

**STATE AGENCY REGULATIONS TO BE REVIEWED
BY THE LEGISLATIVE COMMISSION**

JULY 7, 2025

REGULATIONS SUBMITTED PURSUANT TO NRS 233B.067:		
LCB NO.	NAC	AGENCY/ SUBJECT
2023 REGULATIONS		
R138-23	391	STATE BOARD OF EDUCATION A REGULATION revising provisions relating to performance evaluations CONTACT Kathryn Hoyt (702) 486-6458 kathryn.hoyt@doe.nv.gov
R139-23	425	ADMINISTRATOR OF THE DIVISION OF WELFARE AND SUPPORTIVE SERVICES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES A REGULATION revising various provisions relating to child support guidelines CONTACT Rebecca Lindelow (702) 486-1069 rlindelow@dwss.nv.gov
2024 REGULATIONS		
R057-24	385B	NEVADA INTERSCHOLASTIC ACTIVITIES ASSOCIATION A REGULATION revising provisions relating to conduct CONTACT Paul Anderson (775) 827-2000 panderson@mcllawfirm.com
R063-24	368A	NEVADA GAMING COMMISSION A REGULATION revising provisions relating to the powers of the Chair of the Nevada Gaming Control Board CONTACT Edward Magaw (702) 527-8601 EMagaw@ag.nv.gov
R068-24	202	DEPARTMENT OF PUBLIC SAFETY A REGULATION revising provisions relating to concealed firearms CONTACT Erica Souza-Llamas (775) 684-6241 esouza@dps.state.nv.us
R073-24	228	DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES A REGULATION revising provisions relating to domestic violence CONTACT Kelli Knutzon (775) 684-5850 kknutzon@health.nv.gov

R077-24	445B	STATE ENVIRONMENTAL COMMISSION A REGULATION revising various provisions relating to air pollution CONTACT Jennifer Schumacher (775) 687-9551 jschumacher@ndep.nv.gov
R104-24	467	NEVADA ATHLETIC COMMISSION A REGULATION revising various provisions relating to unarmed combat CONTACT Edward Magaw (702) 527-8601 EMagaw@ag.nv.gov
R108-24	459/634B/652	STATE BOARD OF HEALTH A REGULATION establishing provisions relating to naprapathy CONTACT Kelli Knutzon (775) 684-5850 kknutzon@health.nv.gov
R109-24	502	BOARD OF WILDLIFE COMMISSIONERS A REGULATION revising provisions relating to electronic tags and junior tag holders CONTACT Alejandra Medina (775) 688-1510 amedina@ndow.org
R112-24	501	BOARD OF WILDLIFE COMMISSIONERS A REGULATION revising provisions relating to conservation projects CONTACT Alejandra Medina (775) 688-1510 amedina@ndow.org
R119-24	445B	STATE ENVIRONMENTAL COMMISSION A REGULATION revising provisions adopted by reference CONTACT Andrew Tucker (775) 687-9340 atucker@ndep.nv.gov
R126-24	459	STATE ENVIRONMENTAL COMMISSION A REGULATION revising various provisions relating to brownfield sites CONTACT Jeff Collins (775) 687-9381 jrcollins@ndep.nv.gov
R130-24	445A	STATE ENVIRONMENTAL COMMISSION A REGULATION revising provisions relating to action levels for contaminated sites CONTACT Jeff Collins (775) 687-9381 jrcollins@ndep.nv.gov
R156-24	694C	COMMISSIONER OF INSURANCE A REGULATION revising provisions relating to captive insurance CONTACT Adam Plain (775) 721-9494 aplain@doi.nv.gov

R157-24	692A	COMMISSIONER OF INSURANCE A REGULATION revising residency requirements for licensure as a title agent or an escrow officer CONTACT Adam Plain (775) 721-9494 aplain@doi.nv.gov
R172-24	284	HUMAN RESOURCES COMMISSION A REGULATION revising provisions relating to leave and breaks in continuous service CONTACT Michelle Garton (775) 220-8122 mgarton@admin.nv.gov
R176-24	548	STATE CONSERVATION COMMISSION A REGULATION establishing provisions relating to grants CONTACT Melany Aten (775) 625-0901 Maten@DCNR.nv.gov

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**ADOPTED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB File No. R138-23

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

AUTHORITY: §§ 1 and 2, NRS 385.080, 391.465 and 391.480.

A REGULATION relating to education; revising the weights assigned to the domains used to evaluate the performance of teachers and certain administrators; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Education to establish a statewide performance evaluation system for evaluating the performance of educational employees. Under existing law, beginning with the 2022-2023 school year, pupil growth is required to account for 15 percent of the performance evaluations of teachers and certain administrators. (NRS 391.465)

Existing regulations require teachers and certain administrators to be evaluated in certain domains and require each domain to account for a certain percentage of such evaluations. (NAC 391.571, 391.574) This regulation requires the domain of pupil growth to account for 15 percent of the performance evaluations of teachers and school-level administrators rather than 40 percent of the performance evaluations. This regulation also revises the weight assigned to other domains used to evaluate teachers and school-level administrators.

Section 1. NAC 391.571 is hereby amended to read as follows:

391.571 1. The performance evaluation of each school-level administrator must include an evaluation of the school-level administrator in the following domains:

(a) Instructional leadership practices of the administrator at the school, as prescribed by NAC 391.572, which, except as otherwise provided in subsection 2, must account for ~~45~~ 65 percent of the performance evaluation;

(b) Professional responsibilities of the administrator to support learning and promote the effectiveness of the school community, as prescribed by NAC 391.573, which, except as

otherwise provided in subsection 2, must account for ~~15~~ 20 percent of the performance evaluation; and

(c) Except as otherwise provided in subsection 2, the extent to which the learning goals of pupils enrolled in the school were achieved based upon the assessments selected pursuant to NAC 391.582, which must account for ~~40~~ 15 percent of the performance evaluation.

2. The performance evaluation of a probationary administrator, other than a postprobationary employee who is deemed a probationary employee pursuant to NRS 391.730, in his or her initial year of probationary employment must be based upon the domains of instructional leadership practices of the administrator at the school as prescribed by NAC 391.572 and professional responsibilities of the administrator to support learning and promote the effectiveness of the school community as prescribed by NAC 391.573, with the percentages and weights assigned to those domains in accordance with the scoring matrix prescribed by the Department pursuant to NAC 391.580.

Sec. 2. NAC 391.574 is hereby amended to read as follows:

391.574 1. The performance evaluation of each teacher must include an evaluation of the teacher in the following domains:

(a) Instructional practices of the teacher in the classroom, as prescribed by NAC 391.575, which, except as otherwise provided in subsection 2, must account for ~~45~~ 65 percent of the performance evaluation;

(b) Professional responsibilities of the teacher to support learning and promote the effectiveness of the school community, as prescribed by NAC 391.576, which, except as otherwise provided in subsection 2, must account for ~~15~~ 20 percent of the performance evaluation; and

(c) Except as otherwise provided in subsection 2, the extent to which the learning goals of pupils enrolled in the school were achieved based upon the assessments selected pursuant to NAC 391.582, which must account for ~~40~~ 15 percent of the performance evaluation.

2. The performance evaluation of a probationary teacher, other than a postprobationary employee who is deemed a probationary employee pursuant to NRS 391.730, in his or her initial year of probationary employment must be based upon the domains of instructional practices of the teacher in the classroom as prescribed by NAC 391.575 and professional responsibilities of the teacher to support learning and promote the effectiveness of the school community as prescribed by NAC 391.576, with the percentages and weights assigned to those domains in accordance with the scoring matrix prescribed by the Department pursuant to NAC 391.580.

Joe Lombardo
Governor

Jhone M. Ebert
Superintendent of
Public Instruction



Southern Nevada Office
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**STATE OF NEVADA
DEPARTMENT OF EDUCATION**

700 E Fifth Street | Carson City, Nevada 89701-5096
Phone: (775) 687-9200 | www.doe.nv.gov | Fax: (775) 687-9101

February 5, 2025

**Legislative Review of Adopted Regulations as Required by NRS 233B.066
LCB File #R138-23**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 391:

1. A clear and concise explanation of the need for the adopted regulation.

Under existing law, beginning with the 2022-2023 school year, pupil growth is required to account for 15 percent of the performance evaluations of teachers and certain administrators (NRS 391.465). Existing regulations require teachers and certain administrators to be evaluated in certain domains and require each domain to account for a certain percentage of such evaluations. (NAC 391.571, 391.574) This regulation requires the domain of pupil growth to account for 15 percent of the performance evaluations of teachers and school-level administrators rather than 40 percent of the performance evaluations. This regulation also revises the weight assigned to other domains used to evaluate teachers and school-level administrators.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Public comment was solicited through both the regulation workshop and public hearing. The attached workshop notice was posted 15 days prior to the workshop. The attached public hearing notice was posted 30 days prior to the public hearing. A description of how members of the public could provide comment is included in both items. Other interested persons may have obtained a copy of the summary by viewing the Commission on Professional Standards in Education webpage or by contacting the Commission secretary via email, telephone, or by writing to the address on the agenda or public notice.

Include summary of public comment.

There was no public comment at either the workshop or the public hearing for this regulation.

3. The number of persons who attended each workshop/hearing, testified at each workshop/hearing, submitted to the agency written comments:

Workshop held on 11/2/2023

- Number in attendance: 0
- Number testifying: 0
- Written statements submitted: 0

State Board of Education Meeting held on 06/12/2024 took place to approve the Commission adopted regulation per NRS 391.027.

- Number in attendance: 8
- Number testifying: 0
- Written statements submitted: 0

4. **For each person identified in number 3 above, the following information if provided to the agency conducting the hearing: (a) name; (b) telephone number; (c) business address; (d) business telephone number; (e) electronic mail address; and (f) name of entity or organization represented.**

Include summary of public comment.

There was no public comment at either the workshop or the public hearing for this regulation thus there is no summary of public comment.

5. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Public comment was solicited through both the regulation workshop and public hearing. The attached workshop notice was posted 15 days prior to the workshop. The attached public hearing notice was posted 30 days prior to the public hearing. A description of how members of the public could provide comment is included in both items.

Include summary of public comment.

There was no public comment at either the workshop or the public hearing for this regulation thus there is no summary of public comment.

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

This regulation was adopted without any changes on 06/12/24 because the agency and Teachers and Leaders Council engaged stakeholders in workgroups to draft agreed upon language prior to the Workshop & Hearing.

Include summary and description of changes, if any.

No changes were requested, and the regulation was adopted without change.

7. **The estimated economic effect of the adopted regulation on the business which is to regulate and on the public. These must be stated separately, and each case must include:**

There will be no economic effect of the regulation on the business that it regulates. There is no estimated economic effect on the public. There is no adverse or beneficial effect or immediate or long-term effect on the business that it regulates. There is no adverse or beneficial effect or immediate or long-term effect to the public.

8. **The estimated cost to the agency for enforcement of the adopted regulation.**

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

- 9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

No other state or governmental agency regulations will be overlapped or duplicated by the above noted regulation. There is no duplication or overlap of federal regulations.

- 10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are none.

- 11. If the 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.**

This regulation does not provide for a new fee or increase an existing fee.

Joe Lombardo
Governor

Jhone M. Ebert
Superintendent of
Public Instruction



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STATE OF NEVADA
NEVADA DEPARTMENT OF EDUCATION

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June 12, 2024

Notice of Intent to Act Upon a Regulation

Notice of Hearing for the Adoption of Regulations of the Nevada Department of Education as proposed in LCB File #R138-23.

The DEPARTMENT will hold a public hearing at **10:00 AM** on June 12, 2024 via [Livestream Link](#) and at the following locations: **Nevada Department of Education Offices, 700 East Fifth Street, Board Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, Nevada.** The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations pertaining to Chapter 391.571 and 391.574 of the Nevada Administrative Code (NAC), pursuant to NRS 391.465 regarding the weight of performance evaluation domains for licensed educational personnel.

The following information is provided pursuant to the requirements of Nevada Revised Statute (NRS) 233B.0603:

1. **The need and the purpose of the proposed regulations and/or amendments:** In accordance with NRS391.465, the Department is instructed to adopt regulations requiring:
 - **[The] State Board to establish statewide performance evaluation system and prescribe tools to be used by schools to measure performance...**
2. **If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation:** The revised text of the proposed regulation is attached to this notice.
3. **Description of the proposed regulation, or the subjects and issues involved:** Under existing law, beginning with the 2022-2023 school year, pupil growth is required to account for 15 percent of the performance evaluations of teachers and certain administrators. (NRS 391.465)

Existing regulations require teachers and certain administrators to be evaluated in certain domains and require each domain to account for a certain percentage of such evaluations. (NAC 391.571, 391.574) This regulation requires the domain of pupil growth to account for 15 percent of the performance evaluations of teachers and school-level administrators rather than 40 percent of the performance evaluations. This regulation also revises the weight assigned to other domains used to evaluate teachers and school-level administrators.

4. **Estimated economic effect of the regulation on the business which it is to regulate and on the public:** There is no economic effect of the regulation on the business that it regulates and no impact on the public.
5. **Methods used by the agency in determining the impact on a small business:** Small business are not impacted by this regulation.
6. **The estimated cost to the agency for enforcement of the proposed regulation:** no costs.
7. **Description and citation of duplicative or overlapping regulations of other state or local governmental agencies:** There is no duplication or overlap of regulations of state of local government agencies.
8. **Is the regulation required by federal law?** This regulation is not required pursuant to federal law.
9. **Does the regulation include provisions more stringent than a federal regulation regarding the same activity?** There is no federal law affecting or overlapping the proposed regulations.
10. **Does the proposed regulation establish a new fee or increase an existing fee?** The proposed regulations do not establish a new fee nor increase an existing fee of the regulating agency.

A copy of all materials relating to the proposed regulation may be obtained at the hearing, on the [Event – June 12, 2024 Nevada Department of Education Regulation Hearing | Nevada Department of Education \(nv.gov\)](#), by contacting the Nevada Department of Education, via email at NVBoardEd@doe.nv.gov, by telephone at 775-443-5519, or in person at the Nevada Department of Education, **Nevada Department of Education Offices, 700 East Fifth Street, Board Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, Nevada**. Persons wishing to comment upon the proposed action of the Department may provide in-person testimony, submit written comment to the Department via email at NVBoardEd@doe.nv.gov or submit their comments, data, views, or arguments in written form to the Nevada Department of Education, **Nevada Department of Education Offices, 700 East Fifth Street, Board Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, Nevada**. Comments may be submitted via email leading up to and for the duration of the workshop, and those submitted via mail must be received by the Department on or before Wednesday, June 12, 2024. A record of all submitted comments will be retained, and the Department or Board will proceed to consider any public comment received.

This notice and the text of the proposed regulation has been sent to all persons on the agencies mailing list for administrative regulations and the Department of Education, and posted on the Nevada Department of Education's website at <https://doe.nv.gov>, Nevada's Public Notice site at <https://notice.nv.gov>, the Nevada State Legislature's webpage at <https://leg.state.nv.us>, available in the State of Nevada Register of Administrative Regulations pursuant to NRS 233B.0653, and physically posted at the Nevada Department of Education Offices

and with Nevada State Library and Archives. Copies of this notice will also be emailed and/or mailed to members of the public upon request.

Notice required by NRS 233B.064: Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

**Nevada Department of Education
Nevada State Board of Education
June 12, 2024
9:00 AM**

Office	Address	City	Meeting Room
Department of Education	2080 E. Flamingo Rd.	Las Vegas	Room 114
Department of Education	700 E. Fifth St.	Carson	Board Room
Department of Education	Virtual	Virtual	YouTube Link

Public Notice

The public is hereby noticed that the Nevada State Board of Education reserves the right to take agenda items out of posted order (except that public hearings will not begin earlier than posted times); items may be pulled or removed from the agenda at any time; and items may be combined for consideration. A time for public comment is provided at the beginning and at the conclusion of the meeting. A time limit of three minutes will be imposed by the Board president for public comments to afford all members of the public who wish to comment an opportunity to do so within the timeframe available to the Board. All individuals providing in-person testimony must fill out a visitor card. To provide public comment or testimony telephonically, dial (312) 584-2401 on the date of the meeting. When prompted, provide Meeting ID 324 939 7, and then press #. When prompted for a Participant ID, press #. If you are unable to attend but would like to provide a written statement for public comment, please submit your statement to NVBoardEd@doe.nv.gov before the close of the Board Meeting. The Board president reserves the right to call on individuals from the audience or to allow for testimony at any time.

The support materials to this agenda are available at no charge on the NDE website at [Nevada State Board of Education Meeting Material Webpage](#) (under the meeting date referenced above) or by contacting Angie Castellanos at the Nevada Department of Education, 2080 E. Flamingo Road, #210, Las Vegas, NV 89119, via phone at 702-486-8725, or by email at NVBoardEd@doe.nv.gov. This public notice has been posted at the offices of the Department of Education (NDE) in Carson City and Las Vegas, online at the Nevada Public Notice website, notice.nv.gov, the Nevada Department of Education website, doe.nv.gov, and sent to all interested persons who requested notice. Reasonable efforts will be made for members of the public who have disabilities and require special accommodations or assistance at the meeting; please contact Angie Castellanos at 702-486-8725 or NVBoardEd@doe.nv.gov at least five business days in advance so that arrangements can be made.

Agenda

1. Call to Order, Roll Call, Pledge of Allegiance, and Land Acknowledgement

2. Public Comment #1

Public comment will be taken during this agenda item regarding any item appearing on the agenda. No action may be taken on a matter discussed under this item until the matter is included on the agenda as an item on which action may be taken. The President of the State Board of Education will impose a time limit of three minutes. Public Comment #2 will provide an opportunity for public comment on any matter within the State Board's jurisdiction, control, or advisory power.

3. Approval of Flexible Agenda (For Possible Action)

4. President's Report

- Regional Convening to Support State Action to Advance the Education Professions
- Board Member Updates
- Nevada System of Higher Education (NSHE) Updates

5. Superintendent's Report

- Nevada Department of Education Updates

6. Consent Agenda (*For Possible Action*)

Information concerning the following consent agenda items has been provided to Board members for study prior to the meeting. Unless a Board member has a question concerning a particular item and asks that it be withdrawn from the consent list, all items are approved in one action.

- a. Possible Approval of Dual Credit Courses for Clark County School District
- b. Possible Approval of Dual Credit Courses for Washoe County School District
- c. Possible Approval of Private School Renewal Licenses
- d. Possible Approval of Class Size Report Reduction, FY 2024 Q2
- e. Possible Approval of Minutes from April 15, 2024, State Board of Education Meeting
- f. Possible Approval of Minutes from April 29, 2024, State Board of Education Meeting
- g. Possible Approval of Minutes from May 01, 2024, State Board of Education Meeting

7. Information, Discussion, and For Possible Action Regarding Appointments to the State Public Charter School Authority Governing Board (*Information, Discussion, and for Possible Action*)

The Board will review candidates who have applied for consideration to serve on the State Public Charter School Authority governing board in accordance with NRS 388A.153. The Board may take action to select a candidate to serve as the State Board appointee for a three-year term.

8. Information, Discussion, and For Possible Action Regarding the Educator Scholarship Awards (*Information, Discussion, and for Possible Action*)

The Board will receive a report and presentation regarding current available funds for scholarship awards and requests for fiscal year 2024 pursuant to NRS 391A.550-90, AB 400, and AB 515. Possible action may include awarding scholarships to various State-approved traditional and/or alternative routes to licensure educator preparation programs.

- Kathleen Galland-Collins, Assistant Director, Office of Educator Development, Licensure, and Family Engagement
- Anabel Sanchez, Education Programs Professional, Office of Educator Development, Licensure, and Family Engagement

9. Information, Discussion, and For Possible Action Regarding the Proposed Nevada Educator Performance Framework (NEPF) Teacher and School Administrator Rubrics Redesign (*Information, Discussion, and for Possible Action*)

The Board will receive a recommendation from the Teachers and Leaders Council regarding the proposed changes to the NEPF Teacher and School Administrator Evaluation rubrics.

- Kathleen Galland-Collins, Assistant Director, Office of Educator Development, Licensure, and Family Engagement
- Dr. Pam Teel, Vice Chair, Teachers and Leaders Council
- Kathryn Hoyt, Education Programs Professional, Office of Educator Development, Licensure, and Family Engagement

10. 10:00 AM Public Hearing to Solicit Comments on Proposed Regulation R138-23P Revising the Weights Assigned to the Domains Used to Evaluate the Performance of Teachers and Certain Administrators *(Information, Discussion, and for Possible Action)*

The Board will vote to adopt language as set forth in LCB File #R138-23, amending NAC 391.571 and NAC 391.574

- Kathleen Galland Collins, Assistant Director, Office of Educator Development, Licensure, and Family Engagement
- Kathryn Hoyt, Education Programs Professional, Office of Educator Development, Licensure, and Family Engagement

11. 10:02 AM Public Hearing to Solicit Comments on Proposed Regulation R131-22P Prescribing Requirements Relating to Planning and Monitoring the Education of Certain Children Who Are Admitted to a Facility Which Provides Residential Treatment for Mental Illness *(Information, Discussion, and for Possible Action)*

The Board will consider the proposed regulation prescribing requirements around monitoring the education of children admitted to a residential treatment facility.

- Christy McGill, Deputy Superintendent, Educator Effectiveness and Family Engagement

12. 10:04 AM Public Hearing to Solicit Comments on Proposed Regulation R064-24P Amending NAC 389.555 and NAC 389.516 Relating to Employability Skills for Career Readiness *(Information, Discussion, and for Possible Action)*

The Board will consider the proposed regulation removal of all language from NAC 389.555 and NAC 389.516.

- Craig Statucki, Director, Office of Career Readiness, Adult Learning, and Education Options

13. 10:06 AM Public Hearing to Solicit Comments on Proposed Regulation R074-24 Relating to the Creation of Curriculum for the Teacher Academy College Pathway Program *(Information, Discussion, and for Possible Action)*

The Board will consider approving the curriculum for the teacher academy pathway program (TACPP).

- Craig Statucki, Director, Office of Career Readiness, Adult Learning, and Educational Options

14. 10:08 AM Public Hearing to Solicit Comments on Proposed Regulation R099-23P Relating to the Adult and Regular High School Diploma *(Information, Discussion, and for Possible Action)*

The Board will consider the proposed regulation revising certain eligibility and course requirements for graduation from public high school.

- Craig Statucki, Director, Office of Career Readiness, Adult Learning, and Educational Options

15. Information and Discussion Regarding Department of Education Guidance on Artificial Intelligence in Schools *(Information and Discussion)*

The Board will hear a presentation from the Deputy Superintendent for Student Achievement regarding the ethics statement and guidance around the use of artificial intelligence for educational purposes.

- Ann Marie Dickson, Deputy Superintendent for Student Achievement, Nevada Department of Education
- Jayne Malorni, Education Programs Professional, Office of Teaching and Learning

16. Information and Discussion of Read by Grade 3 topics *(Information and Discussion)*

The Board will receive information regarding aspects of the Read by Grade 3 provisions outlined in AB 400.

- Joan Jackson, Education Programs Professional, Nevada Department of Education
- Kevin Laxalt, Education Programs Professional, Nevada Department of Education
- Mark Rincon, Education Programs Professional, Nevada Department of Education

17. Future Agenda Items *(Information and Discussion)*

- Mechanism for rural support
- Successful outcomes achieved by the State Board of Education
- Commission on School Funding Tracking
- Dual Credit Programs by NSHE
- Teacher Exit Survey
- Emergency Special Education license
- Federal and State Required Assessments

18. Public Comment #2

Public comment will be taken during this agenda item on any matter within the State Board's jurisdiction, control, or advisory power. No action may be taken on a matter raised under this item until the matter is included on the agenda as an item on which action may be taken. The President of the State Board of Education will impose a time limit of three minutes.

19. Adjournment

Joe Lombardo
Governor

Jhone M. Ebert
Superintendent of
Public Instruction



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STATE OF NEVADA NEVADA DEPARTMENT OF EDUCATION

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Notice of Workshop to Solicit Comments on Proposed Regulation

The Nevada Department of Education is proposing regulation language pertaining to the Nevada Administrative Code (NAC). The Workshop has been scheduled for **October 26, 2023** via [[livestream hyperlink](#)] and at the following locations: **Nevada Department of Education Offices, 700 East Fifth Street, Board Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, Nevada.** The purpose of the Workshop is to solicit comments from interested persons on the following general topics to be addressed in a proposed regulation:

1:00 PM. Workshop to Solicit Comments on Proposed Amendments to NAC Chapter

A copy of all materials relating to the proposal may be obtained at the workshop, on the [State Board of Education website](#), by contacting the State Board of Education, via email at NVBoardEd@doe.nv.gov, by telephone at 775.687.9224, or in person at the Nevada Department of Education, 700 E. Fifth Street, Carson City Nevada. Persons wishing to comment upon the proposed action of the State Board of Education may provide in-person testimony, submit written comment to the State Board of Education via email at NVBoardEd@doe.nv.gov or submit their comments, data, views, or arguments in written form to the State Board of Education, Nevada Department of Education, 700 E. Fifth Street, Carson City, Nevada. Comments may be submitted via email leading up to and for the duration of the workshop, and those submitted via mail must be received by the Department on or before October 26, 2023

This notice has been sent to all persons on the agencies mailing list for administrative regulations and the State Board of Education, and posted on the Nevada Department of Education's website at <https://doe.nv.gov>, Nevada's Public Notice site at <https://notice.nv.gov>, the Nevada State Legislature's webpage at <https://leg.state.nv.us>, and physically at the Nevada Department of Education Offices and with Nevada State Library and Archives. Copies of this notice will also be emailed and/or mailed to members of the public upon request.

NEVADA STATE BOARD OF EDUCATION

November 2, 2023

2:10 PM

Office	Address	City	Meeting Room
Department of Education	2080 E. Flamingo Rd.	Las Vegas	Room 114
Department of Education	700 E. Fifth St.	Carson	Board Room
Department of Education	Virtual	Virtual	Livestream Link

PUBLIC NOTICE

The public is hereby noticed that the Nevada Department Education reserves the right to take agenda items out of posted order (except that public hearings will not begin earlier than posted times); items may be pulled or removed from the agenda at any time; and items may be combined for consideration. A time for public comment is provided at the beginning and at the conclusion of the meeting, and public comment will be taken under each workshop specific to that item. A time limit of three minutes will be imposed for public comments in order to afford all members of the public who wish to comment an opportunity to do so within the timeframe available. If you are unable to attend but would like to provide a written statement for public comment, please submit your statement to NVBoardEd@doe.nv.gov before the close of the Workshop. The Department reserves the right to call on individuals from the audience or to allow for testimony at any time. All individuals providing testimony must fill out a visitor card. Reasonable efforts will be made for members of the public who have disabilities and require special accommodations or assistance at the meeting. Please call Martha Warachowski, Board Secretary, at (702) 668-4318 or email at NVBoardEd@doe.nv.gov at least five business days in advance so that arrangements can be made. The support materials to this agenda are available at no charge on the Nevada Department of Education Regulation Workshops and Public Hearings [Meeting Materials](#) page (under the meeting date referenced above) or by contacting Martha Warachowski at the Nevada Department of Education Office, 2080 E. Flamingo Rd, 89119, or via phone at (702) 668-4318, or by email at NVBoardEd@doe.nv.gov. This public notice has been sent to all persons on the agencies mailing list for administrative regulations and posted on the Nevada Department of Education's website at <https://doe.nv.gov>, Nevada's Public Notice site at <https://notice.nv.gov>, the Nevada State Legislature's webpage at <https://leg.state.nv.us>, and physically at the Nevada Department of Education Offices. Copies of this notice will also be emailed and/or mailed to members of the public upon request.

