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Governor

STATE OF NEVADA

VICTORIA CARREÓN
Administrator

TERRY REYNOLDS
Director



VACANT
Deputy Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

NOTICE OF PUBLIC WORKSHOP TO SOLICIT COMMENTS ON PROPOSED
REGULATIONS

LCB File No. R027-23

November 29, 2023 at 1:00 p.m.

(THIS IS NOT A NOTICE OF INTENT TO ACT ON A REGULATION)

You are hereby given notice that the Division of Industrial Relations of the Department of Business and Industry, State of Nevada ("Division") will conduct a public workshop on proposed permanent regulations amending Chapter 618 of the Nevada Administrative Code ("NAC") on November 29, 2023 at 1:00 p.m. This meeting will be held in person, via Webex, and by phone. Webex allows for video and teleconferencing.

Webex Access

<https://nvbusinessandindustry.webex.com/nvbusinessandindustry/j.php?MTID=m49101d0d8fe749162cbdc77e991c0c87>

Meeting number (access code): 2631 514 2916 Meeting password: UtJRdsVw873

Tap to join from a mobile device (attendees only)

+1-415-655-0001, 26315142916## US toll

Physical Location

Division of Industrial Relations, Workers' Compensation Section
3360 W. Sahara Avenue, Suite 250, Las Vegas, NV 89102

Pursuant to NRS 233B.0608 and 233B.0609, the Division is providing the following statements pertaining to the workshop on the proposed additions and amendments to Chapter 618 of the NAC.

The need and purpose of the proposed revisions to regulations: *On January 12, 2023, Nevada Governor Joe Lombardo issued Executive Order 2023-003, requiring every executive branch department, agency, board, and commission to undertake a comprehensive review of the regulations subject to its enforcement and provide details on how the regulation can be streamlined, clarified, reduced, or otherwise improved to ensure those regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth. Executive Order 2023-003 further required every executive branch department, agency, board, and commission to provide a list of regulations recommended for removal. The Division of Industrial Relations, Occupational Safety and Health Administration (OSHA) undertook such review and the proposed*

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regulations, and amendments thereto, are in furtherance of the Division's compliance with Executive Order 2023-003. Specifically, R027-23 removes provisions requiring the publication of certain notices in newspapers; revises the form in which recordings of certain hearings are required to be kept; and provides other matters properly relating thereto.

Further, Executive Order 2023-008, issued June 30, 2023, notes that the executive agencies, boards, and commissions subject to Executive Order 2023-003 shall begin the process of repealing, streamlining, clarifying, reducing, or otherwise improving regulations. This proposed regulation seeks to comply with Executive Order 2023-008.

The estimated economic effect of the proposed regulations on (a) regulated businesses and (b) the public, including, stated separately: (i) adverse and beneficial effects; and (ii) immediate and long-term effects:

(a) Regulated businesses:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on regulated businesses as the result of these regulations. The adverse effects, if any, are difficult to determine at this time. There will be no direct or indirect cost to regulated or small businesses.

The Division believes that there will be beneficial effects, direct or indirect, on regulated or small businesses as the result of these regulations. The Division proposed the modifications to NAC 618.6334 because notification to the public of a variance request is not as important to the employer making the request. Moreover, the Division proposed modifications to NAC 618.6373 because the language currently in regulation is outdated for modern recording methodology.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate or long-term effects, either adverse or beneficial, on regulated or small businesses as a result of these regulations. There will be no direct or indirect costs to regulated or small businesses.

(b) The public:

(i) Adverse and beneficial effects:

The Division does not anticipate any adverse or beneficial effects, either direct or indirect, on the public as the result of these regulations. There will be no direct or indirect cost to the public.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate or long-term effects, either adverse or beneficial, on the public as a result of these regulations. There will be no direct or indirect costs to the public.

The estimated cost to the Division for enforcement of the proposed regulations: *The Division does not anticipate incurring any additional cost for these proposed permanent regulations.*

The Division believes that the proposed regulation does not overlap or duplicate any existing regulation. The proposed regulation is not required by federal law and there is no equivalent federal law.

The proposed regulation does not establish a new fee or increase an existing fee. The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.

