

**STATE OF NEVADA  
NEVADA STATE BOARD OF FIRE SERVICES**

**June 3, 2014 – 12:00 p.m.**

Steward Facility  
107 Jacobsen Way  
Carson City, NV 89711

**MINUTES OF MEETING**

**Board of Fire Services**

**Members**

**Present:**

Pete Anderson – State Forester, Nevada Division of Forestry  
Domingo Cambeiro (in Las Vegas) – Principal, DCC Architects, Las Vegas, Nevada  
Steve DiGiovanni (in Las Vegas) – Professional Engineer, Clark County Fire Department  
David Fogerson – Chair, Board of Fire Services; Deputy Chief, East Fork Fire & Paramedic District  
Eric Guevin – Fire Marshal, Tahoe Douglas Fire Protection District  
JoAnne Hill – Board Member  
Elaine Pace – Chief of a Volunteer Fire Department, East Fork Fire & Paramedic District  
Chief Mulvihill – Chief, Nevada State Fire Marshal Division  
Michael R. Johnson (in Las Vegas) Clark County Fire Department  
Thomas Tarulli – Assistant Chief, Carson City Fire Department

**Also Present:**

Alexander Archie – Compliance Enforcement and Supervisor, Nevada Department of Corrections  
Dale Badorini – Service Manager, ABC Fire  
Danny Brennan – Bureau Chief, State Fire Marshal's Office  
Nic Brown – COO, ABC Fire  
Jeff Donahue – Branch Manager, Delta Fire Systems  
Richard Duval – Lepori Construction  
Mike Dzyak – Lieutenant State Fire Marshal  
Jack Grace – CEO, Western Commercial  
Robert Garcia – Steam Clean Supervisor, In-N-Out Burger  
Tom Hansen – Manager, United Electrical Service  
Nathan Hastings – Deputy Attorney General, Attorney General's Office  
Tracy Jenkins – Branch Manager, Delta Fire Systems  
Denesa Johnston – Administrative Assistant, Nevada State Fire Marshal Division  
Becky Kling – Administrative Assistant, State Fire Marshal's Office  
Clint Moschetti – CEO, Security Lock & Alarm Inc.  
Jerry Nunoz – Service Manager, Delta Fire Systems  
Brian Reeder – Government Coordinator, Associated General Contractors  
Susan V. Riolo – Program Officer, State Fire Marshal's Office  
Doug Sartain – President, Certified Fire Protection  
Mark Silverman – Vice President, Allstate Fire  
Erika Wesnousky – Executive Director, Controlled Burn Fire Artists

**Also Present in Las Vegas:** Edwin Aguilar – Exhaust Services, Tavis  
David Bragg – Service Manager, On Guard Fire Protection  
Glenn Browan – Branch Manager, ABC Fire  
Jonas Chang – V.P., Total Safety Incorporate

Diane M. Cowgill – Central Station Alarmco Inc.  
Albert Dolega – Service, In-N-Out Burger  
Robert Garringer – Group V.P., Tri-Signal Integration  
Ian Hogmann – Operations Manager, Envirotech  
Keith Jaquillard – Safety Specialist, Department of Corrections  
Michael Lake – Service Manager, TSI  
Lee Marks – G.M., American Fire and Electric  
Cheryl Moore – Project Manager, Phoenix Fire Protection  
Lynn Nielson – Fire Protection Engineer, City of Henderson  
Mike Schaffer– Pres, Commercial Fire Protection Inc.  
Sandra Schmidt – President, Envirotech  
Susan Smith – Install, Alarmco Inc.  
Brian Swag – In-N-Out Burger  
John Vowell – Fire Service Manager, Alarmco  
Ryan Wilkins – Service Manager, Fire Pro, LLC  
Jack Zimmerman – Executive V.P., Desert Fire Protection

- I. Call to Order, roll Call and Introductions** – Chief David Fogerson, Chair of the Board of Fire Services called the Special Meeting of the Board of Fire Services to order at 12:06 p.m. Roll was called for the Board of Fire Services, and Denesa Johnston confirmed that a quorum was present.

**Non-action Item**

- II. Public Comment** – Lynn Nielson stated that he would like to see the issue of sky lanterns addressed at the next Board of Fire Services meeting in July.

- III. Review of Chapter 477 of the Nevada Administrative Code for Possible Changes and a Proposed Draft of R124-13.** **Discussion/Possible Action**

Chair Fogerson turned over the floor to the State Fire Marshal Chief Mulvihill.

Chief Mulvihill asked for introductions of those present. Board members and guests introduced themselves. Chair Fogerson welcome everybody and turned over the floor again to State Fire Marshal Chief Mulvihill.

Chief Mulvihill gave a history and review of Regulation R124-13.