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT #1

Public comment will be taken during this agenda item regarding any item appearing on the agenda. No action may be taken on a matter discussed under this item until the matter is included on an agenda as an item on which action may be taken. The Department will impose a time limit of three minutes. Please hold comments specific to a given workshop until public comment is called upon for that workshop specifically.

3. 2:15 P.M. WORKSHOP TO SOLICIT COMMENTS ON PROPOSED CHANGES TO NEVADA ADMINISTRATIVE CODE (NAC) CHAPTER 391 – NEVADA EDUCATOR PERFORMANCE FRAMEWORK (For possible action)

The proposed changes seek to update Nevada Educator Performance Framework to align with changes in NRS.

- Kat Galland-Collins, Assistant Director, Office of Educator Development, Licensure, and Family Engagement

4. 2:20 P.M. WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION R145-22RP1—CTE PROGRAMS OF STUDY *(For possible action)*

The proposed changes seek to make conforming changes related to CTE programs of study.

- Craig Statucki, Director, Office of Career Readiness and Adult Learning Options
- Cindi Chang, Assistant Director, Office of Career Readiness and Adult Learning Options

5. 2:25 P.M. WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION R022-23P—UNIFORM GRADING SCALE. *(For possible action)*

The proposed changes relate to revisions providing a uniform grading scale for all public high schools.

- Ann Marie Dickson, Deputy Superintendent, Student Achievement Division

6. 2:30 P.M. WORKSHOP TO SOLICIT COMMENTS ON PROPOSED CHANGES TO NAC 391A.300—PROFESSIONAL DEVELOPMENT STANDARDS. *(For possible action)*

The proposed changes relate changing the professional development standards to align with the updated Learning Forward Standards.

- Anabel Sanchez, Education Programs Professional, Office of Educator Development, Licensure, and Family Engagement
- Kat Galland-Collins, Assistant Director, Office of Educator Development, Licensure, and Family Engagement

7. PUBLIC COMMENT #2

Public comment will be taken during this agenda item on any matter within the jurisdiction, control, or advisory power of the Department. No action may be taken on a matter raised under this item until the matter is included on an agenda as an item on which action may be taken. The Department will impose a time limit of three minutes.

8. ADJOURNMENT

Joe Lombardo
Governor

Jhone M. Ebert
Superintendent of
Public Instruction



Southern Nevada Office
2080 East Flamingo Rd,
Suite 210
Las Vegas, Nevada 89119-0811
Phone: (702) 486-6458
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STATE OF NEVADA
COMMISSION ON PROFESSIONAL STANDARDS IN EDUCATION

700 E. Fifth Street | Carson City, Nevada 89701-5096
Phone: (775) 687-9200 | www.doe.nv.gov | Fax: (775) 687-1116

SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

DATE: June 12, 2024

RE: Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 391.571 and 391.574

I, Jhone M. Ebert, being the duly appointed Superintendent of Public Instruction of the Nevada Department of Education, do hereby certify, to the best of my knowledge or belief:

1. The proposed regulation regarding the performance evaluations of teachers and certain administrators (NRS 391.465) is not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business.
2. A concerted effort was made to determine any economic burden.
3. All relevant materials were reviewed, and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's activities and present no significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or adverse economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

Jhone M. Ebert
Superintendent of Public Instruction

**ADOPTED REGULATION OF THE ADMINISTRATOR OF THE
DIVISION OF WELFARE AND SUPPORTIVE SERVICES OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R139-23

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

AUTHORITY: §§ 1-11, NRS 425.620.

A REGULATION relating to child support; prescribing the amounts included in a total child support obligation; clarifying certain terminology related to child support obligations; prescribing the manner of calculating a total child support obligation under certain circumstances; defining the term “public assistance” for certain purposes relating to the calculation of a child support obligation; revising the date on which certain child support obligations terminate; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing federal law and regulations require each state to establish child support guidelines and to review such guidelines at least once every 4 years to ensure that the application of such guidelines results in appropriate awards of child support. (42 U.S.C. § 667(a); 45 C.F.R. § 302.56(e)) Existing Nevada law requires the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services to adopt regulations prescribing such guidelines in accordance with that federal law. (NRS 425.620) Existing law requires a court of this State to apply those guidelines when: (1) determining the required support in any case involving the support of children; or (2) changing the amount of the required support of children. (NRS 125B.080) Existing regulations provide for the calculation of a base child support obligation and the addition to that obligation of amounts for child care costs, medical support and certain other adjustments. (NAC 425.130-425.150) **Section 1** of this regulation requires a court to determine the total child support obligation by combining the base child support obligation with those other amounts. **Sections 3-5 and 9** of this regulation make various changes to distinguish between a total child support obligation and a base child support obligation. **Section 7** of this regulation requires a court to make certain findings when making an equitable division of the costs of child care between the parties to a child support proceeding, including a finding concerning whether either party has elected to forego or limit employment in order to care for the child. **Section 6** of this regulation clarifies that such an election does not limit the ability of the court to determine that the obligor is underemployed or unemployed without good cause and impute income to the obligor. **Section 8** of this regulation requires a court to make an equitable division of the medical support for a child between the parties to a child support proceeding.

Existing regulations: (1) require a court to determine the base child support obligation based on the gross monthly income of the obligor; and (2) use the gross income of a party as a factor in certain other determinations related to the calculation of the total child support obligation. (NAC 425.135-425.150) **Section 2** of this regulation makes certain clarifications concerning income that qualifies as part of the gross income of a party.

Existing regulations authorize the parties to a child support proceeding to stipulate to a child support obligation that does not comply with the guidelines for the support of one or more children. Existing regulations require such a stipulation to contain a certification by the obligee that he or she is not currently receiving public assistance and has not applied for public assistance. (NAC 425.110) **Section 4** of this regulation instead requires the obligee to certify that he or she is not receiving cash assistance through Temporary Assistance for Needy Families.

Where the parties have two or more children and each party has joint physical custody of at least one, but not all, of the children, existing regulations require a court to determine the total child support obligation of each party based on the number of children to whom each party owes a child support obligation. (NAC 425.115) **Section 5** additionally requires a court to calculate the total child support obligation of each party in that manner where each party has primary physical custody of at least one, but not all, of the children.

Existing regulations authorize a court to adjust a child support obligation based on certain factors, including any public assistance paid to support the child. (NAC 425.150) **Section 10** of this regulation defines “public assistance” for that purpose to have a definition prescribed in existing law which excludes the Children’s Health Insurance Program.

Existing regulations provide that a child support obligation for one child terminates when the child reaches 18 years of age or, if the child is still in high school, when the child graduates from high school or reaches 19 years of age, whichever comes first. (NAC 425.160) **Section 11** of this regulation provides that such a child support obligation terminates on the first day of the month immediately following the month during which those events occur.

Section 1. Chapter 425 of NAC is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in NAC 425.110, a court shall determine the total child support obligation of an obligor as the sum of:

- 1. The base child support obligation as determined pursuant to NAC 425.140 or 425.145, as applicable;*
- 2. Any equitable division of the costs of child care as determined pursuant to NAC 425.130;*
- 3. Any equitable division of medical support determined pursuant to NAC 425.135; and*

4. Any adjustments made pursuant to NAC 425.150.

Sec. 2. NAC 425.025 is hereby amended to read as follows:

425.025 1. “Gross income” includes, without limitation:

- (a) ~~{Salary and}~~ *Monetary compensation incident to employment, including, without limitation, salary,* wages, ~~{including, without limitation,}~~ *commissions and* money earned from overtime pay *or bonuses* if such ~~{overtime pay}~~ *compensation* is substantial, consistent and can be accurately determined.
- (b) Interest and investment income, not including the principal.
- (c) Social security disability benefits and old-age insurance benefits under federal law.
- (d) Any periodic payment from a pension, retirement plan or annuity which is considered remuneration for employment.
- (e) Net proceeds resulting from workers’ compensation or other personal injury awards intended to replace income.
- (f) Unemployment insurance.
- (g) Income continuation benefits.
- (h) Voluntary contributions to a deferred compensation plan, employee contributions to an employee benefit or profit-sharing plan, and voluntary employee contributions to any pension or retirement account, regardless of whether the account provides for tax deferral or avoidance.
- (i) Military allowances and veterans’ benefits.
- (j) Compensation for lost wages.
- (k) Undistributed income of a business entity in which a party has an ownership interest sufficient to individually exercise control over or access the earnings of the business, unless the

income is included as an asset for the purposes of imputing income pursuant to NAC 425.125.

As used in this paragraph:

(1) “Reasonable allowance for economic depreciation” means the amount of depreciation on assets computed using the straight-line method and useful lives as determined under federal income tax laws and regulations.

(2) “Undistributed income” means federal taxable income of a business entity plus depreciation claimed on the federal income tax return of the business less a reasonable allowance for economic depreciation.

(l) Child care subsidy payments if a party is a child care provider.

(m) Alimony ~~+~~ *received*.

(n) *Income through self-employment that is calculated after deducting all legitimate business expenses but without deducting personal income taxes, contributions for retirement benefits, contributions to a pension or other personal expenses.*

(o) Except as otherwise provided in subsection 2, all other income of a party, regardless of whether such income is taxable.

2. The term does not include:

(a) Child support received.

(b) Foster care or kinship care payments.

(c) Benefits received under the federal Supplemental Nutrition Assistance Program.

(d) Cash benefits paid by a county.

(e) Supplemental security income benefits and state supplemental payments.

(f) Except as otherwise provided in paragraph (l) of subsection 1, payments made for social services or any other public assistance benefits.

(g) Compensation for losses, including, without limitation, both general and special damages, from personal injury awards not intended to replace income.

3. This section must not be construed to limit income withholding or the assignment of workers' compensation benefits for the collection of child support.

Sec. 3. NAC 425.100 is hereby amended to read as follows:

425.100 1. Any order must be based on the obligor's earnings, income and other evidence of ability to pay.

2. It is presumed that the basic needs of a child are met by a *total* child support obligation established pursuant to ~~{the guidelines set forth in this chapter,}~~ *section 1 of this regulation and the sections referenced therein*, however, this presumption may be rebutted by evidence proving that the needs of a particular child are not met or are exceeded by such a child support obligation.

3. If the court establishes a child support obligation that is greater or less than the *total* child support obligation that would be established pursuant to ~~{the guidelines set forth in this chapter,}~~ *section 1 of this regulation and the sections referenced therein*, the court must:

(a) Set forth findings of fact as to the basis for the ~~{deviation}~~ *adjustment* from the ~~{guidelines,}~~ *total child support obligation*; and

(b) Provide in the findings of fact the *total* child support obligation that would have been established pursuant to ~~{the guidelines,}~~ *section 1 of this regulation and the sections referenced therein*.

Sec. 4. NAC 425.110 is hereby amended to read as follows:

425.110 1. In lieu of having a child support obligation determined pursuant to the guidelines set forth in this chapter, the parties may stipulate to a child support obligation that does not comply with such guidelines. To be binding, such a stipulation must be in writing and:

- (a) Set forth the current monthly gross income of each party;
 - (b) Specify what the *total* child support obligation would be under ~~the guidelines;~~ *section 1 of this regulation and the sections referenced therein;*
 - (c) Provide notice to both parties that, if either party seeks a review of the stipulated child support obligation for any authorized reason, the court will calculate the *total* child support obligation in accordance with ~~the child support guidelines in effect at the time of the review;~~ *section 1 of this regulation and the sections referenced therein;*
 - (d) Contain a certification by the obligee that he or she is not currently receiving ~~public assistance and has not applied for public assistance;~~ *cash assistance through Temporary Assistance for Needy Families;*
 - (e) Certify that the basic needs of the child are met or exceeded by the stipulated child support obligation; and
 - (f) Be approved and adopted as an order of the court.
2. Notwithstanding the provisions of subsection 1, a court may reject a stipulation if the court determines that the stipulation is a product of coercion or the child support obligation does not meet the needs of the child.

3. As used in this section, “Temporary Assistance for Needy Families” means the program established to provide temporary assistance for needy families pursuant to Title IV of the Social Security Act, 42 U.S.C. §§ 601 et seq., and other provisions of that act relating to temporary assistance for needy families.

Sec. 5. NAC 425.115 is hereby amended to read as follows:

425.115 1. If the parties do not stipulate to a child support obligation pursuant to NAC 425.110, the court must determine the *total* child support obligation in accordance with ~~the~~

~~guidelines set forth in this chapter.~~ *section 1 of this regulation and the sections referenced therein.*

2. If a party has primary physical custody of a child, he or she is deemed to be the obligee and the other party is deemed to be the obligor, and the *total* child support obligation of the obligor must be determined ~~H~~ *pursuant to section 1 of this regulation and the sections referenced therein.*

3. If the parties have joint physical custody of a child, the *total* child support obligation of each party must be determined ~~H~~ *pursuant to section 1 of this regulation and the sections referenced therein.* After each party's respective *total* child support obligation is determined, the *total* child support obligations must be offset so that the party with the higher child support obligation pays the other party the difference.

4. If the parties have two or more children and each party has joint physical custody *or primary physical custody* of at least one, but not all, of the children, the total child support obligation of each party must be determined based on the number of children to whom each party owes a child support obligation. After each party's respective *total* child support obligation is determined, the child support obligations must be offset so that the party with the higher child support obligation pays the other party the difference.

Sec. 6. NAC 425.125 is hereby amended to read as follows:

425.125 1. If after taking evidence, the court determines that an obligor *, including, without limitation, an obligor who foregoes or limits employment to care for the child,* is underemployed or unemployed without good cause, the court may impute income to the obligor.

2. If the court imputes income, the court must take into consideration, to the extent known, the specific circumstances of the obligor, including, without limitation:

- (a) The obligor's:
 - (1) Assets;
 - (2) Residence;
 - (3) Employment and earnings history;
 - (4) Job skills;
 - (5) Educational attainment;
 - (6) Literacy;
 - (7) Age;
 - (8) Health;
 - (9) Criminal record and other employment barriers; and
 - (10) Record of seeking work;
- (b) The local job market;
- (c) The availability of employers willing to hire the obligor;
- (d) The prevailing earnings level in the local community; and
- (e) Any other relevant background factors in the case.

Sec. 7. NAC 425.130 is hereby amended to read as follows:

425.130 ~~The~~ *1. After determining the base child support obligation of an obligor pursuant to NAC 425.140 or 425.145, as applicable, the court must consider the reasonable costs of child care paid by either or both parties and make an equitable division thereof.*

2. Every order issued or modified in this State must include, to the extent applicable:

(a) The amount of the costs of child care required to be paid by the obligor; and

(b) Written findings concerning:

(1) The costs of child care proposed by either or both parties;

- (2) The cost of reasonable alternatives to the child care proposed by either or both parties;*
- (3) The ability of both parties to pay for child care;*
- (4) Whether either party has elected to forego or limit employment in order to care for the child;*
- (5) Whether child care will allow a party to obtain training or education relating to a job, career or profession; and*
- (6) Any other relevant factor.*

Sec. 8. NAC 425.135 is hereby amended to read as follows:

425.135 1. *After determining the base child support obligation of an obligor pursuant to NAC 425.140 or 425.145, as applicable, the court must consider the reasonable medical support paid by either or both parties and make an equitable division thereof.*

2. Every order issued or modified in this State must include a provision specifying:

- (a) That medical support is required to be provided for the child; and
- (b) Any details relating to that requirement.

~~12.1~~ 3. As used in this section, “medical support” includes, without limitation, the payment of a premium for accessible medical, vision or dental coverage under a plan of insurance, including, without limitation, a public plan such as Medicaid or a reduced-fee plan such as the Children’s Health Insurance Program, that is reasonable in cost. For the purpose of this subsection:

- (a) Coverage under a plan of insurance is “accessible” if the plan:
 - (1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

(b) The payment of a premium for coverage under a plan of insurance is “reasonable in cost” if:

(1) The cost:

(I) To each party who is responsible for providing medical support is not more than 5 percent of the monthly gross income of the party; or

(II) Of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the monthly gross income of the party; and

(2) The court assesses the plan of insurance, including the copayments, deductible and maximum out-of-pocket costs, and determines that the plan is reasonable in cost.

Sec. 9. NAC 425.145 is hereby amended to read as follows:

425.145 1. If the court determines that the total economic circumstances of an obligor limit his or her ability to pay a *base* child support obligation in the amount determined pursuant to NAC 425.140, the *base* child support obligation must be established by using a low-income schedule which is based on the current federal poverty guidelines, as determined by the Secretary of Health and Human Services, and which is published annually in the Federal Register.

2. If the monthly gross income of an obligor is below the lowest level set forth in the low-income schedule, the court may establish an appropriate *base* child support obligation based on the total economic circumstances of the obligor, balancing his or her need for self-support with the obligation to support his or her child.

3. The low-income schedule must be published by the Administrative Office of the Courts on or before March 31 of each year.

Sec. 10. NAC 425.150 is hereby amended to read as follows:

425.150 1. Any child support obligation may be adjusted by the court in accordance with the specific needs of the child and the economic circumstances of the parties based upon the following factors and specific findings of fact:

- (a) Any special educational needs of the child;
- (b) The legal responsibility of the parties for the support of others;
- (c) The value of services contributed by either party;
- (d) Any public assistance , *as defined in NRS 422A.065*, paid to support the child;
- (e) The cost of transportation of the child to and from visitation;
- (f) The relative income of both households, so long as the adjustment does not exceed the total obligation of the other party;
- (g) Any other necessary expenses for the benefit of the child; and
- (h) The obligor's ability to pay.

2. The court may include benefits received by a child pursuant to 42 U.S.C. § 402(d) based on a parent's entitlement to federal disability or old-age insurance benefits pursuant to 42 U.S.C. §§ 401 to 433, inclusive, in the parent's gross income and adjust an obligor's child support obligation by subtracting the amount of the child's benefit. In no case may this adjustment require an obligee to reimburse an obligor for any portion of the child's benefit.

Sec. 11. NAC 425.160 is hereby amended to read as follows:

425.160 1. Except as otherwise provided by law, if an order pertains to only one child, the child support obligation terminates *on the first day of the month immediately following the*

month when the child reaches 18 years of age or, if the child is still in high school, *the first day of the month immediately following the month* when the child graduates from high school or reaches 19 years of age, whichever comes first.

2. Except as otherwise provided by law, if an order pertains to more than one child and allocates a specific amount of the total child support obligation to each child, the child support obligation for a particular child is terminated beginning on the first day of the month following the date on which the child reaches 18 years of age or, if the child is still in high school, the first day of the month following the date on which the child graduates from high school or reaches 19 years of age, whichever comes first.

3. If an order pertains to more than one child and does not allocate a specific amount of the total child support obligation to each child:

(a) If a party wishes to modify the order when a child reaches 18 years of age or, if the child is still in high school, graduates from high school or reaches 19 years of age, whichever comes first, the party must file a motion to modify the order with the court or submit a stipulation between the parties to the court.

(b) If a motion to modify the order is filed with the court, any modification of the child support obligation:

(1) Must be in compliance with the child support guidelines in existence at the time of the modification for the remaining children to whom the order pertains; and

(2) Unless the parties agree otherwise in a stipulation, will be effective as of the date the motion to modify the order was filed with the court.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R139-23

1. A clear and concise explanation of the need for the adopted regulation.

Federal law, 42 USC § 667, requires for states to review child support guidelines once every four years to ensure appropriate child support orders are based on the obligated parent's earnings, income and other evidence of ability to pay. Recommendations from a review of the prior guidelines provided data and identified areas of weakness that should be analyzed and updated in Nevada. The Committee to Review Child Support Guidelines (the Committee), established in the 2017 legislative session, was formed to support the Division of Welfare and Supportive Services (DWSS) in conducting this quadrennial review and updating the guidelines as appropriate. The Committee has recommended the following updates to the guidelines used to calculate child support: 1) requires a child support obligation determined by combining the base child support obligation with child care costs, medical support, and certain other adjustments, 2) change of language/wording to distinguish between a total child support obligation and a base child support obligation, 3) requires a court to make certain findings when making an equitable division of the costs of child care, 4) requires a court to make an equitable division of the medical support, 5) clarifying/specifying income that qualifies as part of the gross income of a party, 6) requires the obligee to confirm whether he/she is or is not receiving TANF, 7) requires the court to calculate child support where each party has primary custody of at least one child, 8) upon emancipation, termination of child support shall be on the first day of the month immediately following the month of change.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

A public workshop to solicit public comments on the proposed regulation and a public hearing for the adoption of the regulations were conducted. The workshop was held on Monday, June 10th, 2024. The hearing for the adoption of the regulations was held Friday, September 20th, 2024. The workshop was held in person at the Legislative Counsel Bureau, Grant Sawyer Building, 555 E Washington Ave, Las Vegas, NV 89101. The hearing was held at the Legislative Counsel Bureau, 7230 Amigo Street, Hearing Room 165, Las Vegas, NV 89119. The meetings were also available by teleconference. A copy of the notice and the proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Welfare and Supportive Services
1470 College Parkway
Carson City, NV

Division of Welfare and Supportive Services
1900 East Flamingo Road
Las Vegas, NV

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

Copies of the transcripts of the proceedings are available for review at the offices of the Committee, 1150 East William Street, Carson City, Nevada 89701 and 9075 West Diablo Drive, Suite 250, Las Vegas, Nevada 89148.

<https://dwss.nv.gov/Home/Features/Public-Information/>

3. The number of persons who attended, testified, and/or submitted written comments to the agency:

- Public Workshop held on June 10th, 2024: Eight people were in attendance. One person testified, and no persons submitted written comments.
- Public hearing held on September 20th, 2024: Six people were in attendance. No persons testified, and no persons submitted written comments.

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

(a) Name; (b) Telephone number; (c) Business address; (d) Business telephone number; (e) Electronic mail address; and (f) Name of entity or organization represented.

The following information was collected at the following workshop:

Public Workshop on June 10th, 2024; one person testified.

(a) Kimberly Surratt, (b) 775-636-8200, (c) 3705 Lakeside Dr, Reno, NV 89506, (d) kim@surrattlaw.com, (e) Chair of the Child Support Guideline Committee.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

DWSS reviewed the proposed regulations and compared the regulations to the Nevada Revised Statutes (NRS). The Division also reviewed all forms currently sent to businesses regarding child support. The proposed regulations do not place any new requirement on Nevada businesses. The duty to support a child is owed by a private individual not a business. The proposed regulations address how the child support obligation is calculated and do not alter any other law or regulation specific to gathering income or serving wage withholding documents on businesses acting as employers. The proposed regulations do not impose a direct and significant burden on small businesses nor will they directly restrict the formation, operation, or expansion of small business. Therefore, small business impact statements were not solicited.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The committee proposed a change of the wording listed in NAC 425.115 (3)(4) from, “offset so that the party with the higher child support obligation pays the other party *the difference*” to “offset so that the party with the higher child support obligation pays the other party *half of the*

difference.” Ultimately, DWSS did not accept this proposed change as it would likely lead to higher earners paying less of an obligation percentage of his/her income than the lower earning parent. This would risk the lower income parents needing to come on to, or stay on, the Temporary Assistance for Needy Families (TANF) roles, shifting the burden to the public. As a Public Agency, one of the goals of DWSS is to divert people from the TANF roles, and to help families on those roles become self-sufficient so that they no longer need that assistance. As such, this proposed regulation change was not accepted.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

A) Both adverse and beneficial effects

B) Both immediate and long-term effects.

The proposed regulations do not place any new requirement on Nevada businesses. The duty to support a child is owed by a private individual, not a business. No adverse or beneficial, immediate or long-term effects on any business are anticipated.

The proposed regulations do not place any adverse or beneficial, immediate or long-term effects on the public.

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

The proposed regulations address how the child support obligation is calculated. No additional costs are associated with enforcement of the proposed regulation.

9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

Once adopted the proposed regulations do not overlap or duplicate any other Nevada state regulations.

The proposed regulations comply with existing federal regulations that establish minimum standards for child support guidelines. (45 C.F.R. § 302.56(c)) The regulating federal agency is the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services.

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

N/A.

11. If the 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.

N/A.

SMALL BUSINESS IMPACT STATEMENT

LCB FILE NO. R139-23

PROPOSED CHANGES TO NEVADA ADMINISTRATIVE CODE CHAPTER 425

Pursuant to Nevada Revised Statutes (NRS) 233B.0608(1), the Nevada Division of Welfare and Supportive Services (DWSS) must determine whether the proposed regulations, developed in accordance with Assembly Bill 278, Chapter 371, 79th Session 2017, to establish child support guidelines, are likely to: (a) impose a direct and significant economic burden on small business; or (b) directly restrict the formation, operation, or expansion of a small business. NRS 233B.0382 defines a small business as any business that employs 150 or fewer employees.

BACKGROUND

Title IV of the Social Security Act, Section D (IV-D), oversees the Child Support Enforcement Program, which is assigned under the Division of Welfare and Supportive Services in Nevada. The proposed regulations establish child support guidelines for the calculation of child support and other matters properly relating thereto. The proposed regulations were provided by the Committee to Review Child Support Guidelines, pursuant to Assembly Bill 278, Chapter 371, 79th Session 2017, which created the Committee. The Committee is required to review the child support guidelines established in the State of Nevada and submit recommendations for possible revisions to the Administrator of the Division of Welfare and Supportive Services. The DWSS Administrator is required to review and consider the Committee's recommendations and revise and adopt regulations as deemed appropriate.

The child support guidelines set forth in NRS 125B will be updated upon the Administrator's adoption of the regulations into Chapter 425 of the Nevada Administrative Code.

METHOD

DWSS reviewed and compared the proposed regulations to the sections of NRS 125B which will be updated upon adoption of the regulations. DWSS staff reviewed all forms Nevada's Child Support Enforcement Program uses to correspond with businesses/employers for the purpose of gathering income information and establishing wage withholding.

