

**NOTICE OF PUBLIC HEARING**

Intent to Adopt Regulations  
(LCB File No. R144-13RP5)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 459 of Nevada Administrative Code (NAC), Hazardous Materials. This public hearing is to be held in conjunction with the State Board of Health meeting on September 9, 2016. The NAC 459 regulation changes will be heard in the order placed on the State Board of Health agenda.

The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday, September 9, 2016 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Room #303 Carson City, Nevada	Southern Nevada Health District 280 South Decatur Blvd Red Rock Conference Room Las Vegas, Nevada	Division of Aging and Disability Services Early Intervention Services 1020 Ruby Vista Drive, Suite 102 Elko, Nevada
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The proposed regulations to NAC 459 include the following: The proposed addition/change of regulations in LCB File No. R144-13RP5 include provisions for:

- Proposed regulations LCB File No. R144-13RP4 was adopted by the Board of Health on March 11, 2016.
- During the Legislative Commission review on April 4, 2016, comment was made for removal of certain language in Section 91, specifically removed {NAC 459.359 (2) (f)}, from the proposed regulation.
- Concurrence was received, for removal of the language, from the Nuclear Regulatory Commission and the Agency for Nuclear Projects Office.
- The language removal was approved by the Legislative Commission on June 22, 2016.

1. Anticipated effects on the business which NAC 459 regulates:

- A. *Adverse effects:* None anticipated
- B. *Beneficial:* Clearly defines what is expected of the regulated community. Protects the public from unnecessary exposure to harmful ionizing radiation. Involves no new cost or fee. Amend and modify existing language to make regulations more clear, current and compatible with the intent and scope of the Radiation Control Program.

- C. *Immediate*: The stated adverse and beneficial effects would be immediate impacts as soon as the proposed regulations become effective.
  - D. *Long-term*: The long term impacts would be the same as the immediate impacts as it is not be expected that the impacts would go away.
2. Anticipated effects on the public:
- A. *Adverse*: None anticipated.
  - B. *Beneficial*: Increased public health and safety.
  - C. *Immediate*: Increased public health and safety.
  - D. *Long-term*: Increased public health and safety.
3. At this time, there is no estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations. Enforcement of the proposed regulations will be incorporated into current administrative, registration, licensing and inspection processes.
4. The amendments do not increase any existing fees.
5. The proposed regulations do not overlap or duplicate any other Nevada state regulations. Proposed regulations.
6. Per NRS 233B.0608(3), A Small Business Impact Questionnaire (SBIQ) and Small Business Impact Statement (SBIS) were submitted and approved at the March 11, 2016 Board of Health. The Legislative Commission directed and approved removal of certain language in Section 91 of the adopted regulations, therefore a repeat of supporting documentation is not being submitted.
7. Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.
8. Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary, Cody L. Phinney, to be received no later than August 30, 2016 at the following address:

Secretary, State Board of Health  
Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89706

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

A copy of the notice and proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Public and Behavioral Health  
675 Fairview Drive, Suite 218  
Carson City, NV 89701-5629

Division of Public and Behavioral Health  
4220 S. Maryland Parkway, Bldg. D, Ste. 810  
Las Vegas, NV 89119

Nevada State Library and Archives  
100 Stewart Street  
Carson City, NV 89701

Copies may be obtained in person, by mail, or by calling the Radiation Control Program at (775) 687-7550 in Carson City.

A copy of the regulations and this notice can also be found on-line by going to:

[http://dpbh.nv.gov/Reg/RPM/Radiation\\_Producing\\_Machines\\_-\\_Home/](http://dpbh.nv.gov/Reg/RPM/Radiation_Producing_Machines_-_Home/)  
[http://dpbh.nv.gov/Reg/RAM/Radioactive\\_Material\\_Program\\_\(RAM\)\\_-\\_Home/](http://dpbh.nv.gov/Reg/RAM/Radioactive_Material_Program_(RAM)_-_Home/)  
<https://www.leg.state.nv.us/Register/2013Register/R144-13RP5.pdf> (Regulations Only)  
<https://www.leg.state.nv.us/App/Notice/A/>

Copies may also be obtained from any of the public libraries listed below:

Carson City Library  
900 North Roop Street  
Carson City, NV 89702

Churchill County Library  
553 South Main Street  
Fallon, NV 89406

Clark County District Library  
1401 East Flamingo Road  
Las Vegas, NV 89119

Douglas County Library  
1625 Library Lane  
Minden, NV 89423

Elko County Library  
720 Court Street  
Elko, NV 89801

Esmeralda County Library  
Corner of Crook and 4<sup>th</sup> Street  
Goldfield, NV 89013-0484

Eureka Branch Library  
80 South Monroe Street  
Eureka, NV 89316-0283

Henderson District Public Library  
280 South Green Valley Parkway  
Henderson, NV 89012

