabricating machines to cut, bend and straighten sheet metal;*

*(3) Shaping metal over anvils, blocks or forms using a hammer;*

*(4) Operating soldering and welding equipment to join sheet metal parts;*

*(5) Inspecting, assembling and smoothing seams and joints of burred surfaces; and*

*(6) Welding, soldering, bolting, riveting, screwing, clipping, caulking or bonding component parts to assemble products by using hand tools, power tools and devices for lifting and handling.*

*(hh) Sprinkler fitter. The duties of a sprinkler fitter include, without limitation, installing, dismantling, maintaining, repairing, adjusting and correcting all fire protection and fire control systems, including the installation of piping or tubing, appurtenances and equipment pertaining thereto, including both overhead and underground water mains, fire hydrants, and*

*hydrants mains, standpipes and hose connections to sprinkler systems, sprinkler tank heaters, air lines and thermal systems used in connection with sprinkler and alarm systems.*

*(ii) Surveyor. The duties of a surveyor include, without limitation:*

*(1) Performing tasks in accordance with classifications and skill levels recognized in a jurisdiction and as published by the labor commissioner in the determination of the prevailing rates of wages;*

*(2) Planning ground surveys designed to establish base lines, elevations and other geodetic measurements;*

*(3) Compiling data relevant to the shape, contour, gravitation, location, elevation and dimension of land and land features on or near the surface of the Earth for engineering, map making, mining, land evaluation, construction and other purposes;*

*(4) Surveying bodies of water to determine navigable channels and to secure data for construction of breakwaters, piers and other marine structures; and*

*(5) Computing data necessary for driving and connecting underground passages, underground storage and volume of underground deposits.*

*(jj) Taper. The duties of a taper include, without limitation:*

*(1) Sealing joints between plasterboard or other wallboards to prepare a wall surface for painting or papering;*

*(2) Mixing sealing compound by hand or with a portable electric mixer and spreading the compound over the joints between boards using a trowel, broad knife or spatula;*

*(3) Filling cracks and holes in walls and ceilings with sealing compound;*

*(4) Installing metal molding at the corners of boards in lieu of using sealant or tape;*

*(5) Applying texturing compound and primer to walls and ceiling to prepare a surface for a final finish by using brushes, rollers and spray guns; and*

*(6) Countersinking nails and screws below the surface of a wall using a hammer or screwdriver before applying sealing compound to the wall.*

*(kk) Terrazzo worker. The duties of a terrazzo worker include, without limitation:*

*(1) Applying cement, sand, pigment and marble chips to floors, stairways and cabinet to attain durable and decorative surfacing according to specifications or drawings;*

*(2) Spreading mixture of sand, cement and water over surface with a trowel to form terrazzo;*

*(3) Cutting metal division strips and pressing the metal division strips into a terrazzo base so that top edges form a desired design or pattern and define level of finished floor surface;*

*(4) Spreading mixtures of marble chips, cement, pigment and water over a terrazzo base to form a finished surface by using a float and trowel; and*

*(5) Pre-casting terrazzo blocks in wooden forms.*

*(ll) Tile setter. The duties of a tile setter include, without limitation:*

*(1) Applying tile and materials made for tile in tile-like units to walls, floors, ceilings and promenade roof decks following design specifications;*

*(2) Applying glazed, unglazed, mosaic and other ceramic tiles, which are used as a surface on floors, walls, ceiling and other surfaces and which must be set to specific grade;*

*(3) Applying and floating all setting beds into which glazed, unglazed, mosaic or other ceramic tiles are set; and*

*(4) Leveling and plumbing tiles to a specified grade.*

*(mm) Tile, terrazzo and marble finisher. The duties of a tile, terrazzo and marble finisher include, without limitation:*

*(1) Supplying and mixing construction materials for a tile setter, terrazzo worker or marble setter;*

*(2) Applying grout and finishing the surface of installed tile, terrazzo and marble;*

*(3) Mixing and moving mortar and grout by hand or machine;*

*(4) Cleaning installed tile, terrazzo and tile surfaces;*

*(5) Renovating and filling chipped, cracked and broken pieces of tile, terrazzo and marble;*

*(6) Grinding and polishing tile, terrazzo and marble; and*

*(7) Assisting a tile setter, terrazzo worker or marble setter.*

*(nn) Truck driver. The duties of a truck driver include, without limitation:*

*(1) Performing tasks in accordance with classifications and skill levels recognized in a jurisdiction and as published by the labor commissioner in the annual determination of the prevailing rates of wages; and*

*(2) Driving a tractor trailer combination or a truck to transport goods or materials.*

*(oo) Well driller. The duties of a well driller include, without limitation:*

*(1) Setting and operating portable drilling rig machinery and related equipment to drill wells;*

*(2) Extending stabilizing jackscrews to support and level a drilling rig;*

*(3) Drilling wells for:*

*(I) Industrial water supplies, irrigation water supplies or water supplies for any other purpose;*