ANALYSIS

The proposed regulations do not implement any new requirements on Nevada businesses. The duty to support a child is owed by a private individual, not a business. The proposed regulations address how the child support obligation is calculated. The proposed regulations do not alter any other law or regulation specific to gathering income information or serving wage withholding documents on businesses acting as employers. The regulations do not alter the information all employers are mandated to provide under federal law to establish, modify and enforce child support obligations. The regulations also do not alter the federal wage withholding requirements. Additionally, forms specific to wage withholding are federal and will not change based on the proposed regulations.

Section 466 of the Social Security Act (Act) (42 U.S.C. 666) contains the list of specific child support enforcement procedures that each State is required to have in place in order to satisfy the State Plan requirements of section 454 of the Act. (See 42 U.S.C. 666(a)(1) and (b).) Additionally, subsection 454A(g) of the Social Security Act requires the transmission of an income withholding order to the employer within two business days from the date a State Child Support Enforcement agency receives notice of the source of income. In addition, this subsection requires the State Child Support Enforcement agencies to issue an income withholding order using the "uniform formats prescribed by the Secretary." (See 42 U.S.C. 654A(g)(1)(A) and 666 (b)(6)(A)(ii).) The proposed

regulations do not alter these provisions of the Act. The Nevada Revised Statutes related to wage verification and withholding found in NRS 31A and NRS 425 remain unchanged.

DETERMINATION

The proposed regulations do not implement any new requirement on Nevada businesses, and therefore, the proposed regulation will not impose a direct and significant economic burden upon small businesses and will not directly restrict the formation, operation, or expansion of small business.

CERTIFICATION BY PERSON RESPONSIBLE FOR THE AGENCY

I, Robert H. Thompson, Administrator of the Nevada Division of Welfare and Supportive Services, certify to the best of my knowledge or belief, that 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: _____

Date: May 20, 2024

**STATE AGENCY REGULATIONS TO BE REVIEWED
BY THE LEGISLATIVE COMMISSION**

JULY 7, 2025

REGULATIONS SUBMITTED PURSUANT TO NRS 233B.067:		
LCB NO.	NAC	AGENCY/ SUBJECT
2024 REGULATIONS		
R057-24	385B	NEVADA INTERSCHOLASTIC ACTIVITIES ASSOCIATION A REGULATION revising provisions relating to conduct CONTACT Paul Anderson (775) 827-2000 panderson@mcllawfirm.com
R063-24	368A	NEVADA GAMING COMMISSION A REGULATION revising provisions relating to the powers of the Chair of the Nevada Gaming Control Board CONTACT Edward Magaw (702) 527-8601 EMagaw@ag.nv.gov
R068-24	202	DEPARTMENT OF PUBLIC SAFETY A REGULATION revising provisions relating to concealed firearms CONTACT Erica Souza-Llamas (775) 684-6241 esouza@dps.state.nv.us
R073-24	228	DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES A REGULATION revising provisions relating to domestic violence CONTACT Kelli Knutzon (775) 684-5850 kknutzon@health.nv.gov
R077-24	445B	STATE ENVIRONMENTAL COMMISSION A REGULATION revising various provisions relating to air pollution CONTACT Jennifer Schumacher (775) 687-9551 jschumacher@ndep.nv.gov
R104-24	467	NEVADA ATHLETIC COMMISSION A REGULATION revising various provisions relating to unarmed combat CONTACT Edward Magaw (702) 527-8601 EMagaw@ag.nv.gov
R108-24	459/634B/652	STATE BOARD OF HEALTH A REGULATION establishing provisions relating to naprapathy CONTACT Kelli Knutzon (775) 684-5850 kknutzon@health.nv.gov

R109-24	502	BOARD OF WILDLIFE COMMISSIONERS A REGULATION revising provisions relating to electronic tags and junior tag holders CONTACT Alejandra Medina (775) 688-1510 amedina@ndow.org
R112-24	501	BOARD OF WILDLIFE COMMISSIONERS A REGULATION revising provisions relating to conservation projects CONTACT Alejandra Medina (775) 688-1510 amedina@ndow.org
R119-24	445B	STATE ENVIRONMENTAL COMMISSION A REGULATION revising provisions adopted by reference CONTACT Andrew Tucker (775) 687-9340 atucker@ndep.nv.gov
R126-24	459	STATE ENVIRONMENTAL COMMISSION A REGULATION revising various provisions relating to brownfield sites CONTACT Jeff Collins (775) 687-9381 jrcollins@ndep.nv.gov
R130-24	445A	STATE ENVIRONMENTAL COMMISSION A REGULATION revising provisions relating to action levels for contaminated sites CONTACT Jeff Collins (775) 687-9381 jrcollins@ndep.nv.gov
R156-24	694C	COMMISSIONER OF INSURANCE A REGULATION revising provisions relating to captive insurance CONTACT Adam Plain (775) 721-9494 aplain@doi.nv.gov
R157-24	692A	COMMISSIONER OF INSURANCE A REGULATION revising residency requirements for licensure as a title agent or an escrow officer CONTACT Adam Plain (775) 721-9494 aplain@doi.nv.gov
R172-24	284	HUMAN RESOURCES COMMISSION A REGULATION revising provisions relating to leave and breaks in continuous service CONTACT Michelle Garton (775) 220-8122 mgarton@admin.nv.gov
R176-24	548	STATE CONSERVATION COMMISSION A REGULATION establishing provisions relating to grants CONTACT Melany Aten (775) 625-0901 Maten@DCNR.nv.gov

**ADOPTED REGULATION OF THE NEVADA
INTERSCHOLASTIC ACTIVITIES ASSOCIATION**

LCB File No. R057-24

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

AUTHORITY: §§ 1-12, NRS 385B.060.

A REGULATION relating to interscholastic activities; requiring a spectator to comply with certain standards of conduct when he or she attends a sanctioned sport; making certain provisions governing sportsmanship and penalties for unsportsmanlike conduct applicable to spectators; prescribing penalties for verbal abuse, assault or battery of a sports official; establishing a process for the reinstatement of persons who are suspended from participating in or attending a sanctioned sport for verbally abusing or committing assault or battery against a sports official; revising provisions relating to ejections from a sanctioned sport and the penalties relating to such ejections; revising the persons to whom a principal of a school or a designee thereof must provide a report concerning any penalty he or she imposes; requiring a coach, administrator or faculty member of a school who becomes aware of a spectator who engages in unsportsmanlike conduct during a game, contest or meet to report such conduct to certain persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Nevada Interscholastic Activities Association to adopt regulations governing interscholastic events. (NRS 385B.060) Existing regulations generally govern the conduct of pupils, coaches, sports officials and school administrators who participate in or attend a sanctioned sport. (NAC 385B.804-385B.810) **Section 3** of this regulation prescribes rules of conduct for spectators who attend a sanctioned sport.

Existing regulations require a coach, administrator, faculty member or other representative of a school to practice and demonstrate the highest principles of sportsmanship and ethics in all sanctioned sports. Existing regulations also provide that a person who violates such principles is subject to certain penalties. (NAC 385B.800) Existing regulations require each pupil, coach, administrator, faculty member and sports official in all sanctioned sports to comply with certain provisions relating to sportsmanship and ethics. (NAC 385B.802, 385B.812) Existing regulations: (1) require a principal of a school or a designee thereof who becomes aware of a team, pupil, coach, administrator or faculty member of a school violating any provision relating to sportsmanship and ethics to prepare and submit a report to the Executive Director of the Association; and (2) authorize the Executive Director to impose certain penalties relating to such a violation. (NAC 385B.820) Existing regulations prescribe certain procedures governing the ejection of a pupil or coach from a game, contest or meet and certain penalties to be imposed on a pupil or coach who is so ejected. (NAC 385B.822) Existing regulations prohibit a coach,

sports official, administrator, faculty member or pupil from making a defamatory statement to the media or through the use of social media relating to any person, sports official or school involved in a game, contest or meet and prescribe penalties for doing so. (NAC 385B.826) Existing regulations prohibit each coach, administrator or faculty member of a school who is involved in or has responsibility for any sanctioned sport from engaging in certain conduct. (NAC 385B.830) **Sections 5-10 and 12** of this regulation make those provisions additionally applicable to spectators. **Section 8** additionally: (1) authorizes the ejection and suspension for 180 school days of any pupil, coach or spectator who verbally abuses or commits assault or battery against a sports official; and (2) prescribes a procedure for the reinstatement of such a pupil, coach or spectator before the end of that period of 180 school days. **Sections 2, 4 and 9** of this regulation make various changes to prescribe a uniform definition of the term “eject” for the purposes of all regulations governing sanctioned sports. **Section 9** additionally clarifies that certain provisions regarding the removal of a coach from the premises after being ejected from a game, contest or meet apply if the coach is ejected for verbally abusing or committing assault or battery against a sports official.

Existing regulations establish the penalties for a pupil or coach who is ejected from a game, contest or meet for unsportsmanlike conduct. (NAC 385B.822) **Section 9** revises such penalties depending on: (1) the number of games, contests or meets from which a person is ejected; (2) the number of scheduled games, contests or meets in the sanctioned sport for that season; and (3) the timing in the season of the game, contest or meet in which the ejection occurred. If a pupil is ejected from a game, contest or meet, **section 9** requires the pupil’s head coach or the staff of the school responsible for the pupil’s participation to ensure the pupil is escorted away from the area in which the game, contest or meet is being held. **Section 9** also requires a pupil, coach or spectator who is ejected from a game, contest or meet to satisfy certain requirements before again participating in or attending any level of a sanctioned sport. **Section 9** further clarifies that a decision to eject a pupil, coach or spectator from a game, contest or meet is final and may not be appealed.

Existing regulations require the principal of a school or his or her designee, or a sports official, as applicable, to report to the Commissioner of Sports Officials of the Association certain penalties that the principal, designee or sports official imposes on a person relating to a game, contest or meet. (NAC 385B.828) **Section 11** of this regulation expands the list of persons to whom such penalties may be reported to include the designee of the Commissioner and the Association. **Section 12** requires a coach, administrator or faculty member who attends a game, contest or meet and becomes aware of a spectator engaging in unsportsmanlike conduct to report that fact to the Commissioner, his or her designee or the Association.

Section 1. Chapter 385B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Eject” means the permanent removal of a pupil, coach or spectator from a game, contest or meet by a principal of a school or designee thereof, or sports official who is assigned to the game, contest or meet.*

Sec. 3. *Each spectator shall:*

- 1. Comply with the regulations of the Association for each sanctioned sport that he or she attends as a spectator;*
- 2. Cooperate with all persons in the athletic department of the school hosting the game, contest or meet that the spectator is attending;*
- 3. Behave in a manner that reflects favorably on the participating pupils, teams and school community;*
- 4. Exercise patience, tolerance and understanding in relations with participating pupils, coaches, sports officials and other spectators;*
- 5. Comply with the ideals of sportsmanship and good citizenship, including, without limitation, the exercise of cooperation, self-control and respect for discipline and authority while attending a game, contest or meet; and*
- 6. Support any reasonable action taken by a coach, administrator, faculty member, sports official or other spectator that improves the health, safety, welfare and competitive environment for pupils participating in a sanctioned sport.*

Sec. 4. NAC 385B.002 is hereby amended to read as follows:

385B.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 385B.004 to 385B.056, inclusive, section 1 of LCB File No. 139-24 *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 5. NAC 385B.800 is hereby amended to read as follows:

385B.800 1. A pupil who represents a school in any sanctioned sport must be of good moral character as determined by the principal of the school. The pupil shall comply with any standards concerning discipline adopted by the school he or she attends or school district in

which he or she resides and shall not engage in conduct that discredits the pupil or school. As used in this subsection, “conduct that discredits the pupil or school” includes, without limitation:

(a) A violation of any training or disciplinary rules of the school or school district or a team at the school;

(b) The use or possession of:

(1) Any tobacco or alcoholic beverages; or

(2) Any controlled substance, unless in accordance with a lawfully issued prescription for the controlled substance; and

(c) The commission of any act that violates a law or regulation of this State or the Federal Government.

2. A coach, administrator, faculty member , ~~for any~~ other representative of a school *or spectator* shall practice , ~~and~~ demonstrate *and represent* the highest principles of sportsmanship and ethics in all sanctioned sports.

3. A sports official who is assigned to a game, contest or meet shall carry out his or her duties in an impartial manner.

4. Any sports official or any pupil, coach, administrator, faculty member , ~~or~~ other representative of a school *or spectator* who violates any provision of this section is subject to the penalties set forth in NAC 385B.960.

Sec. 6. NAC 385B.802 is hereby amended to read as follows:

385B.802 The provisions of NAC 385B.802 to 385B.812, inclusive, *and section 3 of this regulation* apply to each pupil, coach, administrator, faculty member , *spectator* and sports official who participates in or is assigned to any sanctioned sport.

Sec. 7. NAC 385B.812 is hereby amended to read as follows:

385B.812 1. Each pupil, coach, administrator, faculty member , *spectator* and sports official shall comply with the provisions of NAC 385B.802 to 385B.812, inclusive, *and section 3 of this regulation* during any period in which he or she is assigned to , ~~for~~ participates in *or attends* a sanctioned sport.

2. Any violation of the provisions of NAC 385B.802 to 385B.812, inclusive, *or section 3 of this regulation* may result in the imposition of the penalties set forth in NAC 385B.960.

3. A specific violation set forth in NAC 385B.820 to 385B.826, inclusive, includes the penalties specified in each of those sections.

Sec. 8. NAC 385B.820 is hereby amended to read as follows:

385B.820 1. If a team, pupil, coach, administrator , ~~for~~ faculty member of a school *or spectator* violates any provision of NAC 385B.802 to 385B.812, inclusive, *or section 3 of this regulation*, the principal of the school or a designee thereof shall, within 24 hours after becoming aware of the violation, prepare and submit to the Executive Director a written report concerning the violation. The report must include:

(a) The name of each person who is alleged to have committed the violation and any other person involved in the violation; and

(b) A statement indicating the disciplinary action, if any, the school will impose against the team, pupil, coach, administrator , ~~for~~ faculty member *or spectator* for the violation.

2. As soon as practicable after receiving a written report pursuant to subsection 1, the Executive Director:

(a) Shall review the written report; and

(b) May impose any additional penalty against the team, pupil, coach, administrator , ~~for~~ faculty member *or spectator* in accordance with the provisions of NAC 385B.960.

3. If a team, pupil, coach, administrator, faculty member or spectator who is enrolled at, employed by or affiliated with a school *or is attending a game, contest or meet* commits an act of violence against a sports official who is assigned to a game, contest or meet, the principal of the school or the designee shall prepare and submit to the Executive Director a written report concerning the act of violence within 24 hours after the act is committed.

4. *A pupil, coach or spectator who verbally abuses or commits assault or battery against a sports official assigned to a game, contest or meet is guilty of unsportsmanlike conduct. The principal of the school with which the pupil, coach or spectator is affiliated or the designee thereof may, where the principal determines that such action is reasonably likely to prevent or discourage such conduct:*

(a) Immediately eject the pupil, coach or spectator from the game, contest or meet; and

(b) Suspend the pupil, coach or spectator from participating in or attending any sanctioned sport, at any level, for 180 school days or until the pupil, coach or spectator is reinstated pursuant to subsection 9, whichever occurs first.

5. A written report that is prepared pursuant to subsection 3 must include:

(a) The name of each person who is alleged to have committed the act of violence and any other person involved in the act; and

(b) The disciplinary action the school may take against the person for the act of violence.

~~5.1~~ 6. As soon as practicable after receiving a written report pursuant to subsection 3, the Executive Director:

(a) Shall review the written report; and

(b) May impose a penalty in addition to the disciplinary action ~~if any,~~ taken by the school, including any penalties set forth in NAC 385B.960.

~~{6.}~~ 7. In addition to ~~{imposing a}~~ *any other* penalty *imposed* pursuant to ~~{paragraph (b) of subsection 5.}~~ *this section*, if a pupil *or spectator* uses physical force or an immediate threat of physical force during the commission of an act of violence, the Executive Director may, depending upon the severity of the physical force or the immediate threat of physical force:

(a) Suspend the pupil *or spectator* from participating in *or attending* the sanctioned sport for the remainder of the season; ~~{or}~~

(b) Prohibit the pupil from participating in any sanctioned sport for the remainder of the period in which the pupil is eligible to participate in sanctioned sports ~~{}~~ ; *or*

(c) Prohibit the spectator from attending any sanctioned sport for a period of time as determined by the Executive Director.

8. A pupil, coach or spectator who is suspended in accordance with subsection 4 and wishes to have his or her eligibility to participate in or attend sanctioned sports reinstated before the passage of 180 school days must submit a request to the Executive Director seeking reinstatement in the form prescribed by the Association and, as determined by the Executive Director based on the severity of the verbal abuse, assault or battery:

(a) Satisfy any conditions imposed by the principal of the school with which the pupil, coach or spectator is affiliated relating to the verbal abuse, assault or battery;

(b) Attend a meeting with the Executive Director; or

(c) Comply with the requirements of both paragraphs (a) and (b).

9. The Executive Director may approve a request for reinstatement pursuant to subsection 8 if he or she:

(a) Determines that the pupil, coach or spectator seeking reinstatement has complied with the requirements of subsection 8; and

(b) Has good cause to believe that the pupil, coach or spectator seeking reinstatement is unlikely to commit further acts of violence against a sports official or other pupils, coaches or spectators of sanctioned sports.

10. Not later than 30 days after the scheduled date of a meeting pursuant to paragraph (b) of subsection 8 or, if no such meeting is scheduled, not less than 30 days after receiving a request for reinstatement pursuant to subsection 8, the Executive Director shall notify the requester and the principal of the school with which the pupil, coach or spectator is affiliated in writing of his or her decision to approve or deny the request.

11. A decision made by the Executive Director pursuant to subsection 9 is a final decision and may not be appealed.

~~17.~~ 12. As used in this section ~~the “act”~~:

(a) “Act of violence” means verbal abuse, assault, battery or any other conduct that threatens the safety of a participant, coach, administrator, spectator, employee, volunteer or sports official ~~at~~ at a sanctioned sport, including, without limitation, any unwelcome and intentional touching, hitting or shoving. ~~of the sports official.~~

(b) “Assault” has the meaning ascribed to it in NRS 200.471.

(c) “Battery” has the meaning ascribed to it in NRS 200.481.

(d) “Verbal abuse” means aggressive, offensive or profane language that is directed at a person.

Sec. 9. NAC 385B.822 is hereby amended to read as follows:

385B.822 1. ~~Unsportsmanlike~~ *Except as otherwise provided in NAC 385B.820, unsportsmanlike* conduct which results in the ejection of a pupil , ~~or~~ coach *or spectator* from a game, contest or meet must be treated in the following manner:

(a) If the ejection occurs before the last game, contest or meet of a season ~~§~~ *in a sanctioned sport for which the season consists of 10 or fewer scheduled games, contests or meets*, the pupil, ~~§~~ coach *or spectator* must be removed from the game, contest or meet immediately and may not participate in *or attend* the next scheduled game, contest or meet for that season. ~~§~~

(b) *If the ejection occurs before the second-to-last game, contest or meet of a season in a sanctioned sport for which the season consists of more than 10 scheduled games, contests or meets, the pupil, coach or spectator must be removed immediately from the game, contest or meet and may not participate in or attend the next two scheduled games, contests or meets for that season.*

(c) *If the ejection occurs during the second-to-last game, contest or meet of a season in a sanctioned sport for which the season consists of more than 10 scheduled games, contests or meets, the pupil, coach or spectator must be removed immediately from the game, contest or meet and may not participate in or attend the next scheduled game, contest or meet for that season.*

(d) If the ejection occurs during the last game, contest or meet of a season, the pupil, ~~§~~ coach *or spectator* must be removed from the game, contest or meet immediately and may not participate in *or attend* the first scheduled game, contest or meet for the season for that sanctioned sport that is held immediately after the season in which the ejection occurs. ~~§~~

~~—(e)~~ (e) If the ejection occurs during the last game, contest or meet of a season and the person ejected is a pupil who is enrolled in twelfth grade, the pupil must be removed from the game, contest or meet immediately and may not participate in the first scheduled game, contest or meet of any other season in which he or she participates.

2. Except as otherwise provided in this subsection, if a coach *or spectator* is ejected from or becomes ineligible to participate in *or attend* a game, contest or meet pursuant to this section ~~+~~ *or NAC 385B.820*, the coach *or spectator* shall not remain on the premises during that game, contest or meet or any other game, contest or meet for which the coach *or spectator* is ineligible to participate *or attend* because of the ejection. If ~~the~~ a coach *who is ejected* is the only adult on the premises who is available to supervise his or her team or pupils who are participating in the game, contest or meet, the coach must be allowed to remain on the premises to supervise the team or pupils after the conclusion of the game, contest or meet.

3. If a pupil is ejected from a game, contest or meet, the pupil's head coach *or the staff of the school with which the pupil is affiliated* shall ensure that the pupil is ~~supervised~~ :

(a) *Supervised* for the remainder of the game, contest or meet ~~+~~ ; and

(b) *Escorted away from the premises before the next play.*

4. If a pupil , ~~or~~ coach *or spectator* is ejected from two games, contests or meets during a season, the principal of the school ~~or~~ *with which* the pupil , ~~or~~ coach *or spectator is affiliated* or a designee thereof shall report that fact to the Executive Director ~~+~~ *and prohibit the pupil, coach or spectator from participating in or attending the next two scheduled games, contests or meets for that season.* In addition to any penalty imposed by the Association pursuant to NAC 385B.960, the principal or the designee may impose an additional penalty in accordance with that section.

5. If a pupil , ~~or~~ coach *or spectator* is ejected from three or more games, contests or meets during a season, the pupil , ~~or~~ coach *or spectator* may not participate in ~~the~~ *or attend*:

(a) *Any* sanctioned sport for ~~which the game, contest or meet was held for the remainder of the season.~~ *180 school days; and*

(b) All future sanctioned sports until the Executive Director or designee of the school district authorizes such participation or attendance in accordance with subsection 7.

6. A pupil, coach or spectator who is ejected from a game, contest or meet for unsportsmanlike conduct pursuant to this section may not participate in or attend any level of any sanctioned sport until he or she:

(a) Satisfies all penalties imposed pursuant to this section at the level from which he or she was ejected;

(b) Completes the free “Sportsmanship” course offered through the Learning Center of the National Federation of State High School Associations at the Internet address <http://www.nfhslearn.com>; and

(c) Submits the certificate of completion of the course described in paragraph (b) to an athletic administrator of the school with which the pupil, coach or spectator is affiliated, a designee of the board of trustees of the school district to which that school belongs, if applicable, or a designee of the Association.

7. A pupil, coach or spectator who is ejected from three or more games, contests or meets during a season and wishes to participate in or attend a sanctioned sport after the expiration of the period prescribed by paragraph (a) of subsection 5 must apply to the Executive Director in the form prescribed by the Association. The Executive Director may approve such a request if he or she:

(a) Determines that the pupil, coach or spectator has complied with the requirements of subsection 6; and

(b) Has good cause to believe that the pupil, coach or spectator seeking reinstatement is unlikely to engage in further unsportsmanlike conduct.

8. Each coach of a school must comply with the provisions of this section and shall enforce those provisions against each of his or her assistant coaches and pupils. In addition to any penalty imposed by the Association pursuant to NAC 385B.960, the principal of the school or the designee, or the Executive Director may impose an additional penalty in accordance with that section.

~~{7.}~~ 9. The decision of *the principal of a school, the designee thereof or* a sports official to eject a pupil , ~~{or}~~ coach *or spectator* from a game, contest or meet is a final decision and may not be appealed.

~~{8.}~~ 10. As used in this section ~~{:~~

~~—(a) “Eject” means the permanent removal of a pupil or coach from a game, contest or meet by a sports official who is assigned to the game, contest or meet.~~

~~—(b) “Premises”}~~ , *“premises”* means the area in which a game, contest or meet is conducted, including, without limitation, any area designated for spectators at that game, contest or meet.

Sec. 10. NAC 385B.826 is hereby amended to read as follows:

385B.826 1. A coach, sports official, administrator or faculty member who is involved in, or a pupil *or spectator* who participates in ~~{}~~ *or attends*, a sanctioned sport shall not make a defamatory statement to the media or through the use of any social media relating to any person, sports official or school that is involved in any game, contest or meet.

2. The Association will investigate each alleged violation of this section. If the Association determines that a coach, sports official, administrator, faculty member , ~~{or}~~ pupil *or spectator* specified in subsection 1 has violated this section, the Association will suspend the coach, sports official, administrator, faculty member , ~~{or}~~ pupil *or spectator* from any involvement in the sanctioned sport for at least one game, contest or meet.

3. As used in this section, “social media” means any electronic service or account or electronic content, including, without limitation, any video, photograph, video blog, podcast, instant message, text message, electronic mail program, online service or Internet website profile.

Sec. 11. NAC 385B.828 is hereby amended to read as follows:

385B.828 1. The Executive Director or any principal of a school or a designee thereof, or a sports official who is assigned to a game, contest or meet, may impose any penalty set forth in NAC 385B.820 to 385B.826, inclusive. The penalty may be imposed during a game, contest or meet or after the review of a videotape or written report concerning the conduct for which the penalty is imposed.

2. If a principal of a school or the designee, or a sports official who is assigned to a game, contest or meet, imposes any penalty specified in subsection 1, the principal or the designee or the sports official shall immediately report that fact to the Commissioner ~~††~~, *his or her designee or the Association*. As soon as practicable after receiving the report, the Commissioner, *his or her designee or the Association, as applicable*, shall submit the report to the Executive Director.

3. In addition to imposing a penalty for any conduct specified in subsection 1, the Executive Director may impose an additional penalty for that conduct in accordance with the provisions of NAC 385B.960.

Sec. 12. NAC 385B.830 is hereby amended to read as follows:

385B.830 1. Each coach, administrator, ~~†††~~ faculty member of a school *or spectator* who is involved in, ~~†††~~ has responsibility for *or attends* any sanctioned sport shall not:

(a) Use any tobacco or alcoholic beverages or any controlled substance, unless in accordance with a lawfully issued prescription for the controlled substance, during any period in which he or

she is *attending a game, contest or meet or is* directly supervising a pupil or team during a game, contest or meet or a practice for a game, contest or meet;

(b) Use foul or abusive language or insulting gestures or engage in abusive physical contact with any pupil, sports official or other person who is associated with a game, contest or meet or a practice for a game, contest or meet;

(c) Taunt a sports official, pupil, team, coach or spectator during any game, contest or meet;
or

(d) Engage in conduct that may incite a fight, violence or other unsportsmanlike act.

2. Each coach, administrator or faculty member of a school shall ensure that each pupil enrolled in the school who participates in a game, contest or meet conducts himself or herself in accordance with the rules of sportsmanship.