- AB424 was passed by the legislature and signed by the governor in the last general session, 2013.
- R124-13, a proposed draft provided to members and guests, was developed to implement AB424.
- AB424 allows for the creation of an administrative fine and citation process for the Board of Fire Services and the State Fire Marshal to ensure regulatory compliance.
- AB424 does not apply to contractors outside the defined fields or scope of the areas licensed by the Division.
- R124-13 used the State Contractor's Board and the Department of Motor Vehicles as a template for conducting hearing and appeals, including the ability to appoint an independent hearing officer. See Sections 1-22, 34.
- Sections 23-36 contain the administrative citation process.
- Section 25 includes the minimum three-tier fine schedule required by AB424.
- The original agency draft had no fine amounts, the intent being that workshops would provide industry input regarding fine amounts. The numbers that have been added are viewed as placeholders. By statutory authority, the maximum fine amount is \$50,000.
- Please review Section 25 and ignore the numbers placed by the Legislative Control Bureau. One purpose of this meeting is to fill out the fine schedule.
- A worksheet has been provided to be used in reference to the Section 25 fee schedule. A full text of the relevant section numbers can be provided.

- The line for NAC 377.315, Subsection 5, should be removed by the board, as this does not refer to an actual infraction.
- Some line items mirror the State Contractor's Board regulations. These numbers were initially designed for general contractors and may be too large or too small and are included only as a starting point.

Chair Fogerson asked what sections are referenced. Chief Mulvihill stated this was Section 25, at the very top of Page 11. The language may need to be changed to address a sub-contractor rather than a construction project. Excessive penalties may not be appropriate.

- Corrective action orders are provided for in Sections 27 through 29.
- Sections 30 and 31 provided a formal, documented conflict resolution process for individuals who seek relief by an action the Division or one of its staff members may have taken, including requests for declaratory orders and advisory opinions. The purpose of this is to formalize requests and decisions, making them available to the public and minimizing miscommunication and misunderstanding.
- Sections 32 through 34 reflect passage of SB439 in the 2011 general session, addressing appeals.
- Additional language has been proposed in Section 33 based on experience.

Chief Mulvihill read from staff into the record, NRS233B.0609, Subparagraph 1 and concluded his presentation.

Chair Fogerson asked the board how they wished to proceed. Eric Guevin suggested it be opened to public comment. Chair Fogerson clarified that it be opened to public comment to see what issues may exist, divided into two parts: wording within the articles and bail schedule.

### **Public Comment On Articles**

From the Carson City Location, Doug Sartain thanked the Board of Fire Services for the meeting and the State Fire Marshal's Office for the document and for allowing the industry to have input. Comments will be held for individual line items. The industry does support the document.

Somebody noted that no written comments were received prior to the meeting.

Technical audio/visual problems were addressed.

Erika Wesnousky with the Controlled Burn Fire Performance Troupe, generally representing fire artists, read a comment into the record. They wish violations to be addressed as follows:

- First offense and/or minor offense would require compliance and immediate payment of fees;
- Repeat or severe offenses should require education and training in safety protocol procedures and regulations;
- Complete, repeated and intentional offenses should require community service;
- Willful offenses leading to injury and damage could require monetary fines.

### **Board Comments on Individual Regulations**

Eric Guevin asked if language was going to be addressed section by section. He asked to look at Section 13, Paragraph 4 on Page 4, failure to appear for good cause. He would like to define the term reasonable period, perhaps five to 14 days or 10 business days. This was opened to public comment. Somebody asked about the appearance locations. How are these going to be determined? Chief Mulvihill stated that when administrative hearings are normally scheduled, a location is by mutual agreement, along with date and time. Appeals to the Board are more rigid and driven by the Board's meeting schedule. Administrative hearing officers for the Division are more flexible. Failure to appear, followed by a timely request, would reset this process of scheduling. Chief Pace pointed out to Chief Mulvihill that the language allows for electronic hearings to be held, providing flexibility.

No other comment on defining a reasonable period as 10 business days. Reasonable period is now 10 business days.

Pete Anderson asked if Section 11, Number 3, fees and remittance to the division, were new fees respective to the appeal? Chief Mulvihill stated these were not new fees. These fees apply to fines or other cost recovery for the cost of the hearing. There is no fee to appeal a decision. Pete Anderson suggested this section be reworded to avoid confusion. Options were discussed. Chief Mulvihill said Paragraph 3 may be redundant, since processes are already in place to collect and record money. No board members object to removing Section 11, Subsection 3, and there was no public comment.

Elaine Pace asked about Section 12C. Does five days need to be clarified as five business days? Chief Mulvihill said this refers to calendar days.

Domingo Cambiero said that the word Nevada has been excluded. Should the word be added to clarify that it is the state of Nevada regulations? He also believes the header should include the word Nevada.

Nathan Hastings stated that the LCB didn't believe the word Nevada was necessary, but it can be included in the final bill for their consideration. Chief Mulvihill said NRS477.071 formally defines "the State Board" as used in various NRS sections. These defined terms are used consistently throughout the chapter. Nathan suggested they remain consistent with the enabling statutes.

### **Bail Schedule**

Chair Fogerson asked the board if the first, second and third offense going to be the same, or does each merit a different fine specific to the action. Is everything \$500, \$25,000 and \$50,000, or does one thing deserves less or more? Eric Guevin believes it should be progressive, and a second offense should be progressive. Coming up with the numbers may be difficult.

