

STATE OF NEVADA

BRIAN SANDOVAL
Governor

RICHARD WHITLEY, MS
Director



CODY L. PHINNEY, MPH
Administrator

TRACEY D. GREEN, MD
Chief Medical Officer

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH**

Radiation Control Program
675 Fairview Drive, Suite 218
Carson City, Nevada 89701
Telephone: (775) 687-7550 · Fax: (775) 687-7552

February 10, 2016

MEMORANDUM

To: Dr. Stephen Kendall Jones, M.D., Chairman
State Board of Health

From: Cody Phinney, MPH, Secretary
State Board of Health

Re: Consideration and adoption of proposed regulation LCB file no.R144-13RP4
amendments to Nevada Administrative Code 457 & 459.

PURPOSE OF AMENDMENT

The proposed regulations amend and modify existing language to make regulations more clear, current and compatible with the intent and scope of the Radiation Control Program (RCP). Introduction of new language which aids the RCP to carry out its regulatory role more effectively. Present regulations that need to be adopted, as soon as possible, in order to maintain compliance with the requirements of the U.S Nuclear Regulatory Commission (NRC). Repeals redundant and/or outdated regulations.

SUMMARY OF CHANGES TO THE NAC

- Maintains compatibility with the requirements of the U.S Nuclear Regulatory Commission.
- Amends and modifies existing language to make regulations more clear, current and compatible with the intent and scope of the Radiation Control Program.
- Introduces new language regarding Enforcement.
- Introduces new language regarding Radiation Safety Officer Requirements.
- Outlines the process of decommissioning facilities safely.
- Compatible with the provisions of Section 651(e) of the Energy Policy Act of 2005, regarding the licensing of certain naturally-occurring and accelerator-produced radioactive materials, in accordance with the agreement signed by the Governor of Nevada with the U.S Atomic Energy Commission.
- Keeping with the statutory authority granted to the Division in NRS 459.201.
- Fees for duplicate mammography certificates.
- Broaden regulation fee structure for certain specific licenses to provide for a reduction in fees.

SMALL BUSINESS IMPACT STATEMENT 2015

PROPOSED AMENDMENTS TO NAC 457 & 459

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not have any adverse economic effect upon a small business or negatively affect the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

- 1) A description of 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.**

Background

The proposed regulations amend and modify existing language to make regulations more clear, current and compatible with the intent and scope of the Radiation Control Program (RCP). Introduction of new language regarding enforcement and Radiation Safety Officer requirements which benefit the RCP to carry out its regulatory role more effectively. The licensees and registrants will be able to understand what is needed, without any ambiguity. Clarifies and outlines training requirements for Authorized Users of radioactive materials in the field of medicine. Outlines the process of decommissioning facilities safely, minimizing radioactive contamination and releasing it for restricted use. The question of how and on what basis to assess the adequacy of funding and financial assurance for decommissioning is laid out. Present regulations that need to be adopted, as soon as possible, in order to maintain compliance with the requirements of the U.S Nuclear Regulatory Commission. Repeals redundant and/or outdated regulations.

Pursuant to NRS 233B.0608 (2) (a), the Division of Public and Behavioral Health has requested input from stakeholders, owners and officers that are likely to be affected by the proposed regulation.

A Small Business Impact Questionnaire was sent to approximately 3000 licensees and registrants along with a copy of the proposed regulation changes, on October 13, 2015. The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

<p align="center">Summary Of Comments Received 307 responses were received out of 2946 small business impact questionnaires distributed.</p>			
<p>Will a specific regulation have an adverse economic effect upon your business?</p>	<p>Will the regulation (s) have any beneficial effect upon your business?</p>	<p>Do you anticipate any indirect adverse effects upon your business?</p>	<p>Do you anticipate any indirect beneficial effects upon your business?</p>
<p>50-yes 98-no</p>	<p>4-yes 142-no</p>	<p>36-yes 105-no</p>	<p>4-yes 138-no</p>

Number of Respondents out 2946.	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
307	50	4	36	4

2) Describe the manner in which the analysis was conducted.

Analysis was conducted by the RCP using a spreadsheet formatted to quantify total responses and comments.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

Negative comments revealed there was a perceived increase in Radiation Producing Machine (RPM) registration fees. The proposed regulations do not increase RPM registration fees, as it was determined from analysis of the comments that respondents miss-read proposed regulations. Respondents were contacted to correct the perceived impact. Negative comments also revealed a perception of new regulation requiring a Radiation Safety Officer for RPM registrants. Comments revealed respondents miss-read proposed regulation which clarifies training and education of Radiation Safety Officers for specific licenses not RPM registrants. Respondents were contacted to correct the perceived impact.

4) Provide a description of 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.

The Division of Public and Behavioral Health has held several opportunities for the public and the regulated community to provide input and comments regarding the proposed NAC 457 and 459 regulations, including the economic impact the proposed regulations may have on small business. No modifications to the proposed regulations have been made as a result of this input. A workshop will be held on January 12, 2016 allowing for further input by stakeholders, registrants and licensees regarding the proposed regulations and how they will impact the regulated community. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

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

At this time, there is no estimated cost to the agency for enforcement of the proposed regulations. Enforcement of the proposed regulations will be incorporated into current administrative, registration, licensing and inspection processes.

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

There is no additional funding attached to the proposed regulations.

7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

At this time there is no duplicative provisions or more stringent provisions than federal, state or local standards and regulations. It is necessary to amend current regulation to ensure compatibility with federal regulation, repeal outdated regulations and clarify regulations for the regulated community.

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.


R144-13RP4 proposed regulations, if adopted, will amend, clarify and repeal current NAC 457 and 459 regulations. The program received negative response which had perceived impact with no evidence to support this perception.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Karen Beckley, Program Manager at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
675 Fairview Drive, Ste. 218
Carson City, NV 89701
Karen Beckley, Radiation Control Program, Manager
Phone: (775) 687-7550
Email: radiationcontrolprogram@health.nv.gov

Certification by Person Responsible for the Agency

I, Cody L. Phinney, Administrator of the Division of Public and Behavioral Health certify 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 the information contained in this statement was prepared properly and is accurate.

Signature  *for Cody Phinney* Date: 12/7/15