3. Each coach, administrator or faculty member of a school shall, if a violation of this chapter occurs during a game, contest or meet, prepare a written report concerning the violation. The written report must be submitted to the Executive Director within 24 hours after the coach, administrator or faculty member becomes aware of the violation and must include, without limitation, the name of each person involved in the violation. As soon as practicable after receiving the written report, the Executive Director shall review the report and may impose any appropriate penalty against any person who committed the violation in accordance with the provisions of NAC 385B.960.

4. Each coach, administrator or faculty member of a school who attends a game, contest or meet shall, if the coach, administrator or faculty member becomes aware of a spectator of the school who engages in unsportsmanlike conduct during the game, contest or meet:

(a) *Report that fact to the Commissioner, his or her designee or the Association;*

- (b) Require the spectator to refrain from engaging in the unsportsmanlike conduct; and
- ~~†(b)†~~ (c) Impose any applicable penalty or disciplinary action against the spectator.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE No. R057-24RP1**

The following statement is submitted for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 385B.

1. A clear and concise explanation of the need for the adopted regulation.

This regulation is necessary to address the ever-changing nature of high school athletics governed by the Nevada Interscholastic Activities Association (“NIAA”). This regulation revises provisions governing the conduct and sportsmanship of student athletes, coaches, and administrators during NIAA sanctioned events. It also adds spectators to the regulation thereby allowing the NIAA to take enforcement action against spectators who engage in inappropriate conduct during NIAA sanctioned events.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation and notice of intent to act upon the regulation and amended notice of intent to act upon the regulation were sent by U.S. mail and by email to persons who were known to have an interest in the subject of the governance of high school athletics in the State of Nevada, including all member schools of the NIAA, and to all persons who had specifically requested such notice. These documents were also made available at the website of the NIAA’s office, www.niaa.com, as well as <http://notice.nv.gov>; and were mailed to all county libraries in Nevada and posted at the following locations:

Nevada Interscholastic
Activities Association
1188 Victorian Plaza Circle
Sparks, NV 89431

Washoe County School District
425 East Ninth Street
Reno, NV 89520

Clark County School District
5100 West Sahara Avenue
Las Vegas, NV 89143

Carson City School District
1140 West King Street
Carson City, NV 89703

Elko County School District
850 Elm Street
Elko, NV 89801

This regulation was initially reviewed by the NIAA Board of Control on June 14, 2023, at its summer Board Meeting. On or about May 25, 2023, the Executive Director issued a Notice of Intent to Act Upon a Regulation pursuant to NRS 233B.0603, which incorporated

in the proposed amendments all discussions held at the above-described Board of Control meeting, as well as comments from LCB staff attorneys. That Notice is attached as Exhibit “1.” This regulation was again reviewed by the NIAA Board of Control at a workshop and board meeting held on September 27 and 28, 2024, respectively, which included the opportunity for public comment concerning the proposed amendment. The regulation was resubmitted to the LCB with revisions, and thereafter returned to the NIAA where it was approved at the NIAA Board of Control meeting held on April 1 and 2, 2025.

- 3. The number of persons who:**
 - (a) Attended each hearing: 0**
 - (b) Testified at each hearing: 0**
 - (c) Submitted to the agency written comments: 0**
- 4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information is provided to the agency conducting the hearing:**
 - (a) Name;**
 - (b) Telephone number;**
 - (c) Business address;**
 - (d) Business telephone number;**
 - (e) Electronic mail address; and**
 - (f) Name of entity or organization represented.**

There was no testimony provided by any of the persons in attendance at this meeting and, therefore, no information to provide in response hereto.

- 5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

No businesses are affected by these regulations. Comments were solicited from member schools of the NIAA and other persons having an interest in the governance of interscholastic high school activities in the state, as well as members of the public. The summary of those comments is included in response to question No. 1, above.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was finally adopted on April 1, 2025, without changing any part of the proposed regulation following revisions made at the September 27 and 28, 2024, NIAA Board of Control meeting, because no request for any changes were made at the workshop or hearing.

- 7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

(a) Both adverse and beneficial effects:

This regulation will have no economic effect, beneficial or adverse, with respect to any business or the public.

(b) Both immediate and long-term effects:

This regulation will have no economic effect, immediate or long-term, with respect to any business or the public.

8. The estimated cost to the agency for enforcement of the adopted regulation.

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

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

N/A

11. If the 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.

N/A

12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use to determine the impact of the regulation on a small business?

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As stated above, there are no economic effects with respect to the amendments on any business in the State of Nevada. These amendments apply to the governance of high school athletics and activities in the State of Nevada and generally do no impact private business.

Dated this _____ day of April, 2025.

NEVADA INTERSCHOLASTIC
ACTIVITIES ASSOCIATION

By: _____

Paul J. Anderson, Esq.
Maupin, Cox & LeGoy
4785 Caughlin Parkway
Reno, NV 89519
775-827-2000 (telephone)
775-827-2185 (facsimile)
panderson@mcllawfirm.com (Email)
Legal Counsel

**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY
NRS 233B.0608
LCB FILE No. R057-24RP1**

The following statement is submitted in accordance with NRS 233B.0608:

- 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.**

The regulation in question does not affect small business, or business of any kind, in the State of Nevada, or elsewhere. This regulation as well as all regulations pertaining to the Nevada Interscholastic Activities Association ("NIAA"), exist solely to govern high school athletics in the State of Nevada. As such, private business simply is not affected.

- 2. The manner in which the analysis was conducted.**

N/A. See response to number one, above.

- 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 affects; and**
- (b) both direct and indirect effects.**

There is no economic effect on small business based upon the proposed regulation. See response to number one, above.

- 4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small business and a statement regarding whether the agency actually used any of those methods.**

N/A. See response to number one, above.

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

None.

- 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.**

This regulation will not affect any small businesses, and will not result in the generation of a new fee or an increase in any existing fees of the NIAA.

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.

N/A.

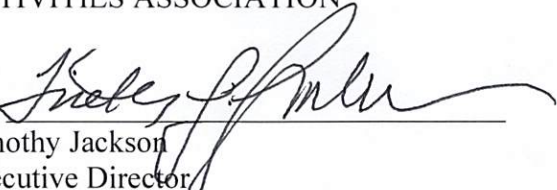
8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

N/A. See response to number one, above.

This is to certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small businesses and that the information contained in this statement is accurate.

Dated this 21 day of April, 2025.

NEVADA INTERSCHOLASTIC
ACTIVITIES ASSOCIATION

By: 

Timothy Jackson
Executive Director
1188 Victorian Plaza Circle
Sparks, Nevada 89431
tjacksonf@niaa.com

**ADOPTED REGULATION OF THE
NEVADA GAMING COMMISSION**

LCB File No. R063-24

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

AUTHORITY: § 1, NRS 368A.140.

A REGULATION relating to taxation; eliminating certain requirements relating to the internal control procedures of a taxpayer who provides live entertainment at a gaming establishment; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Nevada Gaming Control Board to collect the tax imposed on live entertainment from taxpayers who are licensed gaming establishments. Existing law further requires the Nevada Gaming Commission to adopt regulations that are necessary to carry out the provisions relating to the collection of that tax. (NRS 368A.140)

Existing regulations require a taxpayer identified as a group I licensee to: (1) include in its system of internal control a description of the procedures adopted by the licensee to comply with the provisions relating to the live entertainment tax; and (2) comply with its system of internal control and with any minimum standards for internal control adopted by the Chair of the Board. To determine compliance with the requirements for entertainment, existing regulations require a group I licensee to: (1) direct its independent accountant to perform certain tasks and to prepare a report for submission the Board; and (2) have its internal auditor perform certain tasks and submit to the Board certain reports that summarize instances of noncompliance. (NAC 368A.510; Nev. Gaming Comm’n Regs § 6.090) This regulation eliminates such requirements.

Section 1. NAC 368A.510 is hereby amended to read as follows:

368A.510 1. Each:

(a) Group I licensee that provides live entertainment shall ~~h~~:

~~——(1) Include in its system of internal control, submitted pursuant to Regulation 6.090 of the Nevada Gaming Commission, a description of the procedures adopted by the licensee to comply with NAC 368A.300 to 368A.540, inclusive; and~~

~~— (2) Comply~~ **comply** with ~~that system of internal control and~~ any minimum standards for internal control for entertainment adopted by the Chair pursuant to Regulation 6.090 of the Nevada Gaming Commission.

(b) Group II licensee that provides live entertainment and each taxpayer that holds a restricted license shall comply with any procedures for internal control for entertainment adopted by the Chair pursuant to Regulation 6.100 of the Nevada Gaming Commission.

↪ Except as otherwise approved in writing by the Chair, a taxpayer shall not carry out any procedures for internal control that deviate from any standards or procedures for internal control for entertainment adopted and published by the Chair.

2. ~~Each group I licensee that provides live entertainment shall direct its independent accountant to perform observations, examinations of documents and inquiries of employees, using any applicable guidelines, checklists and other criteria established by the Chair, to determine compliance with the requirements for entertainment. The independent accountant shall report his or her findings as part of the report required by subsection 9 of Regulation 6.090 of the Nevada Gaming Commission.~~

~~— 3. The internal auditor of each group I licensee that provides live entertainment shall:~~

~~— (a) Using any applicable guidelines, checklists and other criteria established by the Chair, perform observations, examinations of documents and inquiries of employees to determine compliance with the requirements for entertainment.~~

~~— (b) Submit to the Board within 120 days after the last day of the first 6 months of the business year of the licensee a report by the internal auditor summarizing all instances of noncompliance with the requirements for entertainment during the first 6 months of the business year of the licensee and any applicable responses by the management of the licensee, including~~

~~any work required to be performed during the reporting period and any additional procedures that were performed.~~

~~—(c) Submit to the Board within 150 days after the end of the business year of the licensee a report by the internal auditor summarizing all instances of noncompliance with the requirements for entertainment during the final 6 months of the business year of the licensee and any applicable responses by the management of the licensee, including any work required to be performed during the reporting period and any additional procedures that were performed.~~

~~—4.} As used in this section {~~

~~—(a) “Group}, “group~~ I licensee” and “group II licensee” have the meanings ascribed to those terms in Regulation 6.010 of the Nevada Gaming Commission.

~~{(b) “Requirements for entertainment” means the provisions of chapter 368A of NRS, NAC 368A.300 to 368A.540, inclusive, and any minimum standards for internal control for entertainment adopted by the Chair.}~~



JOE LOMBARDO
Governor

NICOLE RUPERT
Executive Secretary

NEVADA GAMING COMMISSION

1919 College Parkway, P.O. Box 8003
Carson City, Nevada 89702
(775) 684-7750

HON. JENNIFER TOGLIATTI (RET.), *Chair*
ROSA SOLIS-RAINEY, *Member*
HON. BRIAN KROLICKI (RET.), *Member*
GEORGE M. MARKANTONIS, *Member*
JUSTICE ABBI SILVER (RET.), *Member*

March 28, 2025

INFORMATIONAL STATEMENT REGARDING LCB FILE NO. R063-24 (NRS 233B.066)

Pursuant to NRS 233B.066, the Nevada Gaming Commission (“Commission”) hereby submits the following Information Statement regarding its proposed regulation identified as LCB File No. R063-24:

a. A clear and concise explanation of the need for the adopted regulation.

The need and purpose of the proposed permanent regulations outlined in LCB File No. R063-24 is to remove certain requirements imposed on live entertainment taxpayers who operate licensed gaming establishments—requirements not imposed on live entertainment taxpayers who are not licensed gaming establishments. These proposed permanent regulations would help align the requirements imposed on the two categories of taxpayers covered in Chapter 368A of *Nevada Revised Statutes* (NRS). The Commission’s proposed permanent regulations do the following to accomplish the above-stated purpose: (1) remove the provision requiring a group I gaming licensee that provides live entertainment to include in its system of internal control a description of the procedures adopted by the licensee to comply with NAC 368A.300 to 368A.540; (2) remove the provision requiring a group I gaming licensee that provides live entertainment to direct its independent accountant to perform certain actions and report the finding resulting therefrom to the Nevada Gaming Control Board; (3) remove the provision requiring the internal auditor of a group I gaming licensee to perform certain acts and report the findings therefrom to the Nevada Gaming Control Board (“Board”); and (4) provide other matters properly relating thereto.

b. A description of how public comment was solicited, a summary of the public response, and an explanation of how other interested persons may obtain a copy of the summary.

On January 16, 2024, the Board posted a 15-day Notice of Workshop to Solicit Public Comment Regarding the Possible Adoption, Amendment, or Repeal of Regulations Pertaining to Chapter 368A of the Nevada Administrative Code (“NAC”). Along with this notice, the Board posted a copy of LCB File No. R063-24. The notice was emailed to all entities and individuals who had requested such service. This included all entities and individuals who held gaming licenses on that date.

Prior to the workshop scheduled for February 7, 2024, members of the public were permitted to submit written comments to the Board regarding LCB File No. R063-24. Further, during the workshop

on LCB File No. R063-24, held on February 7, 2024, attendees were given the opportunity to orally comment on the proposed amendments. The Board received no written comments, and no oral comments were given made the workshop.

On February 16, 2024, the Commission posted a 30-day Notice of Hearing before the Commission to refer the draft of LCB File No. R063-24 recommended by the Board to the Legislative Counsel Bureau (“LCB”) for review. Along with this notice, the Commission posted a copy of LCB File No. R063-24. The notice was emailed to all entities and individuals who had requested such service. This included all entities and individuals who held gaming licenses on that date.

Prior to the March 21, 2024, hearing before the Commission, members of the public were permitted to submit written comments to the Commission regarding LCB File No. R063-24. Further, during the hearing on LCB File No. R063-24, held on March 21, 2024, attendees were given the opportunity to orally comment on the proposed amendments. The Commission received no written comments, and no oral comments were made during the workshop.

On October 23, 2024, the Commission posted a 30-day Notice of Hearing for the Adoption, Amendment, and Repeal of Permanent Regulations of the Nevada Gaming Commission Relating to the Administration of the Live Entertainment Tax (LCB File No. R063-24). Along with this notice, the Board posted a copy of LCB File No. R063-24. The notice was emailed to all entities and individuals who had requested such service. This included all entities and individuals who held gaming licenses on that date.

Prior to the public hearing scheduled for December 19, 2024, members of the public were permitted to submit written comments to the Commission regarding LCB File No. R063-24. Further, during the public hearing of LCB File No. R063-24, held on December 19, 2024, attendees were given the opportunity to orally comment on the proposed amendments. The Commission received no written comments, and no oral comments were given during the public hearing.

c. The Board and Commission recorded the following data regarding public participation in the public workshop and public hearing on the proposed permanent regulation:

1. Persons who attended the public workshop held on February 7, 2024: 4
2. Persons who testified at the public workshop held on February 7, 2024: 0
3. Persons who attended the public hearing held on March 21, 2024: 0
4. Persons who testified at the public hearing held on March 21, 2024: 0
5. Persons who attended the public hearing and adoption hearing held on December 19, 2024: 1
6. Persons who testified at the public hearing and adoption hearing held on December 19, 2024: 0

7. Persons who submitted written statements to the Board or Commission regarding the proposed permanent regulation: 0

d. For each person identified in subsections (2), (4), and (5) of section c above, the following information was obtained by the Commission:

No persons testified at the above referenced workshop or hearings and no written statements were submitted to the Board or Commission regarding the proposed permanent regulation.

e. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested parties may obtain a copy of the summary.

Affected businesses and interested parties were provided with the same notices and information described section (b) above. Each of those notices provided instructions on how to submit written comments to the proposed amendments. Further, at the workshop and each of the hearings on the proposed amendments, members of the public, including those representing affected businesses, were afforded the opportunity to make oral comments. The Board and Commission received no written comments, and no oral comments were provided.

Given that there were no written or oral comments made in relation to the proposed amendments set forth in LCB File No. R063-34, there is no summary to provide to other interested parties.

f. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

No persons testified at the workshop or hearings and no written statements were submitted to the Board or Commission regarding the proposed permanent regulation. Thus, there were no reasons to change to the proposed regulation.

g. The estimated economic effect of the regulation on the businesses that it is to regulate and on the public as required by NRS 233B.066(1)(g).

Business:

There are no anticipated adverse effects of the regulation on the businesses that it is to regulate.

The anticipated beneficial effect of the regulation on the businesses that it is to regulate is a reduction of the costs associated with having to engage internal and external auditors to perform certain procedures and to prepare and file certain reports with the Board. The proposed regulation will reduce the costs associated with complying with the statutes and regulations relating to the Live Entertainment Tax.

Public:

There is no anticipated adverse effect for the public.

There is no anticipated beneficial effect for the public.

- h. The estimated cost to the agency for enforcement of the proposed regulation as required by NRS 233B.066(1)(h).**

There are no expected costs to the Board or the Commission relating to the enforcement of the proposed regulation.

- i. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, name the regulating federal agency. This is required by NRS 233B.066(1)(i).**

None known.

- j. If the regulation included provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions as required by NRS 233b.066(1)(j).**

None known.

- k. If the regulation provides a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used as required by NRS 233b.066(1)(k).**

Not applicable. The regulation does not provide a new fee or increase an existing fee.



JOE LOMBARDO
Governor

NEVADA GAMING CONTROL BOARD

1919 College Parkway, Suite 110, P.O. Box 8003, Carson City, Nevada 89702
7 State of Nevada Way, Las Vegas, Nevada 89119
3650 S. Pointe Circle, Suite 203, P.O. Box 31109, Laughlin, Nevada 89028
557 W. Silver Street, Suite 207, Elko, Nevada 89801
9670 Gateway Drive, Reno, Nevada 89521

KIRK D. HENDRICK, *Chairman*
HON. GEORGE ASSAD (RET.), *Member*
CHANDENI K. SENDALL, *Member*

March 28, 2025

SMALL BUSINESS IMPACT STATEMENT

REGARDING LCB FILE NO. R063-24

(NRS 233B.0608)

I, Kirk D. Hendrick, being the duly appointed Chair¹ of the Nevada Gaming Control Board (“Board”), do hereby certify that, to the best of my knowledge or belief, the proposed permanent regulation, Legislative Counsel Bureau (“LCB”) File No. R063-24, will not: (a) impose a direct or significant economic burden upon small businesses; or (b) directly restrict the formation, operation, or expansion of small businesses.

I hereby further certify, to the best of my knowledge or belief, a concerted effort was made by the Board pursuant to NRS 233B.0608 to determine the impact of the proposed permanent regulation, LCB File No. R063-24, on small businesses. The following details those efforts:

- a. 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 parties may obtain a copy of the summary.**

On January 16, 2024, the Nevada Gaming Control Board (“Board”) posted a 15-day “Notice of Workshop” to solicit public comment regarding the proposed amendments to Chapter 368A of the Nevada Administrative Code (“NAC”) presented in LCB File No. R063-24. Along with this notice, the Board posted a copy of LCB File No. R063-24. The notice was sent to all licensed gaming establishments and operations located within the State of Nevada, including those that qualified as small businesses under chapter 233B of NAC.

¹ Pursuant to NRS 463.040(4), the Chair of the Board is the Executive Director thereof.

Prior to the workshop scheduled for February 7, 2024, members of the public were permitted to submit written comments to the Board regarding LCB File No. R063-24. Further, during the workshop, attendees were given the opportunity to orally comment on the proposed amendments. The Board received no written comments, and no oral comments were made during the workshop.

On February 16, 2024, the Nevada Gaming Commission (“Commission”) posted a 30-day “Notice of Hearing” to refer the draft of LCB File No. R063-24, as recommended by the Board, to the LCB for review. Along with this notice, the Commission posted a copy of LCB File No. R063-24. The notice was sent to all licensed gaming establishments and operations located within the State of Nevada, including those that qualified as small businesses under chapter 233B of NAC.

Prior to the hearing before the Commission, which was scheduled for March 21, 2024, members of the public were permitted to submit written comments to the Commission regarding LCB File No. R063-24. Further, during the hearing, attendees were given the opportunity to orally comment on the proposed amendments. The Commission received no written comments, and no oral comments were made during the hearing.

On October 23, 2024, the Commission posted a 30-day “Notice of Hearing for the Adoption, Amendment, and Repeal of Permanent Regulations of the Nevada Gaming Commission Relating to the Administration of the Live Entertainment Tax (LCB File No. R063-24).” Along with this notice, the Board posted a copy of LCB File No. R063-24. The notice was sent to all licensed gaming establishments and operations located within the State of Nevada, including those that qualified as small businesses under chapter 233B of NAC.

Prior to the public hearing scheduled for December 19, 2024, members of the public were permitted to submit written comments to the Commission regarding LCB File No. R063-24. Further, during the public hearing, attendees were given the opportunity to orally comment on the proposed

amendments. The Commission received no written comments, and no oral comments were made during the public hearing.

b. The manner in which the analysis was conducted.

Analysis of the regulation's potential impact on small businesses was conducted by the Board's Audit Division under the direction of Division Chief Thomasina Fremont. The Audit Division reviewed the substance of the amendment and determined that each of the changes would reduce the requirements placed on all gaming licensees to comply with the Live Entertainment Tax regulations. The first change is the elimination of the requirement that group 1 licensees include procedures relating to the Live Entertainment Tax in their system of internal control. The second change is the elimination of the requirement that group 1 licensees engage their external accountants to perform certain tasks relating to the Live Entertainment Tax and report their findings to the Board. The third change is the elimination of the requirement that group 1 licensees have their internal auditors perform certain tasks relating to the Live Entertainment Tax and report certain findings to the Board. Based on its review, the Audit Division concluded the changes would reduce compliance costs for group 1 gaming licensees, including those that qualify as small businesses under chapter 233B of NAC.

Because the above-described changes would have a positive impact, and because no written or oral public comments were received, it was determined that the amendments in LCB File No. R063-24 would not: (a) impose a direct or significant economic burden upon small businesses; or (b) directly restrict the formation, operation, or expansion of small businesses.

c. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation: (1) both adverse and beneficial effects; and (2) both direct and indirect effects.

Based on the above-described review by the Board's Audit Division, as well as the lack of public comment opposing the changes, it was concluded that:

1. The proposed regulation amendments to NAC 368A will not impose adverse economic effects upon small businesses, but rather will have a beneficial effect in reducing compliance costs; and
2. The proposed amendments to NAC 368A will not directly or indirectly restrict the formation, operation, or expansion of small businesses.

d. 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.

As the Board determined that the proposed regulation will not have a negative economic impact on small businesses, it did not consider or use any methods that may reduce the impact of the proposed regulation.

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

The Board does not anticipate that the enforcement of the proposed regulation will cause any increase in the costs of regulating the Live Entertainment Tax. On the contrary, the Board anticipates the proposed regulation will actually reduce the Board's costs in regulating the tax.

f. 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.

The proposed regulation does not provide a new fee or an increase to an existing fee.

g. 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.

The proposed regulation does not include provisions that duplicate or are more stringent than federal, state, or local standards regulating the same activity. In fact, the intent of the proposed regulation is to standardize state regulations governing the Live Entertainment Tax, which is administered by both the Board and the Nevada Department of Taxation.

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

The Board has concluded that the regulation will not have an adverse effect on small businesses based on the Audit Division's review of the substance of the regulation changes and the lack of any public comment, written or oral.

I hereby certify, to the best of my knowledge or belief, that the information contained in this Small Business Impact Statement is accurate and complete.


Kirk D. Hendrick
Chair, Nevada Gaming Control Board

**ADOPTED REGULATION OF THE
DEPARTMENT OF PUBLIC SAFETY**

LCB File No. R068-24

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

AUTHORITY: §§ 1-3, NRS 202.369.

A REGULATION relating to concealed firearms; revising the application forms for the issuance or renewal of a permit to carry a concealed firearm; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth the requirements for a person to obtain and renew a permit to carry a concealed firearm. (NRS 202.3657-202.3677) Existing law further provides that an application for a permit to carry a concealed firearm or the renewal of such a permit be on a form prescribed by regulation of the Department of Public Safety. (NRS 202.3657, 202.3677) Existing regulations set forth separate application forms for an application for a permit to carry a concealed firearm and an application for the renewal of such a permit. (NAC 202.020, 202.030) **Section 2** of this regulation combines the applications into a single application form. **Section 3** of this regulation makes conforming changes to repeal the: (1) separate application form for the renewal of a permit to carry a concealed firearm; and (2) authority for a sheriff to combine the applications into a single application form. (NAC 202.030, 202.040) **Section 1** of this regulation makes a conforming change to eliminate an internal reference to a section of the Nevada Administrative Code that is repealed in **section 3**.

Section 2 revises the application form for a permit to carry a concealed firearm and for the renewal of such a permit to conform to existing law. (NRS 202.3657, 202.366, 202.3677) Specifically, **section 2** eliminates obsolete language relating to: (1) the limit on the number of firearms to which a permit to carry a concealed firearm applies; (2) carrying a concealed firearm in certain buildings; (3) the expiration of a permit to carry a concealed firearm; and (4) the provision of information concerning each firearm to which the application pertains. **Section 2** further revises the application form to require the sheriff conducting an investigation of an applicant for the issuance or renewal of a permit to determine if the applicant meets the applicable requirements of existing law. (NRS 202.366, 202.3677)

Federal law prohibits possession of a firearm or ammunition by a person who has been discharged from the Armed Services under dishonorable conditions. (18 U.S.C. § 922(g)(6)) Existing state law prohibits a person from obtaining or renewing a permit to carry a concealed firearm if the person: (1) is currently subject to an emergency or extended order for protection against high-risk behavior; (2) has made a false statement on any application for a permit or for

the renewal of a permit; or (3) has been discharged or released from service in the Armed Forces of the United States, a reserve component thereof or the National Guard under conditions other than honorable and is less than 21 years of age. (NRS 202.3657, 202.3677) **Section 2** revises the questions set forth on the combined application for a permit or renewal of a permit to include questions relating to these prohibitions so that the application requirements are consistent with federal law and the Nevada Revised Statutes.

Existing law requires that an applicant for a permit to carry a concealed firearm or the renewal of such a permit be qualified to possess a firearm under state and federal law. (NRS 202.3657, 202.3677) Federal law prohibits possession of a firearm or ammunition by a person who is an unlawful user of or addicted to any controlled substance, including cannabis. (18 U.S.C. § 922(g)(3)) **Section 2** adds to the list of questions an applicant must answer in the combined application form for a permit or renewal of a permit to carry a concealed firearm whether the applicant has consumed cannabis in the year immediately preceding the date of the application.

Section. 1. NAC 202.010 is hereby amended to read as follows:

202.010 As used in NAC ~~{202.010 to 202.040, inclusive,}~~ 202.020, unless the context otherwise requires:

1. “Concealed firearm” has the meaning ascribed to it in subsection 1 of NRS 202.3653.
2. “Permit” has the meaning ascribed to it in subsection ~~{3}~~ 4 of NRS 202.3653.