Chief Mulvihill said the staff believes many of these items are of significantly different magnitude. Regarding Erika Wesnousky's earlier statement, community service is not an option, as it must be imposed by a court. Everyone on the board agrees that the fines need to be addressed line by line. Asked by Eric Guevin if the staff had a recommendation, Chief Mulvihill said no, he was seeking industry input as per his promises in legislative hearings. The fines are not intended as revenue generation. The purpose is to remove profit potential and correct behavior of a small number of people in the business. He promised the legislature that the industry would set the fines.

Pete Anderson asked if AB424 was restricted to only monetary fines. Chief Mulvihill said license suspension and probation are options. This program addresses a middle ground between a "nastygram" and initiating criminal action via the district attorney or attorney general without sacrificing existing flexibility.

Steve DiGiovanni said he was having trouble determining what sections apply to what type of offenses, whether these are minor or major offenses. Chair Fogerson said they will be addressed line by line.

### **NRS 477.223 (fire performer/apprentice fire performer)**

Chief Mulvihill said most of these are commonly addressed sections. The first two sections have not seen any complaints. These were added in 2011 allowing for licensing of fire performers and apprentice fire performers. These performers include fire twirlers. Anybody acting as a fire performer is required to get a certificate of registration from the State Fire Marshal's Office. There are requirements for training, form of application. This section applies to a fire performer who doesn't hold a certificate of registration. The normal fee for a certificate of registration is \$27.50.

Chair Fogerson reminded that the previously suggested community service is not an option and asked for comment. Erika Wesnousky suggested that the fine be to immediately pay the \$27.50 plus \$5.00 for notarization. Eric Guevin proposed to double the fee, as is typical, on the first offense, then \$100, then \$200, and then anything after that could

fall criminal. Jeff Donahue recommended setting a number not to exceed, allowing for more flexibility. Chair Fogerson asked if this was in the scope of the board.

### **General Comments on Fines and Fine Amounts**

Mike Dzyak said in all of these offenses to consider not just the individual but the company who is profiting from the infraction.

Doug Sartain agrees with Jeff Donahue about a fine range. With regard to Mike Dzyak's statement, he asked to clarify who can be cited, the company or the individual, and that it be clearly written that one doesn't necessarily have to affect the other.

Doug Sartain, as a member of the fire protection industry, would like to see the bail, fines on the extreme high side, the highest fines possible for each of the levels of offenses. Mark Silverman agreed, not just for fire performers but for anybody in the state of Nevada that does work without having a license. Erika Wesnousky reminded people that many fire performers are nonprofit and/or volunteer, and a \$5,000 fine would be prohibitive. Susan Riolo mentioned that fire performers and magicians are independent and do not work for a company.

Chief Mulvihill said each complaint is addressed on a case-by-case basis, looking for the cause of the problem. A systemic problem fostered by the company will require a different approach than an individual's action or inaction. Nick Brown said a license holder and company have disparate resources and should be addressing differently. This could be addressed by having two tiers or within a range.

Chair Fogerson asked again about a range of fines. Chief Mulvihill said broad ranges can lead to inconsistent results without clear guidance for what part of the range should apply.

Eric Guevin suggested they look at each item and determine whether they apply primarily to an individual or a company.

Doug Sartain said the fines are merely incentives. If somebody complies with the regulations, they will not apply.

An unidentified person asked whether actual damages would be taken into account in assessing penalties. An unidentified person stated that the fines increase with repeat offenses.

Lee Marks agrees with Mr. Sartain and Mr. Silverman about amount of fees and penalties. Is there a repayment process? The purpose is to send a message to employees. Chair Fogerson said the regulations allow for a payment schedule. Chief Mulvihill said the regulations allow for request of a payment extension.

Domingo Cambeiro asked about independent operators versus company employees. These should be defined. Companies should adequately supervise employees and not rely on the government. An unidentified person disagrees; the person breaking the rules needs to be held accountable. An unidentified person agrees, saying they can't be with every employee, and they need to be held accountable. Lee Marks agrees. Holding a company liable for employees is not sufficient. An unidentified person agrees; both employee and employer should be held accountable.

Domingo Cambeiro asked if the administrative code defined the difference between an employee and a company. Chief Mulvihill said in the regulations, companies are licensed, and individuals are certificate of registration holders. One is a company and entity, and the other is the individual performing the work in the field. Mr. Cambeiro asked if they had different fines and offenses or if they were taken together. Chief Mulvihill said that is the prerogative of the board and is to be here determined.

An unidentified person said the strongest penalty seems to be to take away one's ability to do business. It seems a good thing, whether a company or an individual, to have administrative penalties. The penalties should be

deterrence. Chair Fogerson said the ability to levy a civil fine is just another tool for the State Fire Marshal and the Board of Fire Services to use to change behavior.

Lee Marks state that in reading Section 25, Comment C, the fine amount is a maximum, but the fine can be less. He thinks the numbers are not too far off-base to start with. Chair Fogerson reminded that the numbers are placeholders and need to be here determined. Under this provision, the fine is a range. The administrative hearing officer has the ability to go higher than the stated amount, provided it is not above the third offense. Chair Fogerson reiterated to ignore the numbers that are in place now, with the exception of a \$50,000 maximum fine.

An unidentified person agrees with Lee that the fines seem excessive. For a major corporation they may be reasonable, but a small company or individual would be forced out of business. Chair Fogerson again said to ignore the numbers, white them out. An unidentified person said if the wording were changed to not to exceed, he's okay with the numbers as they appear.