*(II) Dewatering or other similar purposes;*

*(III) Exploration;*

*(IV) Hole drilling for geologic and hydrologic information; and*

*(V) Core drilling for geologic information; and*

*(4) Installing water well pumps.*

*2. The subclassifications within the recognized classes of workmen include, without limitation:*

*(a) Foreman. A foreman is a person who works with and supervises one or more journeymen performing a craft or type of work.*

*(b) General foreman. A general foreman is a person who works with and supervises one or journeymen performing a craft or type of work, including, without limitation, one or more foreman.*

*(c) Journeyman. A journeyman is a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman performing a craft or type of work.*

*3. In addition to the scope of work descriptions set forth in subsection 1, the labor commissioner will consider the kind of information described in subsection 2 of NAC 338.020 to determine the prevailing wages and practices in a jurisdiction for a recognized class of workmen.*

*4. If a person believes that a recognized class set forth in subsection 1 is different in a specific locality, the person may submit information to the labor commissioner to substantiate that a different recognized class prevails in the locality. The information submitted must be the kind of information that is described in subsection 2 of NAC 338.020. After making a determination whether a recognized class is different in a locality, the labor commissioner will*

*provide written notice of his determination by certified mail to the person who submitted the information to him pursuant to this subsection. If the labor commissioner determines that a different recognized class prevails in a locality pursuant to this subsection, the labor commissioner will make his determination and the information on which his determination was based available at his office for public inspection and reproduction.*

**Sec. 20.** NAC 338.005 is hereby amended to read as follows:

338.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 338.010 and NAC ~~[338.070]~~ *338.007 and sections 2 to 5, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 21.** NAC 338.007 is hereby amended to read as follows:

338.007 “Recognized class of workmen” means a class of workmen recognized by the labor commissioner as being a distinct craft or type of work for purposes of establishing prevailing rates of wages. The term includes a class of workmen ~~[for which the labor commissioner has traditionally established a prevailing rate of wages]~~ *set forth in section 19 of this regulation* and any other class of workmen the labor commissioner determines to be a distinct craft or type of work either on his own accord or after conducting a hearing pursuant to NAC 338.090.

**Sec. 22.** NAC 338.020 is hereby amended to read as follows:

338.020 1. The labor commissioner will conduct a continuing program of obtaining and compiling information for use in determining prevailing rates of wages.

2. The kinds of information which the labor commissioner will consider in making determinations of prevailing rates of wages include:

(a) Statements showing rates of wages paid on public and private projects, where the statements are signed by the contractors or their representatives and contain:



- (1) The names and addresses of the contractors and subcontractors;
  - (2) The locations, approximate costs, dates of construction and types of projects;
  - (3) The number of hours each recognized class of workmen is employed on each project;
- and
- (4) The respective rates of wages paid to each recognized class of workmen employed on each project.

(b) Signed collective bargaining agreements ~~[-]~~ *that are on file with the labor commissioner on or before September 1 of each year preceding the annual determination of the prevailing rates of wages.*

(c) Wage rates determined by officials of the Federal Government for public construction and other information furnished by state and federal agencies.

3. When determining prevailing rates of wages, the labor commissioner may exclude from consideration any information submitted to him that is duplicative, incomplete or otherwise determined by the labor commissioner to be unverifiable.

4. As used in this section, “representative” means:

(a) An agent, officer or employee of a contractor or subcontractor who has been authorized to act in such a capacity by the contractor or subcontractor; or

(b) Any other person empowered by a written agreement with the contractor or subcontractor that authorizes the person to act on behalf of the contractor or subcontractor in submitting the information required pursuant to paragraph (a) of subsection 2.

**Sec. 23.** NAC 338.060 is hereby amended to read as follows:

338.060 Copies of the labor commissioner's determinations of prevailing rates of wages are available at his office and will be furnished to public bodies and interested persons upon request beginning on ~~September 20~~ *October 1* of each year.

**Sec. 24.** NAC 338.080 is hereby amended to read as follows:

338.080 1. If the state contractors' board has established a monetary limit on the license of a contractor pursuant to NRS 624.220, the amount of any penalty imposed against the contractor pursuant to NRS 338.060 must be:

(a) If the monetary limit is less than \$250,000, ~~[\$10]~~ *\$20* for each calendar day or portion thereof.

(b) If the monetary limit is \$250,000 or more but less than \$500,000, ~~[\$15]~~ *\$30* for each calendar day or portion thereof.

(c) If the monetary limit is \$500,000 or more but less than \$750,000, ~~[\$20]~~ *\$40* for each calendar day or portion thereof.

(d) If the monetary limit is \$750,000 or more, ~~[\$25]~~ *\$50* for each calendar day or portion thereof.

2. If the state contractors' board has not established a monetary limit on the license of a contractor or has removed a monetary limit established on his license, the amount of the penalty imposed against the contractor pursuant to NRS 338.060 must be ~~[\$25]~~ *\$50* for each calendar day or portion thereof.

**Sec. 25.** The scope of work descriptions set forth in section 19 of this regulation supersede any previous work descriptions issued or agreed upon by the labor commissioner before the effective date of this regulation.