Sec. 2. NAC 202.020 is hereby amended to read as follows:

202.020 1. In addition to the requirements of subsection 2, the application form for *the issuance or renewal of* a permit to carry a concealed firearm must contain the following sections, which must be in substantially the following form:

GENERAL INFORMATION

The sheriff shall issue or renew a permit to carry a concealed firearm ~~{for no more than two specific firearms}~~ to any person who is qualified to possess a firearm under state and federal law.

A permittee shall carry the permit together with proper identification whenever ~~he or she~~ *the permittee* is in actual possession of a concealed firearm. Both the permit and proper identification must be presented to a peace officer upon request.

~~{Except as otherwise provided in NRS 202.265 and subsections 2 and 3 of NRS 202.3673, a permittee shall not carry a concealed firearm into:~~

- ~~—— 1. Any facility of a law enforcement agency;~~
- ~~—— 2. A prison, county or city jail or detention facility;~~
- ~~—— 3. A courthouse or courtroom;~~
- ~~—— 4. Any facility of a public or private school;~~
- ~~—— 5. Any facility of a vocational or technical school, or of the Nevada System of Higher Education;~~
- ~~—— 6. Any other building owned or occupied by the Federal Government, the State or a local government; or~~
- ~~—— 7. Any other place in which the carrying of a concealed firearm is prohibited by state or federal law.}~~

Unless suspended or revoked by the sheriff, a permit expires ~~{on the fifth anniversary of the permittee's birthday, measured from the birthday nearest}~~ *5 years after* the date ~~{of issuance or renewal. If the date of birth of a permittee is on February 29 in a leap year, for the purposes of NRS 202.3653 to 202.369, inclusive, his or her date of birth shall be deemed to be on February 28.}~~ *on which the permit was issued or renewed.*

A permittee shall notify the sheriff who issued the permit, in writing, within 30 days if ~~{his or her}~~ *the permittee's* permanent address changes or if the permit is lost, stolen or destroyed.

~~{ELIGIBILITY}~~

The sheriff shall conduct an investigation of an applicant ~~[-, including a check of the applicant's fingerprints,]~~ *pursuant to NRS 202.366* to determine if the ~~[person]~~ *applicant* is eligible for a permit ~~[-~~

~~—— Except as otherwise provided in]~~ pursuant to NRS 202.3657 ~~[-, a person is eligible to carry a concealed firearm if he or she:~~

~~—— 1. Is a resident of the State of Nevada and of the county in which the permit is sought;~~

~~—— 2. Is 21 years of age or older;~~

~~—— 3. Is not prohibited from possessing a firearm pursuant to NRS 202.360; and~~

~~—— 4. Demonstrates competence with a firearm by presenting a certificate or other documentation which shows that the applicant has successfully completed a course approved by the sheriff, or successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety. Any such course must include instruction in the use of each firearm to which the application pertains and in the laws of the State of Nevada relating to the proper use of a firearm.~~

~~—— The sheriff shall deny an application or revoke a permit to carry a concealed firearm if the sheriff determines that the applicant or permittee:~~

~~—— 1. Has an outstanding warrant for his or her arrest.~~

~~—— 2. Has been judicially declared incompetent or insane.~~

~~3. Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.~~

~~4. Has been habitually using intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. Such use is presumed if, during the immediately preceding 5 years, the applicant or permittee has been convicted of driving under the influence of intoxicating liquor or a controlled substance pursuant to NRS 484C.110, or has been ordered by a court to enter a program for treatment of drug or alcohol abuse pursuant to NRS 458.290 to 458.350, inclusive.~~

~~5. Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this State or any other state, territory or possession of the United States at any time during the immediately preceding 3 years.~~

~~6. Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.~~

~~7. Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.~~

~~8. Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.~~

~~9. Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or any other state or territory or possession of the United States, as a condition to the court's withholding the entry of judgment for a conviction of a felony or the court's suspending a sentence for the conviction of a felony.~~

~~10. Has made a false statement on any application for a permit or for the renewal of a permit.~~

~~The sheriff may deny an application or revoke a permit if he or she receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 of NRS 202.3657 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to NRS 202.3657.~~

~~If an application for a permit is denied by the sheriff, the sheriff shall send the applicant written notification setting forth the reasons for the denial. The applicant may seek judicial review of the denial by filing a petition in the district court for the county in which the applicant resides.]~~ *or the renewal of a permit pursuant to NRS 202.3677, as applicable.*

INFORMATION REGARDING THE APPLICANT

Last name

First name Middle initial

Any alias used or former name

Current resident address

City Zip

Any previous addresses for the past 5 years,

Address

City Zip

From To

Address

City

From To

Address

City Zip

From To

If different from resident address,

Mailing address

City Zip

Residence telephone number

Date of birth Place of birth

Citizenship Social security number

Race Sex Height

Weight Hair color Eye color

Driver's license number or identification card number and issuing state

Occupation

Employer's name

Employer's address

City Zip

Employer's telephone number

~~{Provide the following information concerning each firearm to which the application
pertains:~~

~~Make~~

~~Model~~

~~Caliber~~

~~Make~~

~~Model~~

~~Caliber }~~

The following questions are to be answered either “yes” or “no”:

1. Are there currently any outstanding warrants for your arrest?
2. Have you been judicially declared incompetent or insane?
3. During the 5 years immediately preceding the date of this application, have you
been voluntarily or involuntarily committed to a mental health facility?
4. During the 5 years immediately preceding the date of this application, have you
been convicted of driving under the influence of alcohol or a controlled substance?
5. During the 5 years immediately preceding the date of this application, has a
court ordered you to enter a program for the treatment of alcohol or drug abuse?
6. During the 3 years immediately preceding the date of this application, have you
been charged with or convicted of a crime involving the use or threatened use of force or
violence?

7. Have you ever been convicted of a felony?
8. Have you ever been convicted of a crime involving domestic violence or stalking?
9. Are you currently subject to a restraining order, injunction or other order for protection against domestic violence?.....
10. *Are you currently subject to an emergency or extended order for protection against high-risk behavior?*
11. Are you currently on parole or probation?
- ~~11.~~ 12. During the 5 years immediately preceding the date of this application, have you been subject to any requirements imposed by a court as a condition to the court's withholding the entry of judgment or suspension of a sentence for conviction of a felony?...
13. *Have you ever made a false statement on any application for the issuance or renewal of a permit to carry a concealed firearm?*
14. *Have you ever been discharged or released from service in the Armed Forces, including, without limitation, the Armed Forces of the United States, a reserve component thereof or the National Guard, under conditions other than honorable conditions?*
15. *During the year immediately preceding the date of this application, have you consumed cannabis?*

If you answered "yes" to any of the above questions, attach to your application a written statement explaining in detail the circumstances of the incident.

CERTIFICATION

I declare under penalty of perjury that the foregoing application is true and correct.

Executed on

(date)

(signature)

Subscribed and sworn to before me this(day) of(month) of(year)

.....

Notary Public or Employee of the Sheriff

2. The application form for *the issuance or renewal of* a permit to carry a concealed firearm must contain a section entitled “INSTRUCTIONS” that advises the applicant:

- (a) As to the nonrefundable fees that must be submitted;
- (b) As to the method by which payment of fees must be made;
- (c) That a complete set of ~~his or her~~ *the applicant’s* fingerprints taken by the sheriff or an agent thereof must accompany the application ~~for~~ *for the issuance or renewal of a permit to carry a concealed firearm;*
- (d) That a front-view colored photograph of the applicant taken by the sheriff or the agent must accompany ~~his or her~~ *the* application ~~for~~ *for an initial permit to carry a concealed firearm;*
- (e) That a certificate or other document that ~~certifies~~ :
 - (1) *Certifies* that the applicant has successfully completed a course in firearm safety must accompany the application ~~for~~ *for an initial permit to carry a concealed firearm; or*

(2) Demonstrates continued competence with a firearm through successful completion of a course prescribed by the sheriff must accompany the application for the renewal of a permit to carry a concealed firearm; and

(f) Of any other information required to process the application.

Sec. 3. NAC 202.030 and 202.040 are hereby repealed.

TEXT OF REPEALED SECTIONS

202.030 Application for renewal of permit. (NRS 202.369)

1. In addition to the requirements of subsection 2, the application form for the renewal of a permit to carry a concealed firearm must contain the following sections, which must be in substantially the following form:

GENERAL INFORMATION

The sheriff shall issue or renew a permit to carry a concealed firearm for no more than two specific firearms to any person who is qualified to possess a firearm under state and federal law.

A permittee shall carry the permit together with proper identification whenever he or she is in actual possession of a concealed firearm. Both the permit and proper identification must be presented to a peace officer upon request.

Except as otherwise provided in NRS 202.265 and subsections 2 and 3 of NRS 202.3673, a permittee shall not carry a concealed firearm into:

1. Any facility of a law enforcement agency;
2. A prison, county or city jail or detention facility;
3. A courthouse or courtroom;
4. Any facility of a public or private school;
5. Any facility of a vocational or technical school, or of the Nevada System of Higher Education;
6. Any other building owned or occupied by the Federal Government, the State or a local government; or
7. Any other place in which the carrying of a concealed firearm is prohibited by state or federal law.

Unless suspended or revoked by the sheriff, a permit expires on the fifth anniversary of the permittee's birthday, measured from the birthday nearest the date of issuance or renewal. If the date of birth of a permittee is on February 29 in a leap year, for the purposes of NRS 202.3653 to 202.369, inclusive, his or her date of birth shall be deemed to be on February 28.

A permittee shall notify the sheriff who issued the permit in writing within 30 days if his or her permanent address changes or if the permit is lost, stolen or destroyed.

ELIGIBILITY

Except as otherwise provided in NRS 202.3657, a person is eligible to renew a permit to carry a concealed firearm if he or she:

1. Is a resident of the State of Nevada and of the county in which the permit is sought;
2. Is 21 years of age or older;
3. Is not prohibited from possessing a firearm pursuant to NRS 202.360; and
4. Demonstrates continued competence with a firearm by presenting a certificate or other documentation which shows that the applicant for renewal of a permit has successfully completed a course in firearm safety prescribed by the sheriff renewing the permit.

The sheriff shall deny an application for renewal of a permit or revoke a permit to carry a concealed firearm if the sheriff determines that the applicant for renewal of a permit or permittee:

1. Has an outstanding warrant for his or her arrest.
2. Has been judicially declared incompetent or insane.
3. Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.
4. Has been habitually using intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. Such use is presumed if, during the immediately preceding 5 years, the applicant for renewal of a permit or permittee has been convicted of driving under the influence of intoxicating liquor or a controlled substance

pursuant to NRS 484C.110, or has been ordered by a court to enter a program for treatment of drug or alcohol abuse pursuant to NRS 458.290 to 458.350, inclusive.

5. Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this State or any other state, territory or possession of the United States at any time during the immediately preceding 3 years.

6. Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

7. Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

8. Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

9. Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or any other state or territory or possession of the United States, as a condition to the court's withholding the entry of judgment for a conviction of a felony or the court's suspending a sentence for the conviction of a felony.

10. Has made a false statement on any application for a permit or for the renewal of a permit.

The sheriff may deny an application for renewal of a permit or revoke a permit if he or she receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant for renewal of a permit or permittee has or may have committed an offense or engaged in any other activity

specified in subsection 3 of NRS 202.3657 which would preclude the renewal of a permit or require the revocation of a permit pursuant to NRS 202.3657.

If an application for renewal of a permit is denied by the sheriff, the sheriff shall send the applicant for renewal of a permit written notification setting forth the reasons for the denial. The applicant for renewal of a permit may seek judicial review of the denial by filing a petition in the district court for the county in which the applicant resides.

INFORMATION REGARDING THE APPLICANT

Last name
First name Middle initial
..... Any alias used or former name
Current resident address
City Zip
If different from resident address,
Mailing address
City Zip
Residence telephone number
Date of birth Place of birth
Citizenship Social security number
Race Sex Height
Weight Hair color Eye color
Driver's license number or identification card number

Occupation

Employer's name

Employer's address

City Zip

Employer's telephone number

Provide the following information concerning each firearm to which the application for renewal of a permit pertains:

Make

Model

Caliber

Make

Model

Caliber

The following questions are to be answered either "yes" or "no":

1. Are there currently any outstanding warrants for your arrest?
2. Have you been judicially declared incompetent or insane?
3. During the 5 years immediately preceding the date of this application, have you been voluntarily or involuntarily committed to a mental health facility?

4. During the 5 years immediately preceding the date of this application, have you been convicted of driving under the influence of alcohol or a controlled substance?

5. During the 5 years immediately preceding the date of this application, has a court ordered you to enter a program for the treatment of alcohol or drug abuse?.....

6. During the 3 years immediately preceding the date of this application, have you been charged with or convicted of a crime involving the use or threatened use of force or violence?.....

7. Have you ever been convicted of a felony?

8. Have you ever been convicted of a crime involving domestic violence or stalking?

9. Are you currently subject to a restraining order, injunction or other order for protection against domestic violence?.....

10. Are you currently on parole or probation?

11. During the 5 years immediately preceding the date of this application, have you been subject to any requirements imposed by a court as a condition to the court's withholding the entry of judgment or suspension of a sentence for conviction of a felony?...

If you answered "yes" to any of the above questions, attach to your application a written statement explaining in detail the circumstances of the incident.

CERTIFICATION

.....I declare under penalty of perjury that the foregoing application is true and correct.

Executed on
(date) (signature)

Subscribed and sworn to before me this(day) of(month) of(year)

.....

Notary Public or Employee of the Sheriff

2. The application form for the renewal of a permit to carry a concealed firearm must contain a section entitled “INSTRUCTIONS” that advises the applicant for renewal of a permit:

- (a) As to the nonrefundable fees that must be submitted, including the fee imposed if the permittee fails to renew the permit on or before the date of expiration of the permit;
- (b) As to the method by which payment of fees must be made;
- (c) That he or she must demonstrate continued competence with a firearm by presenting with the application for renewal of a permit a certificate or other documentation which shows that he or she has successfully completed a course in firearm safety prescribed by the sheriff renewing the permit; and
- (d) Of any other information required to process the application for renewal of a permit.

202.040 Combined form for permit and renewal. (NRS 202.369)

The sheriff may combine the application form for a permit to carry a concealed firearm and the application form for the renewal of a permit to carry a concealed firearm into a single application form. If the application form for a permit to carry a concealed firearm and the application form for the renewal of a permit to carry a concealed firearm are combined into a

single application form, the sheriff shall include a provision in the combined application form allowing the applicant to indicate whether the application is for a new permit or for the renewal of an existing permit.

Joe Lombardo
Governor



Nevada Department of
Public Safety
Records, Communications and Compliance

George Togliatti
Director

Sheri Brueggemann
Deputy Director

Records, Communications and Compliance Division

333 West Nye Lane, Suite 100
Carson City, Nevada 89706
Telephone (775) 684-6262 – Fax (775) 687-3289
www.rccd.nv.gov

Erica Souza-Llamas
Division
Administrator

INFORMATIONAL STATEMENT FORM

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 202.

1. **A clear and concise explanation of the need for the adopted regulation.**
NAC Chapter 202 is being amended to align the regulations with statute and to eliminate duplication of applications for the issuance or renewal of a permit to carry a concealed firearm.
2. **A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**
Copies of the proposed regulation amendment, notice of workshop and notices of intent to act upon the regulation were posted on the Division's public website. The notice of intent to act upon a regulation was also posted on the Nevada Public Notice website and the Nevada State Legislature website. Copies of the proposed regulation amendment, notice of workshop and notices of intent to act upon the regulation were emailed to all Nevada criminal justice agencies and were posted at the Nevada State Library, Archives and Public Records, Department of Motor Vehicles, Carson City Library, Department of Public Safety Southern Command and the Las Vegas-Clark County Library District. Public comment was solicited by seeking written comments be sent to RCCD, as well as public comment during the hearings. The Division received two questions seeking clarification from the public relating to the application for a concealed firearm permit and whether it is anticipated that legislation will change statute in reference to what buildings a concealed firearm may be carried into. The Division did not receive any public response as to the adoption of the language in the regulations.
3. **The number of persons who:**
 - a. **Attended each hearing:** April 24, 2023 – 0; August 1, 2024 – 11; December 20, 2024 - 3
 - b. **Testified at each hearing:** April 24, 2023 – 0; August 1, 2024 – 0; December 20, 2024 - 1
 - c. **Submitted to the agency written comments:** No written comments were submitted.

4. **A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency.**

Michael Ross
LCSO
(925) 457-2906
Msr38108@att.net

Jeff Peebles
LCSO
(775) 721-0385
jepeebles@charter.net

5. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulation amendment, notice of workshop and notices of intent to act upon the regulation were posted on the Division's public website. The notice of intent to act upon a regulation was also posted on the Nevada Public Notice website and the Nevada State Legislature website. Copies of the proposed regulation amendment, notice of workshop and notices of intent to act upon the regulation were emailed to all Nevada criminal justice agencies and were posted at the Nevada State Library, Archives and Public Records, Department of Motor Vehicles, Carson City Library, Department of Public Safety Southern Command and the Las Vegas-Clark County Library District. Public comment was solicited by seeking written comments be sent to RCCD, as well as public comment during the hearings. The Division received two questions seeking clarification from the public relating to the application for a concealed firearm permit and whether it is anticipated that legislation will change statute in reference to what buildings a concealed firearm may be carried into. The Division did not receive any public response as to the adoption of the language in the regulations.

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

RCCD did not receive any response from the public or affected businesses which would have necessitated additional changes; therefore the regulation is being adopted without change.

7. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- a. **Both adverse and beneficial effects; and**
None

b. Both immediate and long-term effects.

None

8. The estimated cost to the agency for enforcement of the adopted regulation.

None

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

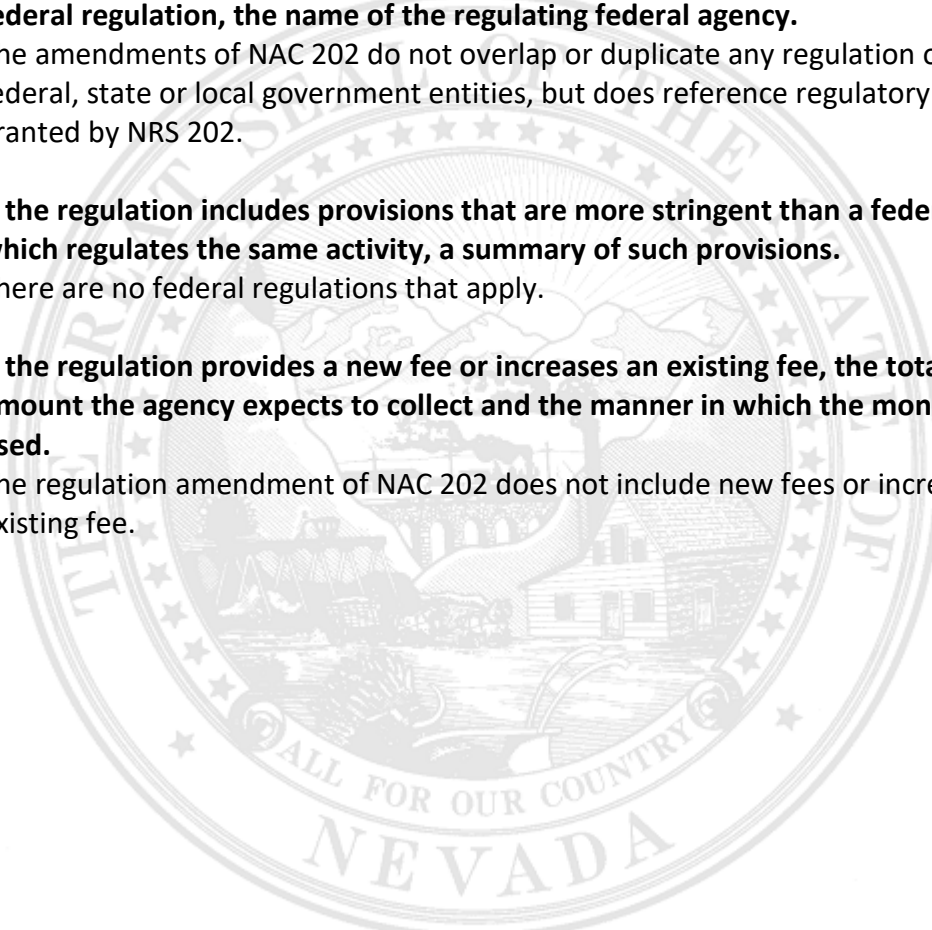
The amendments of NAC 202 do not overlap or duplicate any regulation of other federal, state or local government entities, but does reference regulatory authority granted by NRS 202.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no federal regulations that apply.

11. If the 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.

The regulation amendment of NAC 202 does not include new fees or increase an existing fee.



Joe Lombardo
Governor



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Erica Souza-Llamas
Division
Administrator

SMALL BUSINESS IMPACT STATEMENT

EFFECTIVE DATE OF REGULATION:

Upon filing with the Nevada Secretary of State

Background:

NAC 202 provides policy for the application, eligibility and other general information for concealed firearms permits. These regulations have not kept pace with changes in statute and in the current format, require duplicative forms/applications and outdated eligibility criteria. The proposed amendment to NAC 202 reduces duplicative application requirements, aligns the regulations with statute and further provides for updates to the application for the issuance or renewal of a permit to carry a concealed firearm.

Description of Solicitation: Comments were solicited through a workshop held on April 24, 2023 and public meetings held on August 1, 2024 and December 20, 2024. No substantive comments were submitted on record or in writing during the workshop or public meetings that necessitated additional changes. Notices for the public workshop and meeting were posted on the Division's public website: https://rccd.nv.gov/Resources/Public_Notices/; the Nevada Public Notice website: <https://notice.nv.gov/>; the Nevada State Legislature website: <https://www.leg.state.nv.us/App/Notice/A/>. Physical notices were posted at: The Division's physical location 333 West Nye Lane, Carson City, NV 89706 Nevada State Library and Archives, 100 N. Stewart St., Carson City, NV 89701 Carson City Library, 900 N. Roop St., Carson City, NV 89701 Department of Motor Vehicles, 555 Wright Way, Carson City, NV 89701

Does the proposed regulation impose a direct and significant economic burden upon a small business or directly restrict the information, operation or expansion of a small business?
(NRS 233B.0608(1))

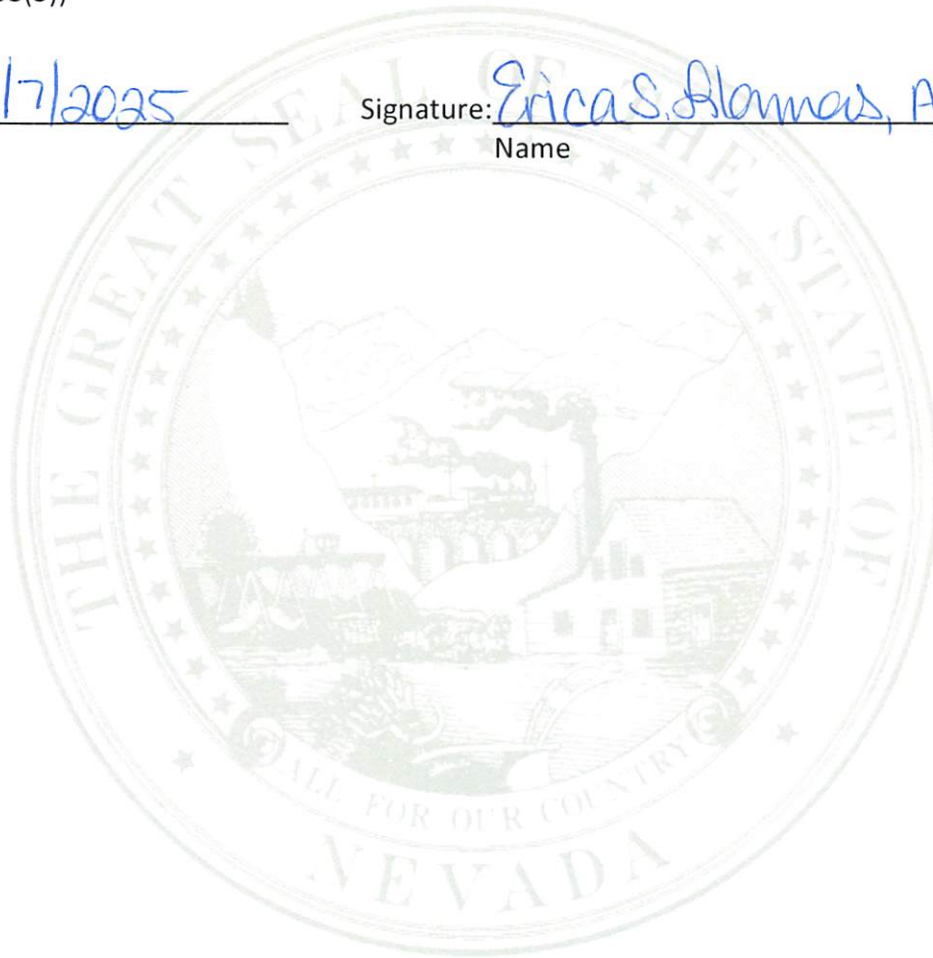
No, the proposed repeal does not impose a direct or significant economic burden upon a small business or directly restrict the information, operation or expansion of a small business.

How was that conclusion reached?

The Records, Communications and Compliance Division used informed, reasonable judgement in determining that there would not be an impact to small business due to the nature of the regulation amendment of NAC 202.

I, Erica Souza-Llamas, Division Administrator, 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 business, and that the information contained in the statement above is accurate. (NRS 233B.0608(3))

Dated: 1/7/2025 Signature: Erica S. Alonnes, Administrator
Name Title



**ADOPTED REGULATION OF THE
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R073-24

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

AUTHORITY: §§ 1-10, NRS 439.258.

A REGULATION relating to domestic violence; clarifying that certain organizations are not prohibited from providing treatment relating to domestic violence to persons who have not been ordered by a court to participate in a certified program for the treatment of persons who commit domestic violence; requiring an applicant for the issuance or renewal of a certificate for a program to submit certain information relating to the curriculum and instructional materials of the program; requiring the Division of Public and Behavioral Health of the Department of Health and Human Services to notify an applicant of an incomplete application for a certificate; revising the qualifications for supervisors of treatment at certified programs; eliminating the requirement that certain information be recorded in a form approved by the Division; revising provisions relating to the renewal of a certificate for a program; revising provisions relating to a written plan of treatment for certain persons who have been convicted of an offense that constitutes domestic violence; revising provisions relating to continuing education; repealing obsolete provisions relating to the Committee on Domestic Violence; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Public and Behavioral Health of the Department of Health and Human Services to: (1) evaluate, certify and monitor programs for the treatment of persons who commit domestic violence; and (2) adopt regulations governing the evaluation, certification and monitoring of such programs. (NRS 439.258) Existing law provides that a court shall require certain persons who are convicted of a battery which constitutes domestic violence to participate in such a program that has been certified by the Division. (NRS 200.485)

Section 1 of this regulation clarifies that the provisions of the Nevada Administrative Code relating to programs for the treatment of persons who commit domestic violence do not prohibit: (1) an organization that has not obtained a certificate for a program from providing treatment relating to domestic violence to persons who have not been ordered by a court to participate in a program; and (2) an organization that operates a program from, in addition to providing treatment to offenders, providing treatment relating to domestic violence to persons who have not been ordered by a court to participate in a program.