Tracy Jenkins said when she received the worksheet and thought about the fine amounts, it was very distinct between companies or individuals. Every item should be considered from both perspectives, and the administration should have the flexibility to fine either or both, case specific to what they're looking at. This would provide flexibility and accountability.

Bob Garringer noticed that Section 25, 1A and B, references person. There is no reference to company. Is the intent to have these administrative fines apply to companies, or, if as written, to the person? An unidentified person said that potentially needs to be changed.

**NRS 477.223 (fire performer/apprentice fire performer)**

This is the fine for someone who is acting as a fire performer that does not hold a certificate of registration.

Chair Fogerson said the board suggested double the amount, so \$75 for the first offense. An unidentified person said double would be \$55. An unidentified person said \$100, \$250, \$500 for the individual with the language as written, so a minimum of \$100 up to \$250, and then you could go up to \$500. If it's criminal, this will not apply. An unidentified person reiterated these are individuals, nor for-profit companies. These are individuals, certificate of registration holders. An unidentified person said a \$55 for a first offense is a good place to start, and then up from there.

An unidentified person asked whether it was possible to clarify the language with up to, so the all the numbers that are in the column. Chair Fogerson said this is not possible under Section 25(1)(c), the minimum, the first offense is a minimum fine, the third offense is the maximum fine. The first offense is the floor; the third offense is the ceiling. But the legislators mandated a second offense fine, creating a middle floor. Domingo Cambeiro suggested a range, as opposed to a single number. An unidentified person said there is flexibility in offering a minimum of this fine or license being pulled. An unidentified person said there is further flexibility that the hearing officer or State Fire Marshal or the board may elect not to impose the fine and give a letter of caution or warning or impose probation. The fines are not automatic and/or mandatory.

Chair Fogerson said there is a proposal for \$55, \$250 and \$500 for the first line there, for 477. So the lowest fine amount would be \$55, and the greatest fine amount would be \$500. And the middle was \$250. An unidentified person said a tier can be jumped in the case of injury, death or damage greater than \$1 million. No other board comments, nobody disagrees with the proposal.

An unidentified person said he doesn't believe it's a high enough limit to incentivize license procurement. Ian Hogmann agrees, saying revocation of license on first offense should be possible. Chair Fogerson reminded everyone that all other remedies still rest with the administrative hearing officer. This is only the administrative fine. An unidentified person said to consider history and motivation for the fine. The history in fire performance is stellar; the motivation is to get the person certified. There has not been a problem with noncompliance.

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Mike Dzyak said there's no way to revoke or suspend a license under this section since they have no license.

The board agrees to stay with the numbers as \$55, \$250,\$500.

**NRS 477.224 (fire performer/apprentice fire performer)**

This is the supervision of apprentice fire performers. This lays out the criteria wherein an apprentice fire performer must be supervised by a certified fire performer. This focuses on an individual, somebody who should already hold a certificate of registration and should be responsible for the apprentice. An apprentice is between the ages of 18 and 21.

An unidentified person suggested to double the numbers from the previous section: \$100, \$500, \$1,000. No board objections.

An unidentified person asked to clarify the apprentice age. An unidentified person clarified that the apprentice can be as young as 18, and the fire performer must be at least 21. An unidentified person asked for clarification if one person supervises multiple apprentices. An unidentified person said this will be a case-by-case determination.

No other public comment.

**Any section of NRS Chapter 466 not otherwise specified**

An unidentified person suggested that the two catch-all items be addressed last.

**NAC 477.400, Subsections 1 through 7, inclusive (contractor licensing)**

Chief Mulvihill said this section licenses contractors and provided a brief overview of the various sections. This applies to both individual registrants and licensed firms. This is where one is required to have a license to do the work. This applies to somebody doing work without a license as a company or an individual doing work without a certificate of registration.

**Separate Bail Schedule for Individuals and Entities**

Chair Fogerson suggested two bail schedules, one for the certificate of registration holder and one for the company.

An unidentified person said there could be a person doing work who is neither a licensee nor a contractor, and this happens often. Chair Fogerson and Chief Mulvihill said this would a criminal activity, treated in the investigation as if he is his own company. Whether the person would be treated as an individual or as a company would be addressed according to the situation.

An unidentified person said he didn't understand why two tiers were needed. An unidentified person expressed concern that a company may be fined due to, for example, retributive actions by an employee. Chair Fogerson said company fines are not automatic or mandatory. An unidentified person said that a fine that would be punitive for a company might be prohibitive for an employee. An unidentified person disagrees, saying that a lesser fine is a lesser threat.

Nic Brown suggested that for practical purposes of the meeting, the board could make a determination of which of the two approaches it prefers and then move forward with the remaining line items.

Chair Fogerson asked the board for its opinion. An unidentified person clarified that this is to have numbers for individuals and then decide later. Nic Brown suggested that the board make a decision right now whether they should take a two-tier approach, one tier for individuals and one for companies.

Chair Fogerson closed public comment. An unidentified person asked for a two-level approach, not necessarily a 10:1 ratio. He suggested 2:1 ratio. If there are multiple instances of employees of one company making the same offense, that company needs to be held responsible. No board members disagree with doing two sets of fines, one for a company and one for an individual.