The Division invites representatives of regulated businesses and the public to attend the public hearing and/or prepare written and/or oral comments concerning the proposed regulations. A copy of the proposed language for LCB File No. R027-23, may be downloaded from the Division's website: <http://dir.nv.gov/Meetings/Meetings/>. Before the Public Workshop, persons may submit written comments to Christopher A. Eccles, Esq., Senior Division Counsel, Division of Industrial Relations, 3360 W. Sahara Avenue, #250, Las Vegas, Nevada 89102 or by email to ceccles@dir.nv.gov.

After the comments have been reviewed and considered, the Division will give notice of intent to act on the regulation and conduct one or more public hearings to solicit written and/or oral comments, data, and views on the proposed regulation.

Persons with disabilities who require special accommodations or assistance at the workshop must notify Rosalind Jenkins at the Division of Industrial Relations, by email at rozjenkins@dir.nv.gov, or by calling (702) 486-9014 by 5:00 p.m., three (3) working days prior to this Workshop.

This notice has been posted on Neva's notice website: <http://leg.state.nv.us/App/Notice/A/>; State of Nevada notice website: <https://notice.nv.gov>; and the Division's website: <http://dir.nv.gov/Meetings/Meetings>, as set forth in NRS Chapter 241. A copy of the notice and the proposed permanent regulation to be adopted and/or amended is on file and has also been posted at the following locations: Division of Industrial Relations, 3360 W. Sahara Ave., Ste. 250, Las Vegas, Nevada 89102, and 400 W. King Street, Ste. 400, Carson City, Nevada 89710.

**HEARING AGENDA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

Notice: (1) Items on the Agenda may be taken out of order; (2) the Division may combine two or more Agenda items for consideration; and (3) the Division may remove an item on the Agenda at any time.

- I. **Call to Order.**
- II. **Public Comment.** The opportunity for public comment is reserved for any matter listed below on the Agenda as well as any matter within the jurisdiction of the Division. No action on such an item may be taken by the Division unless and until the matter has been noticed as an action item. Comment may not be restricted based on viewpoint.
- III. **Discussion of Proposed Permanent Regulation – LCB File No. R027-23 – amendment of regulations that pertain to Chapter 618 of the Nevada Administrative Code.**
- IV. **Public Comment.** The opportunity for public comment is reserved for any matter within the jurisdiction of the Division. No action on such an item may be taken by the Division unless and until the matter has been noticed as an action item. Comment may not be restricted based on viewpoint.
- V. **Adjournment.**

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

LCB File No. R027-23

October 23, 2023

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

AUTHORITY: §§ 1 and 2, NRS 618.295.

A REGULATION relating to occupational safety; removing provisions requiring the publication of certain notices in newspapers; revising the form in which recordings of certain hearings are required to be kept; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Division of Industrial Relations of the Department of Business and Industry to adopt regulations that are necessary to provide safe and healthful employment in the employments within its jurisdiction. (NRS 618.295) Existing law authorizes an affected employer to apply to the Administrator of the Division for a variance from a standard adopted by the Division relating to occupational safety and health. (NRS 618.415) Existing regulations set forth procedures governing the application for and granting of such a variance. (NAC 618.630-618.6382)

Under existing regulations, if an application for a variance is not denied because it is defective, the Administrator is required to have published in at least two daily newspapers a notice of the filing of the application. Existing regulations additionally require the Administrator, within 10 days after issuing a final decision on the application, to have the decision published in at least two daily newspapers. (NAC 618.6334) **Section 1** of this regulation removes those requirements.

Existing regulations authorize an affected employer or employee to file with the Administrator a request for a hearing on an application for a variance. (NAC 618.6343) Existing regulations require such a hearing to be stenographically reported or captured as an audio recording. (NAC 618.6373) **Section 2** of this regulation instead requires that a stenographic or electronic record be kept of the hearing.

Section 1. NAC 618.6334 is hereby amended to read as follows:

618.6334 ~~{1.}~~ ~~— If an application for a variance has not been denied because it is defective, the Administrator will have published in at least two daily newspapers a notice of the filing of the application.~~

~~—2. The Administrator will include in the notice:~~

~~—(a) The terms or an accurate summary of the application;~~

~~—(b) A reference to the statutory section under which the application has been filed;~~

~~—(c) An invitation to interested persons to submit, within a stated period, written data, views or arguments regarding the application; and~~

~~—(d) A statement of the right of affected employers and employees to request a hearing on the application.~~

~~—3.}~~ Within 10 days after issuing a final decision on ~~{the}~~ *an* application ~~{}~~ *for a variance*, the Administrator will furnish a copy of his or her decision to the affected employer and employees . ~~{and will have the decision published in at least two daily newspapers.}~~

Sec. 2. NAC 618.6373 is hereby amended to read as follows:

618.6373 A ~~{hearing must be stenographically reported}~~ *stenographic* or ~~{captured as an audio recording}~~ *electronic record must be kept of the hearing*. 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.