Existing regulations set forth the requirements for an organization to apply for a certificate for a program, including that the applicant include a copy of the curriculum and the instructional materials that will be used in the program. (NAC 228.100) **Section 2** of this regulation requires that an applicant also submit proof that the applicant has permission to use the curriculum and instructional materials for the entire period during which the certificate will be valid. **Section 6** of this regulation adds the same requirement for an application for the renewal of a certificate. **Section 2** also requires the Division to notify an applicant if additional information to complete the application is required, similar to a requirement in existing regulations relating to applications for the renewal of a certificate. (NAC 228.130)

Existing regulations set forth the qualifications for supervisors of treatment at a certified program, including that a person: (1) possess a master's or doctorate degree in a field of clinical human services; and (2) be licensed in good standing in this State as certain professionals. (NAC 228.110) **Section 4** of this regulation defines the term "field of clinical human services." **Section 4** further provides that certain persons may also serve as a supervisor of treatment, including a person who is licensed: (1) as an alcohol and drug counselor; (2) as a clinical alcohol and drug counselor; or (3) as an advanced practice registered nurse and who practices psychiatry. **Section 4** eliminates certain exceptions to the qualifications to be a person who was employed or retained as an independent contractor in the position of a supervisor of treatment or provider of treatment on the effective date of LCB File No. R071-20 (July 28, 2021).

Existing regulations require that each supervisor of treatment in a certified program record certain information in a form approved by the Division. (NAC 228.115) **Section 5** of this regulation eliminates the requirement that the information be recorded in a form approved by the Division.

Existing regulations provide that the Division will renew a certificate for a program if the Division determines that the organization which operates the program has submitted: (1) proof of completion of certain hours of continuing education by supervisors of treatment and providers of treatment; (2) a copy of certain attestations; and (3) certain annual reports. (NAC 228.130) **Section 6** of this regulation eliminates these requirements.

Existing regulations require a provider of treatment to develop a written plan of treatment for certain persons who have been convicted of an offense that constitutes domestic violence that includes individual counseling, group counseling or a combination of individual and group counseling. (NAC 228.170) **Section 7** of this regulation requires instead that the written plan of treatment include group counseling or a combination of individual and group counseling.

Existing regulations: (1) require, with certain exceptions, a person who wishes to offer or teach a course of continuing education or formal training in domestic violence to apply to and obtain the approval of the Division; and (2) prescribe the subjects that may be approved by the Division for such courses or training. (NAC 228.215, 228.218) **Section 8** of this regulation authorizes the Division to also approve without an application continuing education or formal training that is: (1) in one of the prescribed subjects; and (2) approved or accepted as continuing education or training by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for Social Workers, the Board of Psychological Examiners or the State Board of Nursing. **Section 8** also clarifies that the Division is authorized to review for approval a course of continuing education or formal training without an application pursuant to such an exception or certain other exceptions upon the request of any person or entity or otherwise at the discretion of the Division.

Existing regulations require a provider of treatment or supervisor of treatment who wishes to obtain credit for attending a course of continuing education or formal training in domestic violence that has not been approved by the Division to apply to and obtain the approval of the Division. (NAC 228.220) **Section 9** of this regulation creates an exception to this requirement if a provider of treatment or supervisor of treatment attends a course of continuing education or formal training in domestic violence that the Division determines meets certain requirements.

Existing regulations provide that: (1) the Division will provide to the Committee on Domestic Violence certain information relating to an application for the certificate of a program; and (2) the Committee is required to provide to the Division a written recommendation as to whether the program should be certified. (NAC 228.101) **Section 10** of this regulation repeals these obsolete provisions, as the Committee no longer has the authority to certify such programs. **Section 3** of this regulation makes a conforming change to eliminate an internal reference to the provision that is repealed by **section 10**.

Section 1. Chapter 228 of NAC is hereby amended by adding thereto a new section to read as follows:

Nothing in this chapter prohibits:

1. An organization that has not obtained a certificate for a program from providing treatment relating to domestic violence to persons who have not been ordered by a court of competent jurisdiction in this State to participate in a program.

2. An organization that operates a program from, in addition to providing treatment to offenders, providing treatment relating to domestic violence to persons who have not been ordered by a court of competent jurisdiction in this State to participate in a program.

Sec. 2. NAC 228.100 is hereby amended to read as follows:

228.100 1. Except as otherwise provided in subsection 4, an organization which desires to obtain a certificate for a program must submit an application to the Division in the form prescribed by the Division, including, without limitation:

(a) Proof that the organization has satisfied the requirements of subsection 3;

(b) A copy of the curriculum and the instructional materials that will be used in the program and that satisfy the requirements set forth in NAC 228.185 ~~(f)~~ *and proof that the applicant has permission to use the curriculum and the instructional materials for the entire period during which the certificate will be valid;*

(c) A statement of whether the applicant has a state business license and, if so, the business identification number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS;

(d) The name and address of the program;

(e) The name of each owner of the program or, if the program is operated by a corporation, the name of each:

(1) Officer and director of the corporation; and

(2) Person who owns 10 percent or more of the shares of the corporation;

(f) Except as otherwise provided in subsection 5, the telephone number and electronic mail address of the program;

(g) The name of the director of the program;

(h) A signed statement by the director of the program or his or her designee attesting that the program complies with the requirements of NAC 228.010 to 228.275, inclusive, and sections 2, 3 and 4 of LCB File No. R071-20; and

(i) Any other information required by the Division.

2. The application must be signed by the director of the program or his or her designee.

3. To obtain a certificate, an organization which operates a program must:

(a) Employ, or retain as an independent contractor, one or more providers of treatment who are qualified pursuant to NAC 228.110 to treat persons who commit domestic violence;

(b) Employ, or retain as an independent contractor, at least one supervisor of treatment who is qualified pursuant to NAC 228.110 to supervise the treatment of persons who commit domestic violence;

(c) Employ, or retain as an independent contractor, a director of the program who:

(1) Is qualified pursuant to NAC 228.108; and

(2) May also serve as a supervisor of treatment as required by paragraph (b) if he or she meets the requirements of NAC 228.110;

(d) Satisfy the requirements of NAC 228.010 to 228.275, inclusive, and sections 2, 3 and 4 of LCB File No. R071-20;

(e) Provide treatment to persons who have been convicted of an offense that constitutes domestic violence which meets the requirements of any court order issued pursuant to subsection 6 of NRS 200.485, if applicable;

(f) Allow an offender to attend live and interactive counseling sessions or other meetings through electronic means if:

(1) The program has implemented a mechanism to ensure that the offender attending a counseling session or meeting by electronic means is the offender who is supposed to be attending the counseling session or meeting;

(2) The electronic means by which the offender attends the counseling session or meeting allows the provider of treatment who is overseeing the counseling session or meeting to receive audio and video of the offender; and

(3) The provider of treatment who is overseeing the counseling session or meeting verifies the identity of the offender by using the mechanism described in subparagraph (1);

(g) Prohibit persons who have been convicted of a first offense that constitutes domestic violence within the immediately preceding 7 years from having more than four unexcused absences within a period of 6 months; and

(h) Prohibit persons who have been convicted of a second offense that constitutes domestic violence within the immediately preceding 7 years from having more than eight unexcused absences within a period of 12 months.

4. In lieu of complying with the provisions of subsections 1 and 2, an organization that operates a program certified pursuant to this section and wishes to obtain a certificate for another program may submit an abbreviated application to the Division if the curriculum and instructional materials for the additional program are substantially similar to the curriculum and instructional materials used in the certified program. An application submitted pursuant to this subsection must be in the form prescribed by the Division and be signed by the director of the additional program or his or her designee.

5. The Division may exempt an applicant from the requirements of paragraph (f) of subsection 1 if the applicant attests that telephone and electronic mail are not feasible means by which to communicate with the applicant and that United States mail is the only feasible means by which to communicate with the applicant.

6. *If the Division receives an incomplete application pursuant to subsection 1, the Division will notify the applicant of the additional information required to complete the application. If the Division does not receive the additional information within 90 days after the date on which the applicant is notified, the Division will deny the application.*

7. By submitting an application pursuant to subsection 1 or 4, an applicant authorizes the Division to investigate as it determines is necessary to verify the information set forth in the

application. Upon the request of the Division, the applicant must submit verification of that information.

Sec. 3. NAC 228.102 is hereby amended to read as follows:

228.102 1. The Division may issue a provisional certificate to an organization that operates a program if ~~it~~:

~~—(a) The~~ *the* organization has submitted an application pursuant to NAC 228.100 and has substantially complied with the requirements set forth in that section. ~~it; and~~

~~—(b) The Division has not yet received the written recommendation of the Committee pursuant to subsection 2 of NAC 228.101.~~

2. A provisional certificate expires on the date that the Division grants or denies certification to the program.

3. For the purposes of this section an organization has substantially complied with the requirements set forth in NAC 228.100 if the organization has employed, or retained as an independent contractor:

(a) One or more providers of treatment and at least one supervisor of treatment who meet the training and education requirements set forth in NAC 228.110; and

(b) A director of the program who meets the requirements of NAC 228.108.

Sec. 4. NAC 228.110 is hereby amended to read as follows:

228.110 1. A person may be employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program if he or she:

(a) Possesses a master's or doctorate degree in a field of clinical human services from an accredited college or university;

(b) Except as otherwise provided in subsection 3, is licensed in good standing in this State:

- (1) As a psychologist pursuant to chapter 641 of NRS;
 - (2) As a marriage and family therapist pursuant to chapter 641A of NRS;
 - (3) As a clinical professional counselor pursuant to chapter 641A of NRS;
 - (4) As a clinical social worker pursuant to chapter 641B of NRS; ~~for~~
 - (5) *As an alcohol and drug counselor or a clinical alcohol and drug counselor pursuant to chapter 641C of NRS;*
 - (6) *As an advanced practice registered nurse pursuant to chapter 632 of NRS and practices psychiatry; or*
 - (7) To practice medicine pursuant to chapter 630 or 633 of NRS and practices psychiatry;
- (c) Except as otherwise provided in subsection 2, has:
- (1) At least 2 years of experience in a supervisory capacity in the provision of services to victims of domestic violence or in the treatment of persons who commit domestic violence; or
 - (2) At least 5 years of experience in the direct provision of services to victims of domestic violence or treatment of persons who commit domestic violence;
- (d) Has satisfactorily completed at least 60 hours of formal training in domestic violence which includes at least 30 hours of training in the provision of services to victims of domestic violence and at least 30 hours of training in the provision of treatment to persons who commit domestic violence;
- (e) Has satisfactorily completed at least 15 hours of the training in domestic violence required by paragraph (d) during the 2 years immediately preceding the date on which the person is employed, or retained as an independent contractor, in the position of a supervisor of treatment at the program;

(f) Except for any conviction which is the subject of a pending appeal or with respect to which the time for filing a notice of appeal has not yet expired, attests, in the form prescribed by the Division, that he or she has never been convicted of a crime which demonstrates the person's unfitness to act as a supervisor of treatment;

(g) Is free of violence in his or her life;

(h) Is not currently a person with an addictive disorder related to prescription drugs or alcohol or a user of illegal drugs; and

(i) Except as otherwise provided in ~~subsection 3~~ **subsection 3**, ~~and 9~~ is approved by the Division to work as a supervisor of treatment pursuant to section 2 of LCB File No. R071-20.

2. The provisions of paragraph (c) of subsection 1 do not apply to a person who is employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program on August 1, 2000.

3. A person who does not comply with the requirements of paragraph (b) of subsection 1 may be employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program if:

(a) The person submits a written request for approval to work as a supervisor of treatment to the Division that includes, without limitation:

(1) A statement concerning his or her work history, education and experience; and

(2) ~~Except as otherwise provided in subsection 9, the~~ **The** application required for approval to work as a supervisor of treatment described in section 2 of LCB File No. R071-20;

(b) Upon the request of the Division, the person participates in an interview with the Division in person or by telephone, videoconference or other electronic means; and

(c) The Division approves the request for approval to work as a supervisor of treatment.

4. Within 120 days after the Division receives a request for approval to work as a supervisor of treatment pursuant to subsection 3, the Division will provide written notice of its approval or denial of the request to the person who submitted the request. If the Division denies the request, the notice will include the reasons for the denial of the request.

5. Unless a person who is employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program pursuant to subsection 3 fails to renew his or her approval to work as a supervisor of treatment in a timely manner pursuant to section 3 of LCB File No. R071-20, the person is approved to work as a supervisor of treatment until the person is no longer employed, or retained as an independent contractor, by an organization that operates a program if he or she meets the annual continuing education requirements set forth in NAC 228.210.

6. A person may be employed, or retained as an independent contractor, in the position of a provider of treatment at a program if the person:

(a) Except as otherwise provided in subsection 7, possesses a bachelor's degree or more advanced degree;

(b) Is supervised by a supervisor of treatment who is qualified pursuant to subsection 1, 2 or 3 and that supervision includes, without limitation, meeting with the supervisor of treatment in person at least once each month and having the supervisor of treatment submit annual reports of satisfactory performance to the Division;

(c) Has satisfactorily completed at least 60 hours of formal training in domestic violence that includes, without limitation, at least 30 hours of training in the provision of services to victims of domestic violence and at least 30 hours of training in the provision of treatment to persons who commit domestic violence;

(d) Has satisfactorily completed at least 15 hours of the training in domestic violence required by paragraph (c) during the 2 years immediately preceding the date on which the person is employed, or retained as an independent contractor, in the position of a provider of treatment at the program;

(e) Except for any conviction which is the subject of a pending appeal or with respect to which the time for filing a notice of appeal has not yet expired, attests, in the form prescribed by the Division, that he or she has never been convicted of a crime which demonstrates the person's unfitness to act as a provider of treatment;

(f) Is free of violence in his or her life;

(g) Is not currently a person with an addictive disorder related to prescription drugs or alcohol or a user of illegal drugs; and

(h) Except as otherwise provided in ~~subsections~~ *subsection 7*, ~~and 9,~~ is approved to work as a provider of treatment pursuant to section 2 of LCB File No. R071-20.

7. The Division may approve a person to be employed, or retained as an independent contractor, in the position of a provider of treatment at a program although the person does not meet the requirements of paragraph (a) of subsection 6, and a program may employ, or retain as an independent contractor, the person approved by the Division, if the program is located in a county whose population is less than 50,000 and the person proves, to the satisfaction of the Division, that:

(a) There is not another program located within a 50-mile radius of the program, or within the city or county in which the program is located;

(b) The person possesses the necessary skills and training to perform his or her job;

(c) ~~{Except as otherwise provided in subsection 9, the}~~ *The* person has submitted to the Division the application required to be approved to work as a provider of treatment described in section 2 of LCB File No. R071-20; and

(d) The person has satisfied all other requirements of this section.

8. A person who is employed, or retained as an independent contractor, in the position of a provider of treatment at a program pursuant to subsection 7 is approved to work as a provider of treatment for a period which ends on:

(a) The expiration date of the approval to work as a provider of treatment, if the provider of treatment fails to renew the approval in a timely manner pursuant to section 3 of LCB File No. R071-20; or

(b) The date on which the program ceases to operate,

↪ whichever occurs first.

9. ~~{The provisions of paragraph (i) of subsection 1, subparagraph (2) of paragraph (a) of subsection 3, paragraph (h) of subsection 6 and paragraph (c) of subsection 7 do not apply to a person who is employed, or retained as an independent contractor, in the position of a supervisor of treatment or provider of treatment on the effective date of LCB File No. R071-20.~~

~~—10.— The director of a program or his or her designee shall:~~

~~—(a) Upon hiring, or retaining as an independent contractor, a person in the position of a supervisor of treatment or a provider of treatment, attest in writing that the person meets the requirements of this section as a supervisor of treatment or a provider of treatment, as applicable; and~~

~~—(b) Maintain a copy of the written attestation described in paragraph (a) for the duration of the person’s employment or service as an independent contractor and provide it to the Division upon request and as required by NAC 228.130.~~

~~—11.1~~ As used in this section ~~1~~ “~~free~~” :

(a) *“Field of clinical human services” means a field of study in one of the following areas:*

- (1) Allopathic medicine;*
 - (2) Cognitive sciences;*
 - (3) Community mental health;*
 - (4) Counseling or any subset of counseling, including, without limitation, clinical mental health counseling or marriage and family therapy;*
 - (5) Education, including, without limitation, a degree in education with an emphasis on school counseling, counselor education or special education;*
 - (6) Human development, including, without limitation, child or adolescent development and family relationships;*
 - (7) Human services;*
 - (8) Nursing;*
 - (9) Osteopathic medicine;*
 - (10) Psychiatric rehabilitation;*
 - (11) Psychology or any subset of psychology, including, without limitation, educational psychology or developmental psychology;*
 - (12) Social work; or*
 - (13) Sociology or sociological practice.*
- (b) *“Free of violence in his or her life” means that a person:*

- ~~†(a)†~~ (1) Does not engage in acts of physical violence;
- ~~†(b)†~~ (2) Does not verbally abuse, threaten, coerce or intimidate other persons on a regular basis;
- ~~†(c)†~~ (3) Does not deny personal responsibility for the person's actions or blame other persons for his or her mistakes on a regular basis; and
- ~~†(d)†~~ (4) Lives his or her life in a manner that is capable of serving as a model of nonviolent behavior.

Sec. 5. NAC 228.115 is hereby amended to read as follows:

228.115 1. The organization that operates a program shall ensure that each supervisor of treatment:

- (a) Meets individually at least once each month with each provider of treatment he or she supervises;
- (b) Is available by telephone to consult with each provider of treatment he or she supervises;
- (c) Reviews, at least once each month, a random sample of at least 10 percent of the records of the offenders who are receiving treatment from each provider of treatment he or she supervises and records ~~†in a form approved by the Division†~~ each record he or she reviews;
- (d) Observes, at least once every 3 months, a group counseling session conducted by each team of two providers of treatment he or she supervises who conduct counseling sessions for the program and records ~~†in a form approved by the Division†~~ each group counseling session he or she observes; and
- (e) Prepares an annual report concerning the performance of each provider of treatment he or she supervises.

2. A supervisor of treatment may observe a group counseling session required pursuant to paragraph (d) of subsection 1 via distance media if the session is conducted anywhere in this State other than Boulder City, Carson City, Henderson, Las Vegas, North Las Vegas, Reno or Sparks.

Sec. 6. NAC 228.130 is hereby amended to read as follows:

228.130 1. Except as otherwise provided in subsections 5 and 6, an organization that has obtained a certificate for a program pursuant to NAC 228.100 must submit a completed application to renew its certification not later than 12 months after the effective date of the certificate and every 12 months thereafter. If the organization was issued a provisional certificate pursuant to NAC 228.102 before it obtained a certificate for a program pursuant to NAC 228.100, the certificate obtained pursuant to NAC 228.100 expires 18 months after the Division first issued the provisional certificate.

2. The certificate will be renewed if the Division determines that:

(a) The application for renewal is complete ~~and~~, *including, without limitation, proof that the program has permission to use the curriculum and the instructional materials for the entire period during which the renewed certificate will be valid;*

(b) The organization which operates the program has satisfied the requirements of subsection 3 of NAC 228.100;

(c) The program has passed the inspection of the Division conducted pursuant to NAC 228.270, if one is conducted;

(d) The organization which operates the program has submitted:

(1) ~~Proof of completion of the hours of continuing education required by NAC 228.210;~~

~~—— (2) For each person hired or retained as an independent contractor in the position of a supervisor of treatment or a provider of treatment during the previous year, a copy of the attestation required by subsection 10 of NAC 228.110;~~

~~—— (3) The annual reports required by NAC 228.115;~~

~~—— (4)]~~ The names of each provider of treatment or supervisor of treatment hired or retained as an independent contractor by the program after the date on which the initial application or the most recent application for renewal of the certificate, whichever is more recent, was submitted;

~~{(5) Proof that each provider of treatment or supervisor of treatment hired or retained as an independent contractor by the program has completed the continuing education required by NAC 228.210 for the period after the date on which the initial application or the most recent application for renewal of the certificate, whichever is more recent, was submitted;~~

~~(6)]~~ (2) Any notification required by NAC 228.125; and

~~{(7)]~~ (3) Any other information required by the Division; and

(e) The director of the program or his or her designee has signed the application for renewal.

3. Except as otherwise provided in subsection 6, if a completed application and the ~~{documents}~~ **information** described in paragraph (d) of subsection 2 are not received by the Division on or before the renewal date of the certificate, the certificate expires 30 days after that date.

4. If a completed application is:

(a) Submitted electronically, it shall be deemed received by the Division on the date on which the Division records the application as having been received.

(b) Deposited with the United States Postal Service, it shall be deemed received by the Division on the date indicated on the post office cancellation mark stamped upon the envelope containing the document if:

(1) The envelope is properly addressed as instructed by the Division; and

(2) That date is earlier than the actual receipt of that document.

5. If an incomplete application for the renewal of a certificate is submitted, the Division will notify the applicant of the additional information required to complete the application. If the Division does not receive the additional information within 90 days after the date of the notice, the Division will deny the application.

6. The organization may renew the certificate within 30 days after the renewal date of the certificate if the organization complies with the requirements set forth in subsection 2.

7. If a certificate is not renewed in a timely manner as required by subsection 1 or 6 or renewal of a certificate is denied pursuant to subsection 5:

(a) The Division will remove the program from the list of programs that it makes available to the courts of this State; and

(b) The organization which operated the program may reapply for certification of the program pursuant to NAC 228.100.

Sec. 7. NAC 228.170 is hereby amended to read as follows:

228.170 An organization that operates a program shall ensure that:

1. The program:

(a) Is based on evidence-based practices;

(b) Requires that the written plan of treatment of an offender be based on an assessment of the offender by a supervisor of treatment or provider of treatment; and

(c) Holds an offender accountable for accepting responsibility for his or her violence and for changing his or her violent behavior, including, without limitation, developing concern and empathy for a person who is a victim of domestic violence.

2. A provider of treatment:

(a) Evaluates individually each offender for whom he or she will provide treatment upon the admission of the offender to the program;

(b) Develops a written plan of treatment for the offender that includes, without limitation:

(1) Treatment relating to a history of domestic violence, child abuse, sexual abuse or the use of alcohol or other substance use disorder of the offender, including, without limitation, ~~individual counseling,~~ group counseling or a combination of individual and group counseling at a frequency determined by the provider of treatment in accordance with the requirements of any court order issued pursuant to subsection 6 of NRS 200.485, if applicable, and treatment relating to the evaluation of the offender by the provider of treatment; and

(2) A mechanism for measuring the progress of the offender in the program, including, without limitation, his or her attendance and participation in counseling sessions, completion of assignments, and behavior and attitudinal changes;

(c) Develops, in consultation with the offender, a written plan of control for the offender to deter the offender from engaging in violent behavior or behavior that is harmful to himself or herself or other persons;

(d) Periodically assesses the needs and progress of the offender throughout the participation of the offender in the program and adjusts the written plan of treatment in accordance with the needs of the offender, as determined by the provider of treatment;

(e) Reports evidence of child abuse or neglect to an agency which provides child welfare services or to a law enforcement agency; and

(f) Reports evidence of abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person to an entity described in NRS 200.5093.

3. A provider of treatment prepares a written report of the results of the evaluation conducted pursuant to subsection 2 that includes, without limitation:

(a) A profile of information relating to the violent behavior of the offender that includes, without limitation, descriptions of the violent behavior obtained from a victim of domestic violence by the offender, an agency of criminal justice or another provider of treatment, if applicable;

(b) Observations regarding the mental status of the offender, if the provider of treatment determines that it is appropriate to include those observations in the evaluation;

(c) An assessment of the degree to which the offender is likely to harm himself or herself or other persons;

(d) The medical and psychological history of the offender, if the provider of treatment determines that it is appropriate to include that information in the evaluation;

(e) A description of any misuse of drugs or alcohol by the offender and the effect that the misuse had on the offender and his or her family; and

(f) The social and cultural history of the offender as it relates to domestic violence.

4. Upon the admission of an offender to the program, the program requires a written agreement that sets forth the responsibilities of the offender and the provider of treatment and includes the provisions set forth in NAC 228.175. The agreement must be signed by:

(a) The offender in the presence of a provider of treatment; and

(b) The provider of treatment who witnessed the signature pursuant to paragraph (a).

Sec. 8. NAC 228.215 is hereby amended to read as follows:

228.215 1. Except as otherwise provided in ~~{subsection}~~ *subsections 4 ~~{}~~ and 5*, a person who wishes to offer or teach a course of continuing education or formal training in domestic violence must, for all such continuing education or formal training provided in any format, submit to the Division an application that includes, without limitation:

- (a) The name and address of the instructor of the course;
- (b) The resume of the instructor;
- (c) The syllabus for the course;
- (d) The content of the information that will be provided to persons enrolled in the course;
- (e) A written evaluation of the content and presentation of the course that will be completed by each person who is enrolled in the course; and

(f) A statement describing:

- (1) The purpose of the course; and
- (2) The requirements for attendance.

2. The Division may request additional information or documentation from an applicant as the Division deems necessary.

3. The Division will consider the information submitted pursuant to paragraph (d) of subsection 1 to be proprietary information and will not release that information without the consent of the applicant.

4. The Division may approve a nationally recognized organization to offer or teach a course of continuing education or formal training in domestic violence that has not applied for such approval pursuant to subsection 1.

5. The Division may approve a course of continuing education or formal training in domestic violence without requiring an application for such approval pursuant to subsection 1 if the course of continuing education or formal training is:

(a) A subject described in NAC 228.218; and

(b) Approved or accepted as continuing education or formal training by:

(1) The Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors;

(2) The Board of Examiners for Social Workers;

(3) The Board of Psychological Examiners; or

(4) The State Board of Nursing.

6. The Division may review a course of continuing education or formal training in domestic violence for approval pursuant to subsection 4 or 5 upon the request of any person or entity or otherwise at the discretion of the Division.

Sec. 9. NAC 228.220 is hereby amended to read as follows:

228.220 1. ~~1A1~~ *Except as otherwise provided in subsection 3, a* provider of treatment or supervisor of treatment who wishes to obtain credit for a course of continuing education or approval for formal training in domestic violence that has not been approved by the Division must submit to the Division an application that includes the information set forth in subsection 1 of NAC 228.215.