**NAC 477.400, Subsections 1 through 7, inclusive (contractor licensing)**

Chair Fogerson asked for suggestions for fines. An unidentified person said the fine had to be sizable. Chair Fogerson suggested \$1,000 for a first offense. Other numbers were suggested. An unidentified person said the number should be high enough to encourage licensing. An unidentified person said that a license, per unit, costs \$440 per category. An unidentified person suggested nothing less than \$10,000 for a first offense, for a company. Chair Fogerson reminded everybody that they are now addressing individuals.

Doug Sartain said he thinks the least amount for an individual or company should be \$10,000. He can go \$100,000 a job. An unidentified person said he doesn't think there will be support for \$10,000. What is his minimum, something everyone can agree on? \$5,000. An unidentified person says he thinks this is a major threat to everybody and agrees with Mr. Sartain that the fine should be high enough so that's not even a consider. He believes this is a felony off the bat and doesn't believe this belongs in this industry. A fine is not sufficient. He was reminded that it could be both. An unidentified person thinks it is imperative that the board assess all the amounts that they think are appropriate, and then there should be a personal debate about whether that amount is sufficient. He believes the board should come up with an amount and then allow comment or changes. Can this be expedited?

An unidentified person proposed \$5,000 for an individual for a first offense, \$10,000 for a company. No board members have an issue with this. An unidentified person suggested keeping the pattern as above, with the third offense, for an individual or company, \$50,000. No board members have an issue with this. Unidentified people suggested \$15,000 and \$30,000 for a second offense. No board members have an issue.

First offense, individual, \$5,000; second offense, individual, \$15,000; third offense, individual, \$50,000. First offense, company, \$10,000; second offense, company, \$30,000; third offense, company, \$50,000. The board agrees. No public comment.

**NAC 477.300, Subsection 8 (fire alarm system password access)**

Chief Mulvihill says this section applies primarily to companies. In case there is an individual blocking it, a dual rate should be proposed. This requires that the password access to a fire protection system, generally an alarm system, must be provided to the owner, the authority having jurisdiction and specifically upon termination of a service agreement. He provided a brief history of the regulation.

An unidentified person suggested \$5,000, \$15,000 and \$50,000. Another unidentified person suggested higher because this is holding hostage an expensive system. She suggests \$50,000 across the board, modified to \$25,000 company to start, and then \$40,000 for a second offense and \$50,000 for a third, for a company. The board agrees. For an individual, Eric Guevin suggested \$10,000, \$30,000 and \$50,000. The board agrees.

**NAC 477.300 Subsection 9 (certificate of registration holder on site)**

Chief Mulvihill said this could be an individual or a company. This section requires a certificate of registration holder be present and at all job sites and to supervise any employees who do not hold a certificate of registration. This is investigated routinely.

An unidentified person asked whether one can assume that the company is licensed, but the holder of the certificate of registration is not onsite. An unidentified person said usually the company is responsible for sending out unlicensed employees and so would like the fine to be on the high side. An unidentified person suggested carrying over the previous schedule, of \$25,000, \$40,000 and \$50,000. This is for a company infraction. The board agrees.



Domingo Cambeiro asked for clarification as to when an individual would be responsible, instead of the company. Chief Mulvihill said he's looking at malfeasance, not misfeasance.

An unidentified person reminded everybody that the State Fire Marshal has discretion in whether or not to issue a citation. The board discussed fines for individuals, deciding on \$5,000, \$15,000 and \$50,000. An unidentified person has a problem with this, since in her experience the companies are at fault, not the employees. An unidentified person says fault is determined by the State Fire Marshal's Office, and the fine only applies in certain instances.

**NAC 477.300 Subsections 10 or 11 (system designer qualifications)**

Chief Mulvihill says this applies to a company or individual. This requires that plans be submitted by someone holding certain qualifications. There have been cases where companies forged qualifications or an individual misrepresented his qualifications. An unidentified person asked if a middle option between a warning letter and license revocation was appropriate in this situation. An unidentified person further clarified that this is not to apply to an entry-level designer or apprentice submitting plans to a company but for the company submitting the plans for permitting.

Chair Fogerson suggested fines for the company of \$25,000, \$40,000 and \$50,000. An unidentified person asked whether this includes pre-engineered systems. It does not. Board members agree with the numbers stated. An unidentified person suggested individual fines of \$10,000, \$25,000 and \$50,000. Another unidentified person suggested \$10,000, \$30,000 and \$50,000, to which the board agreed.

**NAC 477.313 (test cheating)**

Chief Mulvihill stated this section deals with taking the test, and an individual could be found to have cheated, or a company could have facilitated and assisted with the cheating. This relates to obtaining a certificate of registration. This only applies to licensed professionals. An unidentified person suggested \$40,000, \$50,000 and \$50,000. Chief Mulvihill said the tiers have to be progressive and suggested \$40,000, \$45,000 and \$50,000. An unidentified person suggested \$10,000, \$30,000, \$50,000 for a company; \$5,000, \$15,000 and \$50,000 for an individual, as was done above for NAC 477.400, Subsections 1 through 7, since the offenses seem similar. Others disagree, saying this is probably the worst offense on the books.