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, NV 89445-3095

Lander County Library  
625 South Broad Street  
Battle Mountain, NV 89820-0141

Lincoln County Library  
93 Maine Street  
Pioche, NV 89043-0330

Mineral County Library  
110 1<sup>st</sup> Street  
Hawthorne, NV 89415-1390

Pershing County Library  
1125 Central Avenue  
Lovelock, NV 89419-0781

Tonopah Public Library  
167 Central Street  
Tonopah, NV 89049-0449

White Pine County Library  
950 Campton Street  
Ely, NV 89301-1965

Lyon County Library  
20 Nevin Way  
Yerington, NV 89447-2399

Pahrump Library District  
701 East Street  
Pahrump, NV 89041-0578

Storey County Library  
95 South R Street  
Virginia City, NV 89440-0014

Washoe County Library  
301 South Center Street  
Reno, NV 89505-2151

## **PUBLIC COMMENT RECEIVED**

In response to the April 04, 2016 objections of the Legislative Commission to language in Section 91 of LCB file no. R144-13RP4, NAC 459.359 2(f).

The U.S. Nuclear Regulatory Commission is the responsible federal entity for the regulation of radioactive material, not under ownership of the U.S. Department of Energy, on a national basis. When the NRC issues an Order, all Agreement States (States that have signed an Agreement with the NRC to assume responsibility for regulation of radioactive materials) must update their regulations within three years. In the interim, license conditions provide for appropriate instruction pending regulation adoption. In the case of a regulation not being compatible with State statute or other legal matter, the States and the NRC will have discussions on the appropriate way to address the issue.

**NRS 459.030 Duties of state agency for control of radiation.** For the protection of public health and safety, the Division shall:

1. Develop and conduct programs for the evaluation of and response to hazards associated with the use of sources of ionizing radiation.
2. Develop programs and formulate, with due regard for compatibility with federal programs, regulations for adoption by the State Board of Health regarding:
  - (a) Licensing and regulation of by-product materials, source materials, special nuclear materials and other radioactive materials, including radioactive waste.
  - (b) Control of other sources of ionizing radiation.
3. Adopt such regulations as may be necessary to administer the provisions of NRS 459.010 to 459.290, inclusive.
4. Collect and disseminate information relating to control of sources of ionizing radiation, including:
  - (a) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations.
  - (b) Maintenance of a file of registrants possessing sources of ionizing radiation which require registration pursuant to the provisions of NRS 459.010 to 459.290, inclusive. The file must include a record of any administrative or judicial action pertaining to such registrants.
  - (c) Maintenance of a file of all regulations, pending or promulgated, relating to the regulation of sources of ionizing radiation, and any proceedings pertaining to the regulations.  
(Added to NRS by 1963, 578; A 1975, 1329; 1981, 232; 1991, 211)

In response to the objections the Legislative Commission had to the language in Section 91, NAC 459.359, 2(f), the Radiation Control Program contacted the NRC. The NRC has agreed to allow Section 91, NAC 459.359 2(f), language to be removed.

**Section 91: Revised: Sec. 91.** NAC 459.359 is hereby amended to read as follows:

459.359 1. A licensee shall dispose of licensed radioactive material only:

- (a) By transfer to an authorized recipient as provided in NAC 459.180 to 459.313, inclusive, *and sections 7 to 27, inclusive, of this regulation* and 459.8231 to 459.950, inclusive;
- (b) By decay in storage;
- (c) By release in effluents within the limits specified in NAC 459.335; or
- (d) As authorized pursuant to NAC 459.3595 to 459.3615, inclusive.

2. A person must be licensed by the Division to receive waste containing licensed radioactive material from other persons for:

- (a) Treatment before disposal;
- (b) Treatment or disposal by incineration;
- (c) Decay in storage;
- (d) Disposal at a land disposal facility licensed pursuant to NAC 459.806 to 459.8225, inclusive; or ~~or~~
- (e) Storage until it is transferred to a storage or disposal facility authorized to receive the waste. ~~or~~

~~(f) Disposal at a geologic repository under 10 C.F.R. Part 60 or 63.~~

The Radiation Control Program has also contacted the Agency for Nuclear Projects Office which operates under NRS 459.009-NRS 459.0098 and is the Agency responsible for high level waste oversight. They have also provided concurrence for the removal of the language above in Section 91, NAC 459.359 2(f).

A Small Business Impact Questionnaire (SBIQ) and Small Business Impact Statement (SBIS) were submitted and approved at the March 11, 2016 Board of Health meeting. The Legislative Commission directed and approved removal of certain language in section 91 of the adopted regulations, therefore a repeat of supporting documentation is not being submitted.

**STAFF RECOMMENDATION**

Staff recommends that the State Board of Health adopt the proposed amended regulation to NAC 459 Hazardous Materials, LCB file no. R144-13RP5, as presented.

**PRESENTER**

Karen Beckley, Manager, Radiation Control Program, Division of Public and Behavioral Health.