2. The Division may request additional information or documentation from an applicant as the Division deems necessary.

3. A provider of treatment or supervisor of treatment is not required to submit to the Division an application as set forth in subsection 1 of NAC 228.215 if he or she attends a

course of continuing education or formal training in domestic violence for which he or she wishes to obtain credit if the Division determines that the course of continuing education or formal training in domestic violence meets the requirements of subsection 4 or 5 of NAC 228.215.

Sec. 10. NAC 228.101 is hereby repealed.

TEXT OF REPEALED SECTION

228.101 Application: Provision to Committee; meeting of Committee to consider; transmittal of Committee's recommendation to Division. (NRS 439.258)

1. Upon receiving an application for the certification of a program pursuant to NAC 228.100, the Division will provide to the Committee:
 - (a) The application for a recommendation as to whether the program should be certified; and
 - (b) The date by which the Committee must include the application on an agenda of a meeting of the Committee, which must be at least 30 days after the date on which the Division provides the application to the Committee.
2. Not later than 15 days after the meeting of the Committee described in paragraph (b) of subsection 1, the Committee shall provide to the Division its written recommendation as to whether the program whose application was included on the agenda of the meeting should be certified. The recommendation may be provided electronically. Except as otherwise provided in

subsection 1 of NAC 228.102, the Division will not certify a program until it receives the written recommendation of the Committee.

**DIVISION OF PUBLIC & BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
LCB File No. R073-24**

Informational Statement per NRS 233B.066

1. A clear and concise explanation of the need for the adopted regulation.
The main purpose of the need for the adopted regulations is to clarify the applicability of current regulations, address incomplete applications, repeal obsolete provisions of current regulations, and to reduce the regulatory burden on industry.

LCB File No. R073-24 seeks to amend NAC Chapter 228 to:

1. Clarify that only persons that provide domestic violence treatment services to persons ordered by a court must be certified by the Division of Public and Behavioral Health (DPBH) to provide such services. Others, such as licensed counselors, that provide domestic violence counseling to individuals not ordered by the court to receive such services, may provide such counseling without being certified, but have the option to receive such certification if all regulatory and statutory requirements are met.
2. Require proof that the program has the permission to utilize its curriculum and instructional materials for the duration of its operations.
3. Require a person who has submitted an incomplete application to submit missing information within 90 days after the date on which the applicant is notified. If the Division does not receive the additional information within the 90 days, the Division will deny the application.
4. Remove the prohibition to issue a provisional certificate due to not receiving a written recommendation of the Committee on Domestic Violence.
5. Remove the requirement that the form used to conduct a random sample of at least 10 percent of records of offenders receiving treatment and the group counseling session observations be on a form approved by DPBH.
6. Add an alcohol and drug counselor or a clinical alcohol and drug counselor pursuant to Chapter 641C of NRS and an advanced practice registered nurse who practices psychiatry as one of the licensee types that would qualify as a supervisor of treatment.
7. Eliminate certain exceptions to the qualifications to be a person who was employed, or retained as an independent contractor in the position of a supervisor of treatment or provider of treatment on the effective date of LCB File No. R071-20 (July 28, 2021).
8. Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons.
9. Define the term “field of clinical human services” for the purposes of being employed, or retained as an independent contractor, in the position of a supervisor of treatment.
10. Remove the requirement that certain documents be included with the renewal application.
11. Removes individual counseling as a sole source of counseling that can be included in the written plan of treatment. Note: NAC 228.165 (1) (2) (c) addresses offenders in which a supervisor of treatment determines an offender cannot be treated in group counseling sessions.
12. Provides additional provisions which allows the Division to approve a course of continuing education or formal training in domestic violence without the requirement to submit an application for approval pursuant to subsection 1 of NAC 228.215.
13. Repeal NAC 228.101 – Application: Provision to Committee, meeting of Committee to consider; transmittal of Committee’s recommendation to DPBH.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Below is a summary of how public comment was solicited and a summary of the public's response. For full details on revisions made or not made to the proposed regulations based on input received below, please refer to number 5.

Public comment was solicited by:

- 1) Sending a small business impact questionnaire to certified domestic violence treatment programs
- 2) Conducting two public workshops
- 3) Conducting a public hearing
- 4) Posting the public workshop and public hearing agendas in areas that may be visited by the public such as the Nevada State Library and Archives, on the Division's website and other locations specified on each agenda

The questions on the small business impact 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 Responses Received

(1 response was received out of 25 small business impact questionnaires distributed)

Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 0	Yes – 0	Yes – 0	Yes – 0
No - 0	No - 0	No – 0	No - 0
Comments:	Comments:	Comments:	Comments:

One response to the questionnaire was received via email asking if the removal of the provision *"Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons"* would eliminate the experience requirements in regulations for a supervisor. A response was provided noting that the attestation statement being removed does not eliminate any requirements to become a supervisor, it only notes that upon hire you no longer have to attest that they meet all the requirements. A new supervisor or provider would need to apply and obtain approval by DPBH before they can work as a supervisor or provider; therefore, eliminating the need for the attestation.

April 2, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Two (2) of the five (5) participants provided public comment. The feedback received during the public workshop

was related to LCB File No. R121-24 regarding the establishment of fees for domestic violence treatment programs. These comments are not provided in this informational statement. For public comments related to information in LCB File No. R121-24, please refer to the LCB File No. R121-24 informational statement. Below is a summary of the testimony provided related to the proposed draft regulations (not fee related):

One individual noted she was seeking information related to program's being able to use one facilitator instead of two facilitators when conducting group counseling sessions. It was explained that this topic is not addressed in the proposed regulations but was noted for future consideration.

July 31, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Five (5) of the five (5) participants provided public comment during the public workshop which included a workshop on LCB File No. R121-24 and LCB File No. R073-24; both are related to programs for the treatment of domestic violence offenders.

The following is a summary of the testimony provided specifically as it relates to LCB File No. R073-24 (R121-24 related comments are not included):

An individual testified during the July 31, 2024, public workshop that she was in support of adding an advanced practice registered nurse who practices psychiatry as one of the license types that would qualify to become a supervisor of treatment. She noted that this may be beneficial to clients with mental health issues.

An individual wanted clarification on the qualification requirements for supervisors and providers of treatment. It was explained that the proposed regulations:

- Added alcohol and drug counselors and advanced practice registered nurses to the list of licensure types that would qualify an individual to become a supervisor of treatment if they held such a license in good standing.
- Provide a definition of "field of clinical human services" which would remove ambiguity as it relates to the provision that requires a supervisor of treatment to possess a master's or doctorate degree in a field of clinical human services.

An individual wanted clarification on how the proposed regulations would impact the actual domestic violence treatment programs for offenders. It was explained that the following changes were made in the proposed regulations:

- A requirement for a program to provide proof that a program has permission to use the curriculum and instructional materials for the entire period during which the certificate will be valid.
- If the Division receives an incomplete application, the Division will notify the applicant of the additional information and if we don't receive it within 90 days, then we would deny the application.

An individual noted the difficulties in obtaining continuing education credits for courses taken that have not yet been approved.

An individual requested information on any updates related to the requirements to become a facilitator (provider of treatment). It was noted, aside from the incomplete application component of the proposed regulations, there are no changes related to this matter in the proposed regulations. The individual went on to explain the importance of having qualified providers that have familiarity with mental health issues.

Individuals had a discussion on previous regulatory changes related to requirements to qualify as a supervisor or provider of treatment, for example, the elimination of the requirement to have 60 hours of observing group counseling sessions and removing the requirement that one provider be a male and one provider be a female when giving group counseling sessions. There was further discussion related to mental health issues including the importance of providers having a mental health background. It was explained that providers are still required to have 60 hours of formal training. It was also noted that there is nothing in regulations that would prohibit a program from requiring the 60 hours of observing group counseling sessions as part of their new provider onboarding process.

The following written comments were received via email on July 12, 2024, addressing the proposed regulations.

****To Whom It May Concern, ***

My name is Andre Brown, founder and president of Truths Of The Hearts, a 501(c)(3) nonprofit organization dedicated to standing against violence through education. I am writing to address the significant changes being proposed to the state of Nevada regarding the qualification and development of mental health institutions or facilities that connect with the judicial system.

Currently, there is a pressing issue in Nevada where individuals convicted or sentenced for domestic violence are not adequately served due to the monopolization of existing facilities. This monopolization arises from stringent requirements and a lack of qualified professionals in the field, which hinders the development of new facilities and their inclusion on the court-approved list.

Once professionals are affiliated with one facility, they are often unwilling to collaborate with other organizations to develop additional facilities. This reluctance significantly impacts the ability to get new facilities approved by local municipal courts, thereby limiting the options available for court-sanctioned domestic violence treatment.

To address this issue, I propose the following resolutions:

*1. **Easing the Requirements for Facility Development:** Simplify the requirements for establishing new mental health facilities to encourage more organizations to participate in this crucial field. This includes reducing bureaucratic hurdles and providing support for new applicants.*

*2. **Promoting Collaboration Among Professionals:** Encourage and incentivize professionals to collaborate with multiple organizations. This can be achieved through policy changes that promote shared resources and expertise, ensuring a broader network of qualified facilities.*

By implementing these changes, we can ensure that individuals convicted of domestic violence receive the necessary support and treatment. This will not only improve their rehabilitation but also enhance public safety and reduce recidivism.

Thank you for considering these important changes. Truths Of The Hearts stands ready to support and advocate for these improvements to better serve our community."

A phone call conversation with the individual that provided the above feedback clarified that the individual's main concern with the current regulations is that he is unable to find a qualified supervisor of treatment in accordance with regulatory requirements in order to become a certified domestic violence treatment program. He proposed that the regulations be changed to allow someone who recently graduated with a master's degree to serve as a supervisor without any experience.

Public Hearing – December 6, 2024

No members of the public provided public comments during the public hearing.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

3. A statement indicating the number of persons who attended each hearing, testified at each hearing, and submitted written statements regarding the proposed regulation. This statement should include for each person identified pursuant to this section that testified and/or provided written statements at each hearing regarding the proposed regulation, the following information, if provided to the agency conducting the hearing:
 - (a) Name
 - (b) Telephone Number
 - (c) Business Address
 - (d) Business telephone number
 - (e) Electronic mail address; and
 - (f) Name of entity or organization represented

April 2, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Two (2) of the five (5) participants provided public comment.

The following names and information were provided by those providing testimony:

- Shawnnycy – P.A.R.C. at Sankofa, LLC.
- Karla @ ABC Therapy (comments via chat) – Fee related

July 31, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Five (5) of the five (5) participants provided public comment during the public workshop which included a

workshop on LCB File No. R121-24 and LCB File No. R073-24; both are related to programs for the treatment of domestic violence offenders.

The following names and information were provided by those providing testimony:

- Karla
- Dereck Hibbler
- Islena M. Giron
- Jacquie Norman
Email: jnorman@LasVegasNevada.GOV
- Craig Merrill, Sierra Counseling Center
Email: craig@sierracounseling.com

Written Comments

Two individuals submitted written comments

- Andre Brown, Founder and President, Truths Of The Hearts
Email: truthsofthehearts2017@gmail.com
- Craig Merrill, Sierra Counseling Center
Email: craig@sierracounseling.com

Public Hearing – December 6, 2024

There was one (1) non-Division of Public and Behavioral Health participant who attended the public hearing virtually. Only Division of Public and Behavioral Health staff attended in-person.

No members of the public provided public comments during the public hearing.

4. A description of how comment was solicited (i.e., notices) from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health (DPBH) has requested input from small businesses that may be affected by the proposed regulations. Notice was sent to all certified domestic violence treatment program providers, certified at the time of the notice distribution, and to one individual that had expressed interest in receiving this notice, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed regulations was sent to those with an email address on file with DPBH and to the individual that expressed interest in receiving this information on January 30, 2024. The proposed regulations were also posted on DPBH's website.

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 Responses Received

(1 response was received out of 25 small business impact questionnaires distributed)

Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 0	Yes – 0	Yes – 0	Yes – 0
No - 0	No - 0	No – 0	No - 0
Comments:	Comments:	Comments:	Comments:

One response to the questionnaire was received via email asking if the removal of the provision *“Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons”* would eliminate the experience requirements in regulations for a supervisor. A response was provided noting that the attestation statement being removed does not eliminate any requirements to become a supervisor, it only notes that upon hire you no longer have to attest that they meet all the requirements. A new supervisor or provider would need to apply and obtain approval by DPBH before they can work as a supervisor or provider; therefore, eliminating the need for the attestation.

April 2, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Two (2) of the five (5) participants provided public comment.

The feedback received during the public workshop included feedback to proposed regulations related to the establishment of fees for domestic violence treatment programs for offenders, found in LCB File No. R121-24. These comments are not provided in this informational statement. For public comments related to the information in LCB File No. R121-24, please refer to the LCB File No. R121-24 informational statement. Below is a summary of the testimony provided related to the proposed regulations LCB File No. R073-24 (not fee related):

One individual noted she was seeking information related to program’s being able to use one facilitator instead of two facilitators when conducting group counseling sessions. It was explained that this topic is not addressed in the proposed regulations but was noted for future consideration.

July 31, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Five (5) of the five (5) participants provided public comment during the public workshop which included a workshop on LCB File No. R121-24 and LCB File No. R073-24; both are related to programs for the treatment of domestic violence offenders.

The following is a summary of the testimony provided specifically as it relates to LCB File No. R073-24 (R121-24 related comments are not included):

An individual testified during the July 31, 2024, public workshop that she was in support of adding an advanced practice registered nurse who practices psychiatry as one of the license types that would

qualify to become a supervisor of treatment. She noted that this may be beneficial to clients with mental health issues.

An individual wanted clarification on the qualification requirements for supervisors and providers of treatment. It was explained that the proposed regulations:

- Added alcohol and drug counselors and advanced practice registered nurses to the list of licensure types that would qualify an individual to become a supervisor of treatment if they held such a license in good standing.
- Provide a definition of “field of clinical human services” which would remove ambiguity as it relates to the provision that requires a supervisor of treatment to possess a master’s or doctorate degree in a field of clinical human services.

An individual wanted clarification on how the proposed regulations would impact the actual domestic violence treatment programs for offenders. It was explained that the following changes were made in the proposed regulations:

- A requirement for a program to provide proof that a program has permission to use the curriculum and instructional materials for the entire period during which the certificate will be valid.
- If the Division receives an incomplete application, the Division will notify the applicant of the additional information and if we don't receive it within 90 days, then we would deny the application.

An individual noted the difficulties in obtaining continuing education credits for courses taken that have not yet been approved.

An individual requested information on any updates related to the requirements to become a facilitator (provider of treatment). It was noted, aside from the incomplete application component of the proposed regulations, there are no changes related to this matter in the proposed regulations. The individual went on to explain the importance of having qualified providers that have familiarity with mental health issues.

Individuals had a discussion on previous regulatory changes related to requirements to qualify as a supervisor or provider of treatment, for example, the elimination of the requirement to have 60 hours of observing group counseling sessions and removing the requirement that one provider be a male and one provider be a female when giving group counseling sessions. There was further discussion related to mental health issues including the importance of providers having a mental health background. It was explained that providers are still required to have 60 hours of formal training. It was also noted that there is nothing in regulations that would prohibit a program from requiring the 60 hours of observing group counseling sessions as part of their new provider onboarding process.

Written Comments from affected businesses

In addition to the written comments noted in #2, a Nevada approved supervisor of treatment, representing a certified domestic violence treatment program for offenders, provided the following feedback:

"I have concerns DV clients seeing individual therapists unless there are specific reasons they are unable to attend groups. I have been facilitating groups for over 20 years and the most significant impact in changing belief systems are provided by other participants that are able to challenge negative relational attitudes and behavior patterns. Individual therapy typically lacks this process and does not provide an environment that activates those negative societal beliefs and attitudes. Clients usually express these views in groups to impress peers through attempts to collude and recruit others into their victim mentality."

"I was hoping that the process to get CEU's approved could be discussed. Often after taking a course that hasn't been approved requires a tremendous amount of paperwork be provided that is only necessary for those providing training. It makes it difficult when just seeking approval as a participant. Is this something that could be addressed during the workshop or does it need a special hearing?"

Public Hearing – December 6, 2024

No members of the public or affected businesses provided public comments during the public hearing.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation as proposed.

After consideration of feedback from a Nevada approved supervisor of treatment and review of literature on the topic, individual counseling was removed as a sole source of counseling that can be provided to domestic violence offenders. Group counseling or a combination of individual and group counseling continue to be allowed forms of counseling. NAC 228.165 continues to address situations in which a supervisor of treatment determines that an offender cannot be treated in a group counseling session.

Literature reviewed included the following:

The Battered Women's Justice Project, Current Research on Batterer Intervention Programs and Implications for Policy (<https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf>) noted: "Their preliminary conclusions support the benefits of group CBT and contradict calls for more tailored, individualized treatment (e.g., Dutton and Curvo 2007). Murphy et al. hypothesized that therapist difficulties in developing a case formulation plan, motivating engagement and completion

of the plan, and delivering the intervention was more challenging in the individualized treatment (p. 17)."

Batterer Intervention: Program Approaches and Criminal Justice Strategies, by the US Department of Justice, Office of Justice Programs, National Institute of Justice (<https://www.ojp.gov/pdffiles/168638.pdf>) noted *"group work is considered important in helping abusers to overcome their denial by hearing other men acknowledge and deal with their behavior, and to break the isolation that is considered part of the syndrome of abuse."*

After consideration of feedback from a Nevada approved supervisor of treatment noting the difficulties in obtaining continuing education credits for courses taken that have not yet been approved, the proposed regulations were modified to reduce the burden on supervisors and providers of treatment obtaining continuing education or formal training in accordance with Nevada Administrative Code (NAC) Chapter 228. The modifications clarify that the Division is authorized to review for approval a course of continuing education or formal training without an application if it is approved or accepted as continuing education or formal training by the occupational licensing boards listed in Section 8, subsection 5 or if it is approved by a nationally recognized organization pursuant to NAC 228.215, subsection 4.

After consideration of feedback from a member of the public to reduce the qualifications of a supervisor of treatment to only requiring graduation with a master's degree without any experience, such as a new graduate, it was determined that because this position serves in a supervisory role that experience should continue to be a requirement; therefore, the adopted regulations were not amended to remove the experience requirement.

6. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:
 - (a) Both adverse and beneficial effects; and
 - (b) Both immediate and long-term effects.

Anticipated effects on the business which NAC 228 regulates:

- A. *Adverse effects:* An adverse effect may occur if an applicant for a certificate for a program submits an incomplete application and does not submit the additional information requested by the Division within 90 days of the request as this would result in the denial of the application. This would result in the potential for an applicant having to reapply for an initial certificate for a program and pay the associated fee of \$598.
- B. *Beneficial:* Indirect beneficial effects may include being able to continue to operate with their division approved curriculum and instructional materials if the "author" of the curriculum decides to leave the program. Under the current regulations, if the "author" of the curriculum leaves the program and does not allow the program to continue its use, it may result in disruption to the program and possible loss of revenue. Adding additional types of licensed personnel that can serve as a supervisor of treatment may allow programs more flexibility in staffing their programs. Increased efficiencies with the renewal application process may lead to a beneficial effect by reducing the amount of staff time required to submit a program renewal application. Allowing additional avenues for approvals of continuing education and formal training without having to submit all of the

application contents noted in NAC 228.215 (1) thus reducing the burden for those looking to have courses approved or providers or supervisors of treatment taking courses that have not been approved. This may result in an indirect beneficial financial effect as courses may be approved quicker which would allow those providing courses to begin giving them sooner and potentially prevent providers or supervisors of treatment from taking and paying for an additional course because of an inability to meet all of the criteria in NAC 228.215 (1) to get a course which they have taken approved.

- C. *Immediate*: There are no immediate beneficial or adverse effects anticipated. An applicant can avoid any potential negative impacts related to an incomplete application submission by ensuring any missing information is submitted within 90 days of being requested.
- D. *Long-term*: There are no long-term beneficial or adverse effects anticipated.

Anticipated effects on the public:

- A. *Adverse*: There are no anticipated adverse effects on the public.
- B. *Beneficial*: One individual testified during the July 31, 2024, public workshop that she was in support of adding an advanced practice registered nurse who practices psychiatry as one of the license types that would qualify to become a supervisor of treatment. She noted that this may be beneficial to clients with mental health issues.
- C. *Immediate*: There are no anticipated immediate effects on the public.
- D. *Long-term*: There are no anticipated long-term effects on the public.

Note: The small business impact statement for proposed amendments to Nevada Administrative Code (NAC) 228 reflect the impact due to the establishment of fees pursuant to LCB File No. R121-24 and the policy changes addressed in LCB File No. R073-24. The anticipated effects on business, noted above, are specific to LCB File No. R073-24 and not the establishment of fees on programs for the treatment of domestic violence for offenders found in R121-24 which passed the Legislative Commission on November 15, 2024.

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

There should be no additional costs to the agency to enforce the proposed regulations.

- 8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, name the regulating federal agency.

The proposed regulations do not overlap or duplicate any other federal or Nevada state regulations.

- 9. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no other state or federal regulations addressing the same activity.

- 10. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulations do not establish a new fee. Comments related to fees in the small business impact statement are related to LCB File. No R 121-24 which passed the Legislative Commission on 11/15/2024.

SMALL BUSINESS IMPACT STATEMENT
PROPOSED AMENDMENTS TO NEVADA ADMINISTRATIVE CODE (NAC) 228

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendment will have a direct financial impact on existing business. Currently there are no fees associated with certifying and regulating domestic violence treatment programs; therefore, these programs are supported by the licensure fees collected from licensed health care facilities. The proposed regulations establish fees to cover the operating costs to certify and regulate the domestic violence treatment programs. Although this will be a new cost for certified domestic violence treatment programs, it is anticipated that it will not be a significant burden on existing businesses and would not deter new businesses from opening. A small business impact questionnaire was sent out to all certified domestic violence treatment programs and there were no responses received indicating that the new fees would result in a financial burden to these programs. This may also have an indirect benefit on licensed health care facilities, as the health facility licensure fees currently being used to support certified domestic violence treatment programs, would be used to cover licensed health care facilities operating costs. The proposed regulations reduce the regulatory burden on industry by removing provisions of current regulations that are not necessary to effectively certify and regulate these programs.

In addition, the proposed regulations bring current regulations into conformance with Senate Bill 45 of the 2021 Legislative Session by removing requirements related to submitting domestic violence treatment program applications to the Committee on Domestic Violence for its recommendations.

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.

Background

The three main reasons these proposed regulations are being moved forward are:

- 1) To bring the current regulations into conformance with Senate Bill 45 of the 2021 Legislative Session;
- 2) To carry out the Governor's Executive Order 2023-003 by removing provisions of regulations that are outdated or impose an unnecessary burden on business; and
- 3) To establish fees to certify and regulate certified domestic violence treatment programs in order to be able to cover the operating costs to carry out these duties without having licensure fees from health care facilities subsidize the operating costs to certify and regulate these programs.

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.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health (DPBH) has requested input from small businesses that may be affected by the proposed regulations.

Notice was sent to all certified domestic violence treatment program providers, certified at the time of the notice distribution, and to one individual that has expressed interest in receiving this notice, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed regulations was sent to those with an email address on file with DPBH and to the individual that expressed interest in receiving this information on January 30, 2024. The proposed regulations were also posted on DPBH's website.

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

Summary of Comments Received (1 response was received out of 25 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 0 No - 0	Yes – 0 No - 0	Yes – 0 No – 0	Yes – 0 No - 0
Comments:	Comments:	Comments:	Comments:

One response to the questionnaire was received via email asking if the removal of the provision *“Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons”* would eliminate the experience requirements in regulations for a supervisor. A response was provided noting that the attestation statement being removed does not eliminate any requirements to become a supervisor, it only notes that upon hire you no longer have to attest that they meet all the requirements. A new supervisor or provider would need to

apply and obtain approval by DPBH before they can work as a supervisor or provider; therefore, eliminating the need for the attestation.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

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

An analysis of industry input collected was conducted by a health program manager. The analysis involved analyzing feedback obtained from the small business impact questionnaire and review of the proposed regulations to help determine the economic impact to small business. Please see number 4 for the methods the agency considered to reduce the impact of the proposed regulations on small businesses. This information was then used to complete this small business impact statement including the conclusion on the impact of the proposed regulation on a small business found in number 8.

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.

Direct Beneficial Effects: Although no direct beneficial economic effects are anticipated, it is anticipated that the reduction in regulatory burdens may result in indirect beneficial effects.

Indirect Beneficial Effects: There was at least one instance in which a program was left without approved curriculum and instructional materials because the copyrighted material they were using was pulled from the program. The provision that a program has permission to utilize the curriculum and instructional materials while operational, may result in an economic beneficial effect by avoiding breaks in service and/or loss of certification for not having approved materials.

Reducing unnecessary regulatory burdens such as the requirement to use a form approved by the Division instead of allowing programs to develop forms that best fit their program to carry out the provisions of Section 6, removing the requirement that the director attest in writing that a new supervisor or provider of treatment meets the requirements to become a supervisor or provider, as applicable, and removing the requirement to submit proof of completion of continuing education hours with a renewal application (will be done via an audit system) should increase efficiencies and reduce regulatory burden; therefore, potentially saving time (salary costs).

Direct Adverse Effects: The direct adverse economic effect includes going from not paying any fees to become and maintain certification as a program for the treatment of domestic violence to paying the fees outlined in Section 3 of the proposed regulations.

Indirect Adverse Effects: Section 8 of the proposed regulations lists the fields of study that would be considered a “field of clinical human services” for the purposes of possessing a master’s or doctorate degree to satisfy the educational requirement to become a supervisor of treatment at a program. A supervisor who does not have a master’s or doctorate degree in one of the listed fields of study would no longer meet the educational requirement to be a supervisor, but they would meet the educational requirement to be a provider of treatment. This may or may not have a negative financial impact on an individual depending on their particular circumstances.

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 identified and used methods to reduce the impact of the proposed regulations on small businesses including setting reasonable fees to cover costs for application processing, inspections at an interval to help keep costs down, and to investigate complaints. The method of having an inspection interval in policy to keep costs down was implemented. A small business impact questionnaire was sent out to all certified domestic violence treatment programs and there were no responses received indicating that the new fees would result in a financial burden to these programs.

Certain sections, as noted below, were heard before the Board of Health on April 28, 2023.

- Text of Repealed Sections: NAC 228.101
- Section 5: NAC 228.102 (1) (b)
- Section 8: LCB File No. R071-20 Section 6 (10), (10) (a), and (10) (b)
- Section 9: LCB File No. R071-20, Section 7 (2)(d)(1), (2)(d)(2), (2)(d)(5) and (4)(b), (4)(b)(1) and (4)(b)(2)

There was no testimony heard at the Board of Health on April 28, 2023, addressing the specific sections noted above which were heard before the Board of Health. Testimony from one individual was heard recommending that the current regulations reduce the number of providers of treatment present during group counseling sessions from two providers to one provider. This small business impact statement reflects the impact of the proposed regulations being moved forward and not on current regulations that are not included in the proposed regulations.