Chair Fogerson suggested \$30,000, \$40,000, \$50,000 for the company. The board agrees. For an individual, \$10,000, \$20,000, \$30,000 was suggested. Options were discussed. Chair Fogerson proposed \$10,000, \$25,000, \$50,000. The board agreed.

**NAC 477.315 Subsection 1 (fraud, misrepresentation, falsifying information, malpractice, incompetence, failure to cooperate, creating an imminent hazard to life)**

Chief Mulvihill said this is another big section.

Clint Moschetti made a quick comment, saying that these high fine numbers may be a burden on employers' ability to hire competent employees at a reasonable wage. An unidentified person reminded everyone that these fines require malice and intent. The intent is not to punish mistakes by an individual employee. Mr. Moschetti said individual workers may not be willing to accept this financial risk. Chair Fogerson reminded Mr. Moschetti this is just one tool in the toolbox.

Chief Mulvihill said this is a company obtaining a license or an individual obtaining a certificate of registration through fraud, misrepresentation or falsifying information. Refusing to cooperate for a state fire marshal in an investigation is a common infraction. Creating an imminent hazard to life has come up in situations where a person or company has reduced the capacity or effectiveness of a fire protection or life safety system to less than 80 percent of its design standard by an action. He cited examples.

An unidentified person suggested fines in the amount of \$40,000, \$45,000, \$50,000 for individual and company. Chair Fogerson disagreed because this section also includes failure to cooperate. An unidentified person suggested that this violation of this section can put a person at immediate risk of life. Options were proposed. Chair Fogerson suggested \$40,000, \$45,000, \$50,000 for the company; and \$10,000, \$30,000 and \$50,000 for the individual.

An unidentified person asked for clarification of whether a company would be fined for the action of an employee. It was noted that the fines are based on responsibility or fault. Chair Fogerson stated that violations involve professional investigation.

An unidentified person suggested the same numbers as were used for 477.300: \$5,000, \$15,000 and \$20,000 for the individual; \$10,000, \$30,000 and \$50,000 for the company.

Chair Fogerson again suggested \$10,000, \$30,000, \$50,000; \$40,000, \$45,000, \$50,000. The board agreed.

#### **NAC 477.315 Subsection 2 (misuse of certificate)**

Chief Mulvihill stated this section involves the loan of a certificate or license from one person to another, the use for work other than for which it was issued or other misuse. This does happen. This tends to be an individual action but could be a company fostering the behavior.

Chair Fogerson suggested \$5,000, \$15,000 and \$50,000 as fine levels for an individual. An unidentified person suggested to use the same numbers as for test cheating, NAC 477.313. Unidentified people disagreed as too high. An unidentified person asked whether this applies to the person loaning the card or the person to whom the card was loaned. Mike Dzyak said that the person to whom the card was loaned would be working without a card and would fall under a different provision.

Chair Fogerson suggested \$10,000, \$25,000, \$50,000 for the individual; \$30,000, \$40,000, \$50,000 for the company. There was no board opposition.

Doug Sartain noted that they had asked the State Fire Marshal to issue a license that includes a photograph, but there was no funding available. He suggested that the Board of Fire Services could find the money to do this, as it would stop this problem.

#### **NAC 477.405 (unapproved equipment)**

Chief Mulvihill said this prohibits the sale of portable fire extinguishers as part of a fixed system without specific approval. It also prohibits certain fire extinguishers that have not been specifically approved. This does occasionally happen and is generally a company problem.

Chair Fogerson asked the board for input. Options were discussed. An unidentified person asked for clarification about underwriter recognized components. Chair Fogerson said a listed or recognized component from UL is acceptable.

An unidentified person suggested violations would come mainly from retail stores selling imported products, as fire protection companies sell listed components. He sees this on a daily basis. An unidentified person asked what is the maximum criminal fine. As a misdemeanor, the maximum fine would be very low. Fines are appropriate.

Chair Fogerson suggested \$10,000, \$25,000 and \$50,000 for both the individual and the company. There was no disagreement.

#### **NAC 477.420 (replacement of fire extinguishers)**

Chief Mulvihill said this is not often seen. This applies to fire extinguishers that have been removed from the premises without providing a replacement.

An unidentified person suggested \$1,000, \$5,000, \$15,000. Another unidentified person suggested \$1,000, \$5,000 and \$50,000, to go to the highest number and because the board has discretion not to levy the entire fine. This is for both the individual and the company. There was no disagreement.

**NAC 477.422 (response to call for service)**

Chief Mulvihill read the provision. This has been in the regulation since '84. Chair Fogerson asked Mike Dzyak if this was a problem. He responded that this does not happen.

Chair Fogerson suggested \$10,000, \$25,000 and \$50,000. Unidentified people said this seemed high. Options were discussed, with Chair Fogerson suggesting \$5,000, \$15,000 and \$50,000 for both the individual and the company. The board agreed.

**NAC 477.425 (service tags - fire extinguishers)**

Chief Mulvihill said this relates to the tag, how it is assigned, how it is affixed, the information included upon it. A violation would involve improperly tagging an extinguisher or system or counterfeiting, which is also fraud.