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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

SMALL BUSINESS IMPACT STATEMENT
AS REQUIRED BY NRS 233B.0608 AND 233B.0609
LCB FILE NO. R027-23
November 9, 2023

Note: Small Business is defined as “a business conducted for profit which employs fewer than 150 full-time or part-time employees.” (NRS 233B.0382).

1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

ANSWER: To determine whether the proposed regulations are likely to have an impact on small businesses, the Division considered the purpose and scope of the proposed regulations. The proposed regulations revise provisions of NAC 618 by removing provisions requiring the publication of certain notices in newspapers; revising the form in which recordings of certain hearings are required to be kept; and providing other matters properly relating thereto.

In addition, on October 24, 2023, the Division sent out a Small Business Impact Statement Questionnaire to interested parties on the Division’s Listserv, which includes 3,082 recipients. The Questionnaire inquired from small businesses whether they believed there would be any economic effects, adverse or beneficial, direct or indirect, on their respective businesses from the proposed regulation. The deadline to return the questionnaire was November 6, 2023. As of this date, the Division did not receive any responses.

Based on this review, the Division determined that this regulation will have no direct effect on small businesses, either adverse or beneficial, and will also have no indirect effect on small businesses, either adverse or beneficial.

2. The manner in which the analysis was conducted.

ANSWER: As noted in Answer 1, on October 24, 2023, the Division sent out a Small Business Impact Statement Questionnaire to interested parties on the Division’s Listserv. The Questionnaire inquired from small businesses whether they believed there would be any economic effects, adverse or beneficial, direct or indirect, on their respective businesses from the proposed

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regulation. The deadline to return the questionnaire was November 6, 2023. As of this date, the Division did not receive any responses.

3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

- (a) Both adverse and beneficial effects; and**
- (b) Both direct and indirect effects.**

ANSWER: The Division anticipates no adverse effects, either direct or indirect, on regulated businesses as the result of these regulations. The adverse effects, if any, are difficult to determine at this time. There will be no direct or indirect cost to regulated or small businesses.

The Division believes that there will be beneficial effects, direct or indirect, on regulated or small businesses as the result of these regulations. The Division proposed the modifications to NAC 618.6334 because notification to the public of a variance request is not as important to the employer making the request. Moreover, the Division proposed modifications to NAC 618.6373 because the language currently in regulation is outdated for modern recording methodology.

4. Describe the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

ANSWER: Because there will be no adverse impacts on small businesses in general, there are no methods available to reduce the impact the Division could have considered.

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

ANSWER: There is no additional cost to the agency for enforcement of this regulation.

6. If the proposed 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.

ANSWER: The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

ANSWER: The proposed regulation does not include any provisions which duplicate or are more stringent than existing federal, state, or local standards.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

ANSWER: The Division complied with NRS 233B.0608 by considering the purpose and scope of the proposed amendments. The purpose of the proposed regulations revise provisions of NAC 618 by removing provisions requiring the publication of certain notices in newspapers; revising the form in which recordings of certain hearings are required to be kept; and providing other matters properly relating thereto.

The Division made a concerted effort to determine whether the proposed regulations impose a direct or significant economic burden upon small businesses, or directly restricts the formation, operation, or expansion of a small business. Specifically, on October 24, 2023, the Division sent out a Small Business Impact Statement Questionnaire to interested parties on the Division's Listserv. The Questionnaire inquired from small businesses whether they believed there would be any economic effects, adverse or beneficial, direct or indirect, on their respective businesses from the proposed regulation. The deadline to return the questionnaire was November 6, 2023. As of this date, the Division did not receive any responses.

The Division determined that these regulations will have no adverse effect on small businesses and will not restrict the formation, operation or expansion of small businesses.

I, VICTORIA CARREÓN, Administrator of the Division of Industrial Relations, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement was prepared properly and is accurate.

DATED this 9th day of November, 2023.


VICTORIA CARREÓN, Administrator