Chair Fogerson asked the board and industry for feedback. An unidentified person suggested \$5,000, \$15,000 and \$50,000 for both the individual and the company. An unidentified person said this doesn't seem to be a big problem. Another unidentified person suggested there be two fine schedules. Chair Fogerson proposed \$5,000, \$15,000 and \$50,000 for an individual, and \$10,000, \$30,000 and \$50,000 for the company. The board agreed.

**NAC 477.470 (service tags - sprinklers)**

Chief Mulvihill said this is similar to the previous section but applying to sprinkler systems. An unidentified person suggested the fine be carried down from NAC 477.425. The board agreed.

**NAC 477.483 (license requirements - residential sprinklers)**

Chief Mulvihill reviewed the provision.

An unidentified person asked about the previously discussed licensing provision, NAC 477.300, Subsections 1 through 7 and proposed using that same base schedule, of \$5,000, \$15,000, and \$50,000; \$10,000, \$30,000 and \$50,000. No board members were opposed.

**NAC 477.606 (commercial firework display)**

Chief Mulvihill reviewed the proposal. This involves a commercial firework show without a state license, whether public or private.

An unidentified person suggested using the same schedule as residential licensing: \$5,000, \$15,000, and \$50,000; \$10,000, \$30,000 and \$50,000. There was no opposition.

**NAC 477.620 (license requirements - magicians)**

Chief Mulvihill reviewed the proposal. This normally applies to individuals.

An unidentified person suggested using the same schedule as with fire performers above: \$55, \$250, and \$500. There was no opposition. An unidentified person proposed \$100, \$500, \$1,000, as was used for fire performer supervisors. Options were discussed. Chair Fogerson proposed \$100, \$500, \$1,000. There was no opposition.

**NAC 477.622 (license requirements - assistant pyrotechnic operators)**

Chief Mulvihill reviewed the proposal.

He suggested thinking about Cirque du Soleil fire effects. An unidentified person suggested \$5,000, \$15,000 and \$50,000 and \$10,000, \$30,000 and \$50,000. No board members were opposed.

**NAC 477.624 (license requirements - pyrotechnic operators)**

An unidentified person suggested the numbers from the above provision be carried down. No board members were opposed.

**NAC 477.626 (supervision of assistant pyrotechnic operators)**

Chair Fogerson suggested the numbers from the above provision be carried down. An unidentified person suggested raising the numbers for consistency. An unidentified person asked if this was a problem. Chief Mulvihill said the industry is well-disciplined and well-behaved.

**NAC 477.631 (license requirements - flame effects assistant)**

An unidentified person suggested carrying down the numbers from above. Chair Fogerson asked for clarification of what are fire effects. An unidentified person said flame effects are generally seen as less than pyrotechnics. Chief Mulvihill said that if retraining and education is more appropriate, the fine would not be levied. Chair Fogerson suggested carrying down the numbers from above. The board agreed.

**NAC 477.633 (license requirements, flame effects operator)**

Chair Fogerson suggested carrying down the numbers from above.

**NAC 477.646 (fireworks, special effects incidents, injuries, hazards)**

Chief Mulvihill reviewed the proposal. This includes unreported injuries; improper storage or transfer of fireworks, special effects, pyrotechnic devices. An unidentified person suggested \$10,000, \$30,000, \$50,000 for individuals; \$20,000, \$40,000, \$50,000 for companies. The board agreed.

**NAC 477.651 (fireworks, special effects records, reporting)**

Chief Mulvihill reviewed the proposal. This is related to the preceding provision. This involves required reporting of theft, loss or disappearance of fireworks, special effects, pyrotechnic devices.

An unidentified person suggested carrying down the prior fee amount: \$10,000, \$30,000, \$50,000 for individual; \$20,000, \$40,000, \$50,000 for company. Nobody on the board was opposed.

**NAC 477.710 (explosives licensing)**

Chief Mulvihill reviewed the proposal. Some activities are exempt from this licensing provision. This deals with blasting operations for commercial construction.

Chair Fogerson suggested this be the same as the contractor licensing: \$5,000, \$15,000, \$50,000 for individual; \$10,000, \$30,000, \$50,000 for company. An unidentified person clarified that ATF licenses blasting companies. Chief Mulvihill further clarified that the state licenses the blasters. There was no disagreement with the proposal of \$5,000, \$15,000 and \$50,000 for both the company and the individual. An unidentified person asked about the size of the explosives involved. Chief Mulvihill said that more than a pound requires a license. There was no board disagreement with the fine amount of \$5,000, \$15,000 and \$50,000.

**NAC 477.720 (explosives misconduct)**

Chief Mulvihill reviewed the proposal. This involves the violation of safety standards in the use of explosives. Chief Mulvihill distinguished between explosives and fireworks.

An unidentified person suggested \$20,000, \$30,000, \$50,000. There is no company licensing. There was no board disagreement.

**NAC 477.730 (explosives reporting duty)**

Chief Mulvihill reviewed the proposal. This requires an explosives handler to report loss, theft or indictment.

Chair Fogerson suggested a fine amount of \$10,000, \$30,000, \$50,000, as with fireworks. There was no disagreement.

**NAC 477.770 (license requirements - hood/duct cleaners)**

Chief Mulvihill reviewed the proposal. This is similar to prior provisions. This relates to people who clean kitchen hoods.

Chair Fogerson suggested \$5,000, \$15,000, \$50,000 for individual; \$10,000, \$30,000, \$50,000 for company. An unidentified person agreed that this is consistent. There was no disagreement.

**NAC 477.780 (hood/duct reporting requirements)**

Chief Mulvihill reviewed the proposal. This requires a licensee to report problems with kitchen hoods.

Edwin Aguilar asked about access to exhaust systems and reporting requirements. Chair Fogerson said if the contractor reports the problem, they are off the hook.

Chair Fogerson suggested \$1,000, \$5,000, \$50,000 for the individual; \$5,000, \$15,000, \$50,000 for the company. Chair Fogerson said a company is liable when it fosters a culture of non-reporting.

**NAC 477.810 (standpipe systems)**

Chief Mulvihill reviewed the proposal. This deals with testing, notice of testing and reporting in relation to standpipe systems. This applies to contractors who work on standpipe systems.

An unidentified person said this should be the same as NAC 477.425 or for NAC 477.470. Chair Fogerson suggested \$5,000, \$15,000, \$50,000 for the individual; \$10,000, \$30,000 and \$50,000 for the company. Nobody was opposed.

**NAC 477.850 (service tag - standpipes)**

Chief Mulvihill reviewed the proposal. This is similar to the service tags in 477.425 and 477.470.

Chair Fogerson suggested carrying down those same numbers.

**Any section of NRS Chapter 477 not otherwise specified**

Chair Fogerson asked for suggestions as to fine amounts. An unidentified person suggested \$100 and \$50,000 so that the hearing officer can choose between the two, with the second offense at \$25,000. This gives the hearing officer latitude.

An unidentified person suggested a low number at \$55 so that it remains consistent with the low numbers of the specified provisions.

An unidentified person suggested again that the state of Nevada be included in the regulations for clarification within the industry. An unidentified person responded that this has been addressed and that in NRS/NAC statutes, the N refers specifically to Nevada.

Chair Fogerson asked for input with fine amounts. An unidentified person suggested \$100, \$5,000, \$10,000. An unidentified person suggested keeping the highest amount at \$50,000. Chair Fogerson suggested \$100, \$5,000, \$50,000. There was no opposition to making this the same for NAC violations.

**Text Change Regarding Increase in Offense Level**

An unidentified person reminded Chair Fogerson that there is one more item to be deliberated. There is wording from the State Contractor's board where the violations can be upped one tier right when: A, it causes injury or death; or B, violation or violations involved in, the intent is large projects. He would like to have that wording revised to reflect the scope of the licensee's contracted work and looking for industry input about what triggers a major project versus little projects, where the profit potential jumps.

An unidentified person said this will be hard to answer because of industry variation. Should this be taken out? It was suggested to leave in provision A but take out the B section.

Chair Fogerson proposed removing, under 2B, the violation or violations involved a construction project costing more than \$1 million? An unidentified person asked whether a motion is necessary, as this is a workshop. The board agrees; nobody is opposed.

Chair Fogerson asked staff to move forward with the recommended changes.

**Chair Fogerson moved to direct staff to move forward with the proposed bail schedule; remove line NAC 477.315, Subsection 5; on Section 13, Number 4, change reasonable period to 10 business days; remove Section 11, Number 3; Section 25, Number 1(a) and (b), add or company next to person; remove 2(b) and make appropriate grammar changes as necessary in the document. An unidentified person seconded the motion.**

An unidentified person suggested replacing the word company with the word entity.

**Chair Fogerson amended the motion to allow staff to take the necessary steps to select the right words that would fit the regulations.**

Unidentified people suggested changing the word company to the word entity.

**Chair Fogerson amended the motion to change the word company to the word entity. An unidentified person seconded the motion.**

**Chair Fogerson made a motion with a revision. An unidentified person seconded the motion. The motion carried.**

**IV. Public Comment**

**Discussion/Possible Action**

An unidentified person asked to have read the specific language of NAC 477.422. An unidentified person read NAC 477.422. An unidentified person asked about answering a service call from a person or company that owes money. An unidentified person said a valid contract is necessary to create a duty to respond. It was suggested that this be discussed outside of the board meeting.

Chair Fogerson thanked everybody for their participation.

**V. Adjournment**

**Discussion/Possible Action**

**An unidentified person moved that the meeting be adjourned. Seconded by an unidentified person. Motion Carried.**

Minutes approved October 23, 2014



111 North First Street, Suite 201

Burbank, CA 91502

**CERTIFICATION**

The signature below certifies that the proceedings and evidence transcribed are true and accurate summary minutes created to the best of our ability from the digital media and/or recording provided from the proceedings of the below referenced matter for the Nevada State Fire Marshal Division, Department of Public Safety

NAME OF MEETING:

DATE OF MEETING - 06-03-2014

LOCATION - Nevada State Fire Marshal Division

Department of Public Safety

107 Jacobsen Way

Carson City, NV 89701

A handwritten signature in blue ink that reads "Heidi Strumb". The signature is written in a cursive style and is placed on a light blue rectangular background.

Heidi Strumb

Aegis Rapidtext

6-26-14