A public workshop will be held allowing for further input by stakeholders regarding the proposed regulations and their impact. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on programs.

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

The estimated cost to the agency for the enforcement of the proposed regulations is the amount of fees collected pursuant to number 6. It is anticipated that the Division would collect an estimated amount of \$10,166 per year to certify and regulate domestic violence treatment

programs. This is only an estimate, as existing programs may close and new programs may open, which would impact the amount of revenue collected.

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.

The total annual amount the Division expects to collect from renewal application is \$7,176 (24 actively certified programs X \$299). There are currently no out-of-state certified programs; therefore, no renewal fees are expected to be collected at this time for the renewal of a certificate by endorsement.

It is unknown how many new applicants will apply, how many certified programs will submit an application to operate an additional location, or how many certified programs will notify the Division of a change to their certificate, pursuant to Section 7; therefore, the revenue generated from these sources is unknown. Based on a three-year average of 5 new programs a year it is estimated to bring in \$2,990.

It is anticipated that the Division would collect an estimated amount of \$10,166 per year to certify and regulate domestic violence treatment programs. This is only an estimate, as existing programs may close and new programs may open, which would impact the amount of revenue collected.

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

There are no other state or federal regulations addressing the same activity.

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

The reasons for Division's conclusion regarding the impact of a regulation on a small business is based on an analysis of the proposed regulations and whether or not they increased or decreased regulatory burden and on the responses received after sending out the small business impact questionnaire. Only one response was received out of the 25 questionnaires distributed and no one provided feedback indicating the proposed regulations would result in a negative financial impact on the industry; therefore, the conclusion is that although the proposed regulations will result in a negative financial impact on programs, they also reduce regulatory burden and increase efficiencies, without resulting in a significant negative financial impact.

Certification by Person Responsible for the Agency

I, Cody 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 Cody Phinney Date: 2/26/2024

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R077-24

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

AUTHORITY: § 1, NRS 445B.210, 445B.300, 445B.470 and 445B.640; §§ 2-6, 9 and 10, NRS 445B.210 and 445B.300; §§ 7, 8 and 11, NRS 445B.210, 445B.225 and 445B.300.

A REGULATION relating to air pollution; repealing the prohibition on discharging or causing the discharge of certain odors from a stationary source; repealing provisions relating to mercury early reduction credits; repealing provisions relating to certain technologies to control mercury emissions; repealing provisions relating to tier-1 thermal units that emit mercury; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations to prevent, abate and control air pollution. (NRS 445B.210)

Existing regulations: (1) prohibit a person from discharging or causing to be discharged, from any stationary source, any material or regulated air pollutant which is or tends to be offensive to the senses, injurious or detrimental to health and safety, or which in any way interferes with or prevents the comfortable enjoyment of life or property; and (2) set forth a schedule of fines for such a violation. (NAC 445B.22087, 445B.281) **Section 11** of this regulation eliminates this prohibition. **Section 1** of this regulation makes a conforming change to eliminate the fine imposed for violating any such prohibition.

Existing law requires the Commission, by regulation, to: (1) require the person operating or responsible for the existence of each source of air contaminant, generally or within a specified class or classes, to apply for and obtain an operating permit for the source; and (2) provide for the issuance, renewal, modification, revocation and suspension of operating permits. (NRS 445B.300) Existing regulations provide that no owner or operator of a tier-1 thermal unit that emits mercury may cause or permit the discharge of mercury into the atmosphere without applying certain technologies for the control of mercury emissions. (NAC 445B.3659) **Section 4** of this regulation eliminates this provision.

Existing regulations set forth certain requirements for obtaining a mercury operating permit to construct which differ depending on the phase of construction of a thermal unit that emits mercury and whether the thermal unit is classified as a tier-1, tier-2 or tier-3 thermal unit that emits mercury. (NAC 445B.3661-445B.3673) **Section 5** of this regulation eliminates the requirement that an owner or operator of a stationary source which conducts precious metals mining obtain a mercury operating permit to construct a tier-1 thermal unit that emits mercury. **Section 6** of this regulation eliminates the deadline for an owner or operator of a tier-1 thermal

unit that emits mercury to submit a phase-1 application, which was not later than August 2, 2006. **Section 11** repeals certain application requirements for tier-1 thermal units. (NAC 445B.3645, 445B.3673) **Section 2** of this regulation makes a conforming change to eliminate an internal reference to a section of the Nevada Administrative Code that is repealed in **section 11**.

Section 8 of this regulation eliminates requirements relating to a phase-2 application for a tier-1 thermal unit that emits mercury. **Section 9** of this regulation eliminates requirements for the review of a phase-1 application, phase-2 application or an application for the revision of a mercury operating permit to construct for a tier-1 thermal unit that emits mercury. **Section 10** of this regulation eliminates provisions relating to conditions that must be contained in a mercury operating permit to construct a tier-1 thermal unit that emits mercury. **Section 11** repeals the definition of “tier-1 thermal unit that emits mercury.” (NAC 445B.3645) **Section 3** of this regulation makes a conforming change to the definition of “tier-2 thermal unit that emits mercury” to remove a reference to the term “tier-1 thermal unit that emits mercury.” (NAC 445B.3647)

Existing regulations identify a list of existing tier-1 thermal units that emit mercury. (NAC 445B.3653) **Section 11** repeals this list.

Existing regulations require that a phase-1 application, a phase-2 application and an application for a revision of a mercury operating permit to construct for an existing thermal unit that emits mercury include additional controls which will be implemented by a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury to reduce the level of mercury emissions for which the owner or operator is requesting mercury early reduction credit. (NAC 445B.3671) **Section 7** of this regulation eliminates this requirement.

Existing regulations establish the Nevada Mercury Air Emissions Control Program to require a mercury operating permit to construct and the application of certain controls of mercury emissions for thermal units that emit mercury which are located at stationary sources that conduct mining of gold or silver ore. (NAC 445B.3611-445B.3689) Existing regulations define “Nevada maximum achievable control technology,” abbreviated as “NvMACT,” for the purposes of identifying the standard, method of control or any other limitation which is applied to an existing thermal unit that emits mercury, a new thermal unit that emits mercury or a modified thermal unit that emits mercury and which is designed to reduce the level of mercury emissions and is determined by the Director of the State Department of Conservation and Natural Resources to be the maximum degree of reduction of mercury emissions that is achievable for the thermal unit that emits mercury. (NAC 445B.3629) Existing regulations define “presumptive NvMACT” to mean technologies to control mercury emissions that Goldstrike Mining Operations of Barrick Gold Corporation, Newmont Mining Corporation, the Pipeline Mining Operation of Cortez Gold Mines of Placer Dome, Inc. or the Jerritt Canyon Mine of Queenstake Resources, Ltd. apply to an existing thermal unit that emits mercury before May 4, 2006. (NAC 445B.3639, 445B.3651)

Section 11 eliminates the category of presumptive NvMACT by repealing the existing regulations that: (1) create the category; and (2) identify the technologies that constitute presumptive NvMACT. **Section 11** also repeals certain requirements for the contents of a phase-1 application for a revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application for an existing thermal unit that emits mercury. **Sections 9 and 10** make conforming changes to remove from existing regulations the requirement that certain applications to construct or revise a permit to construct or notices of the Director’s review of an application or a mercury operating permit identify presumptive NvMACT.

Existing regulations authorize the Director, in taking his or her final action concerning the proposed conditions for a mercury operating permit to construct, to extend the time required to apply certain NvMACT if the owner or operator of an existing thermal unit that emits mercury has installed additional controls for mercury emissions. Existing regulations define this extension of time as the “mercury early reduction credit.” (NAC 445B.3621) **Section 11** repeals the mercury early reduction credit and the Director’s authority to grant the extension of time.

Section 1. NAC 445B.281 is hereby amended to read as follows:

445B.281 1. Except as otherwise provided in NAC 445B.001 to 445B.390, inclusive, any violation of the provisions of those sections is classified as a major violation, and a fine up to \$10,000 per day per violation may be levied.

2. For Class II sources, violations of NAC 445B.22037, 445B.22067, 445B.2207, ~~445B.22087,~~ subsections 3 and 4 of NAC 445B.232, subsection 8 of NAC 445B.252, subsection 2 of NAC 445B.265, paragraph (e) of subsection 1 of NAC 445B.275 and NAC 445B.331 are classified as minor or lesser violations, unless there are four or more violations of any one of those sections by a person, occurring within a period of 60 consecutive months.

3. The schedule of fines for minor violations is as follows:

	First	Second	Third
	Offense	Offense	Offense
NAC 445B.22037, fugitive dust.....	\$500	\$1,000	\$2,000
NAC 445B.22067, open burning.....	250	500	1,000
NAC 445B.2207, incinerator burning	250	500	1,000
~~NAC 445B.22087, odors.....~~	~~250~~	~~500~~	~~1,000~~

	First Offense	Second Offense	Third Offense
Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions.....	250	500	1,000
Subsection 8 of NAC 445B.252, testing and sampling reporting	250	500	1,000
Subsection 2 of NAC 445B.265, reporting of monitoring systems.....	250	500	1,000
Paragraph (e) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification.....	250	500	1,000
NAC 445B.331, change of location	250	500	1,000

4. All minor violations become major violations upon the occurrence of the fourth violation of the same section within a period of 60 consecutive months.

Sec. 2. NAC 445B.3633 is hereby amended to read as follows:

445B.3633 “Phase-1 application” means an application for a mercury operating permit to construct for an existing thermal unit that emits mercury . ~~which is submitted in accordance with NAC 445B.3673.~~

Sec. 3. NAC 445B.3647 is hereby amended to read as follows:

445B.3647 “Tier-2 thermal unit that emits mercury” means an existing thermal unit that emits mercury which ~~is~~

~~—1. Emits~~ *emits* or has the potential to emit mercury at a level that is greater than de minimis mercury emissions . ~~}; and~~

~~—2. Is not a tier-1 thermal unit that emits mercury.}~~

Sec. 4. NAC 445B.3659 is hereby amended to read as follows:

445B.3659 No owner or operator of a ~~{tier-1 thermal unit that emits mercury,}~~ tier-2 thermal unit that emits mercury, new thermal unit that emits mercury or modified thermal unit that emits mercury may cause or permit the discharge of mercury into the atmosphere without applying NvMACT for the control of mercury emissions pursuant to the provisions of NAC 445B.3611 to 445B.3689, inclusive.

Sec. 5. NAC 445B.3663 is hereby amended to read as follows:

445B.3663 1. An owner or operator of a stationary source which conducts precious metals mining shall obtain a mercury operating permit to construct for:

(a) ~~{A tier-1 thermal unit that emits mercury;~~

~~—(b)}~~ A tier-2 thermal unit that emits mercury;

~~{(e)}~~ *(b)* A new thermal unit that emits mercury; and

~~{(d)}~~ *(c)* A modified thermal unit that emits mercury.

2. Any application for a mercury operating permit to construct which is submitted to the Director pursuant to the provisions set forth in NAC 445B.3611 to 445B.3689, inclusive, must be submitted on a form provided by the Director.

Sec. 6. NAC 445B.3667 is hereby amended to read as follows:

445B.3667 1. An owner or operator of a ~~{tier-1 thermal unit that emits mercury shall~~
~~submit a phase-1 application to the Director not later than August 2, 2006.~~

~~—2. Except as otherwise provided in NAC 445B.3669, an owner or operator of a~~ tier-2 thermal unit that emits mercury shall submit a phase-1 application to the Director not later than October 31, 2006.

~~{3.}~~ 2. An owner or operator of a ~~{tier-1 thermal unit that emits mercury or a}~~ tier-2 thermal unit that emits mercury shall submit a phase-2 application to the Director not later than February 4, 2008.

Sec. 7. NAC 445B.3671 is hereby amended to read as follows:

445B.3671 A phase-1 application, a phase-2 application and an application for a revision of a mercury operating permit to construct for an existing thermal unit that emits mercury must include:

1. Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of the company and the owner's agent, and the name and telephone number of the manager of the plant or another appropriate person to contact;
2. An identification of each thermal unit that emits mercury;
3. A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each thermal unit that emits mercury which is a part of the stationary source;
4. Limitations on the operation of the stationary source or any standards for work practices which affect mercury emissions at the stationary source;
5. The location of any records that the applicant must keep pursuant to the requirements of the mercury operating permit to construct if the records are kept at a location other than the emitting stationary source;

6. ~~{Additional controls which will be implemented by a tier-1 thermal unit that emits mercury or tier-2 thermal unit that emits mercury to reduce the level of mercury emissions for which the owner or operator is requesting mercury early reduction credit;}~~ and

~~{7.}~~ Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.

Sec. 8. NAC 445B.3675 is hereby amended to read as follows:

445B.3675 A phase-2 application for ~~{a tier-1 thermal unit that emits mercury or}~~ a tier-2 thermal unit that emits mercury, or an application for a revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application for ~~{a tier-1 thermal unit that emits mercury or}~~ a tier-2 thermal unit that emits mercury must include:

1. An analysis conducted by the applicant which:

(a) Determines the standards, methods of control or other limitations to be applied to the thermal unit for the reduction of mercury emissions that the applicant deems sufficient for the Director to determine to be NvMACT for the thermal unit that emits mercury; and

(b) Sets forth a list of similar thermal units that emit mercury which are used for precious metal mining that includes, without limitation:

(1) Any methods or technologies to control mercury emissions which are associated with the thermal units that emit mercury;

(2) The level of mercury emissions associated with each method or technology to control mercury emissions from the thermal units that emit mercury;

(3) The design for each method or technology to control mercury emissions from the thermal units that emit mercury;

(4) Costs associated with reductions of mercury emissions as a result of each method or technology to control mercury emissions from the thermal units that emit mercury;

(5) Costs associated with energy for each method or technology to control mercury emissions from the thermal units that emit mercury; and

(6) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury.

2. A proposed monitoring plan which includes, without limitation:

(a) Procedures for the operation and maintenance of the thermal unit.

(b) Methods of the monitoring of and recordkeeping for any controls for mercury processes and emissions.

(c) A proposed schedule for sampling and testing of mercury emissions and tests of performance for the thermal unit that emits mercury which must be conducted on an annual basis in accordance with NAC 445B.252.

(d) A requirement to report the level of mercury emissions on an annual basis which must be based on mercury emissions test data.

(e) A requirement to report any mercury co-product on an annual basis.

Sec. 9. NAC 445B.3677 is hereby amended to read as follows:

445B.3677 For each ~~tier-1 thermal unit that emits mercury and~~ tier-2 thermal unit that emits mercury:

1. For a phase-1 application, phase-2 application or an application for the revision of a mercury operating permit to construct for a ~~tier-1 thermal unit that emits mercury or a~~ tier-2 thermal unit that emits mercury, within 30 days after the date of receipt of the application, the

Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If an incomplete application is returned to the applicant, the applicant must resubmit a complete application within 15 days after the applicant receives the returned incomplete application. If substantial additional information is not required, the Director shall determine the application to be complete. The official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt of the most recently submitted application, whichever is earlier.

2. For a phase-1 application or an application for the revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application for a ~~tier-1 thermal unit that emits mercury or a~~ tier-2 thermal unit that emits mercury, within 180 days after the official date of submittal, the Director shall ~~+~~

~~—(a) Propose~~ *propose* the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury . ~~+~~

~~—(b) Include the presumptive NvMACT for the tier-1 thermal unit that emits mercury; and~~

~~—(c) If the applicant requests mercury early reduction credit, consider the following for each thermal unit that emits mercury:~~

~~—(1) The best controls available for mercury emissions.~~

~~—(2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.~~

~~—(3) The enclosure of systems or processes to eliminate mercury emissions.~~

~~—(4) The collection, capture or treatment of mercury emissions.~~

~~—— (5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.~~

~~—— (6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.~~

~~—— (7) Any combination of subparagraphs (1) to (6), inclusive.}~~

3. For a phase-2 application or an application for the revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application for a ~~tier-1 thermal unit that emits mercury or a~~ tier-2 thermal unit that emits mercury, within 9 months after the official date of submittal, the Director shall:

(a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury; and

(b) Make a determination of NvMACT for the thermal unit that emits mercury in which the Director shall consider the following for each thermal unit that emits mercury:

(1) The maximum degree of reduction of mercury emissions that is achievable for the thermal unit after considering:

(I) The cost of achieving such a reduction; and

(II) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury to implement NvMACT.

(2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.

(3) The enclosure of systems or processes to eliminate mercury emissions.

(4) The collection, capture or treatment of mercury emissions.

(5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.

(6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.

(7) Any combination of subparagraphs (1) to (6), inclusive.

4. If, after the official date of submittal of an application pursuant to subsection 1, the Director discovers that additional information is required to act on an application, the Director may request additional information necessary to determine whether the proposed construction or operation will comply with all of the requirements set forth in NAC 445B.3611 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

5. The Director's review and the proposed conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street,

Suite 4001, Carson City, Nevada 89701, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

6. The Director shall:

(a) Publish notice of the Director's review, the proposed conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct and a copy of the proposed mercury operating permit on an Internet website designed to give general public notice;

(b) Provide written notice to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public; and

(d) Establish a 30-day period for comment from the public.

7. In addition to the requirements set forth in subsections 5 and 6, the notice required for a mercury operating permit to construct or for a revision of a mercury operating permit to construct must identify:

(a) The stationary source and the name and address of the applicant;

(b) The name and address of the authority processing the mercury operating permit to construct;

(c) The activity or activities involved in the mercury operating permit to construct and the change of mercury emissions involved in any revision of the mercury operating permit to construct;

(d) The ~~presumptive NvMACT or the~~ determination of NvMACT ; ~~as appropriate;~~

(e) The name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the mercury operating permit to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the mercury operating permit to construct and which are relevant to the proposed conditions for the mercury operating permit to construct; and

(f) A brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

8. All comments concerning the Director's review and the conditions proposed by the Director concerning the phase-1 application or phase-2 application for a mercury operating permit to construct or of a revision of a mercury operating permit to construct must be submitted in writing to the Director within 30 days after the public notice required to be provided pursuant to subsection 6. The Director shall give notice of any public hearing at least 30 days before the date of the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

9. Within 12 months after the official date of submittal of a phase-1 application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct or the proposed revision of a mercury operating permit to construct. The Director shall make his or her decision by taking into account:

(a) Written comments from the public;

(b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and

(c) Information submitted by proponents of the project.

10. Within 16 months after the official date of submittal of a phase-2 application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct or the proposed revision of a mercury operating permit to construct. The Director shall make his or her decision by taking into account:

(a) Written comments from the public;

(b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and

(c) Information submitted by proponents of the project.

Sec. 10. NAC 445B.3679 is hereby amended to read as follows:

445B.3679 For each ~~{tier-1 thermal unit that emits mercury and}~~ tier-2 thermal unit that emits mercury:

1. The Director shall cite the legal authority for each condition contained in the mercury operating permit to construct.

2. The mercury operating permit to construct must contain the following conditions:

(a) The holder of the mercury operating permit to construct shall retain records of all required monitoring data and supporting information for 5 years after the date of the sample collection, measurement, report or analysis. Supporting information includes, without limitation, all records

regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.

(b) Each of the conditions and requirements of the mercury operating permit to construct is severable, and if any is held invalid, the remaining conditions and requirements continue in effect.

(c) The holder of the mercury operating permit to construct must comply with all conditions of the mercury operating permit to construct. Any noncompliance constitutes a violation and is a ground for:

- (1) An action for noncompliance;
- (2) The revoking and reissuing, or the terminating, of the mercury operating permit to construct by the Director; or
- (3) The reopening or revising of the mercury operating permit to construct by the holder of the mercury operating permit to construct as directed by the Director.

(d) The need to halt or reduce activity to maintain compliance with the conditions of the mercury operating permit to construct is not a defense to noncompliance with any condition of the mercury operating permit to construct.

(e) The Director may revise, revoke and reissue, reopen and revise, or terminate the mercury operating permit to construct for cause.

(f) The mercury operating permit to construct does not convey any property rights or any exclusive privilege.

(g) The holder of the mercury operating permit to construct shall provide the Director, in writing and within a reasonable time, with any information that the Director requests to determine whether cause exists for revoking or terminating the mercury operating permit to

construct, or to determine compliance with the conditions of the mercury operating permit to construct.

(h) The holder of the mercury operating permit to construct shall allow the Director or any authorized representative of the Director, upon presentation of credentials, to:

(1) Enter upon the premises of the holder of the mercury operating permit to construct where:

(I) The thermal unit that emits mercury is located;

(II) Activity related to mercury emissions is conducted; or

(III) Records are kept pursuant to the conditions of the mercury operating permit to construct;

(2) Have access to and copy, during normal business hours, any records that are kept pursuant to the conditions of the mercury operating permit to construct;

(3) Inspect, at reasonable times, any facilities, practices, operations or equipment, including any equipment for monitoring or controlling air pollution, that are regulated or required pursuant to the mercury operating permit to construct; and

(4) Sample or monitor, at reasonable times, substances or parameters to determine compliance with the conditions of the mercury operating permit to construct or applicable requirements.

(i) A responsible official of the stationary source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the mercury operating permit to construct are true, accurate and complete.

3. The mercury operating permit to construct must contain †

~~—(a) All~~ *all* applicable requirements concerning controls for mercury emissions ~~;~~ *and* emission limits and standards, including, without limitation ~~;~~

~~—(1) For a mercury operating permit to construct that is issued pursuant to a phase-1 application;~~

~~—(I) The applicable presumptive NvMACT for the tier-1 thermal unit that emits mercury as set forth in NAC 445B.3651; and~~

~~—(II) If the owner or operator of the thermal unit that emits mercury applied for mercury early reduction credit which was granted by the Director, the additional controls which will be implemented to reduce the level of mercury emissions before the date required to submit a phase-2 application pursuant to subsection 3 of NAC 445B.3667; and~~

~~—(2) For a mercury operating permit to construct that is issued pursuant to a phase-2 application;~~

~~—(I) The~~ *, the* NvMACT for the thermal unit that emits mercury which must ~~;~~ *except as otherwise provided in sub-subparagraph (II),* be implemented not later than 24 months after the date the mercury operating permit to construct is issued pursuant to the phase-2 application . ~~;~~ *and*

~~—(II) If the owner or operator of the thermal unit that emits mercury has been issued mercury early reduction credit by the Director, the additional controls which will be implemented to reduce the level of mercury emissions required to satisfy the NvMACT not later than 48 months after the date the mercury operating permit to construct is issued pursuant to the phase-2 application;~~

~~—(b) Monitoring methods adequate to show compliance;~~

~~—(c) Adequate recordkeeping and reporting requirements as deemed by the Director;~~

- ~~—(d) Any requirement to report any mercury co-product on an annual basis; and~~
~~—(e) Any other requirements deemed necessary by the Director.†~~

Sec. 11. NAC 445B.22087, 445B.3621, 445B.3639, 445B.3645, 445B.3651, 445B.3653, 445B.3669 and 445B.3673 are hereby repealed.

TEXT OF REPEALED SECTIONS

445B.22087 Odors. (NRS 445B.210)

1. No person may discharge or cause to be discharged, from any stationary source, any material or regulated air pollutant which is or tends to be offensive to the senses, injurious or detrimental to health and safety, or which in any way interferes with or prevents the comfortable enjoyment of life or property.

2. The Director shall investigate an odor when 30 percent or more of a sample of the people exposed to it believe it to be objectionable in usual places of occupancy. The sample must be at least 20 people or 75 percent of those exposed if fewer than 20 people are exposed.

3. The Director shall deem the odor to be a violation if he or she is able to make two odor measurements within a period of 1 hour. These measurements must be separated by at least 15 minutes. An odor measurement consists of a detectable odor after the odorous air has been diluted with eight or more volumes of odor-free air.

445B.3621 “Mercury early reduction credit” defined. (NRS 445B.210, 445B.300)

“Mercury early reduction credit” means an extension of the time required to apply NvMACT

pursuant to NAC 445B.3611 to 445B.3689, inclusive, which may be granted by the Director in his or her taking final action concerning the proposed conditions for the mercury operating permit to construct pursuant to NAC 445B.3677 if the owner or operator of an existing thermal unit that emits mercury has installed additional controls for mercury emissions.

445B.3639 “Presumptive Nevada maximum achievable control technology” and “presumptive NvMACT” defined. (NRS 445B.210, 445B.300) “Presumptive Nevada maximum achievable control technology,” abbreviated as “presumptive NvMACT,” means the technologies to control mercury emissions which:

1. Have been implemented before May 4, 2006; and
2. Are associated with the system or process units of the tier-1 thermal units that emit mercury which are described and set forth in NAC 445B.3651.

445B.3645 “Tier-1 thermal unit that emits mercury” defined. (NRS 445B.210, 445B.300) “Tier-1 thermal unit that emits mercury” means any existing thermal unit that emits mercury which:

1. Emits mercury at a level that is greater than de minimis mercury emissions; and
2. Is located at any of the mining locations and includes the associated system or process units described and set forth in NAC 445B.3653.

445B.3651 Identification of technologies that constitute presumptive NvMACT. (NRS 445B.210, 445B.300) The technologies to control mercury emissions which are set forth in this section by the associated system or process unit of the tier-1 thermal unit that emits mercury, and none other, are presumptive NvMACT:

1. For Goldstrike Mining Operations of Barrick Gold Corporation:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
Ore roasting circuits	Gas quenching, wet gas condenser, wet electrostatic precipitator, mercury adsorption tower
Carbon reactivation kiln, unit 2 (Drum)	Wet venturi scrubber, sulfur-impregnated carbon filtration unit
Autoclave circuits (Units 1, 2, 2-3, 4 and 5-6)	Four wet venturi scrubbers (Units 1, 2-3, 4 and 5-6)
Retorts	Mercury condensers and scrubbers with carbon filtration canisters
Retort room exhaust	Sulfur-impregnated carbon scrubber unit (Stack combined with retort stack)
Electric induction furnaces	Cyclone and baghouse, sulfur-impregnated carbon filtration scrubber unit
Electrowinning cells	Sulfur-impregnated carbon filtration scrubber unit (Stack combined with electrowinning furnace)

2. For Newmont Mining Corporation:

(a) For the Gold Quarry Operations Area:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
North and south CFB ore preheaters	Baghouses, SO2 scrubber
North and south CFB ore roasters	Roaster off-gas quench, wet scrubber, electrostatic precipitator, wash tower, SO2 scrubber, mercurous chloride scrubber
Carbon regeneration kilns, 1 and 2 (Drum)	Carbon adsorption unit, wet scrubber
Mercury retort furnaces	Carbon filter pack
Electric induction furnaces	Carbon filter pack, baghouse
Pregnant and barren solution tanks	Carbon adsorption unit, wet scrubber

(b) For the Twin Creeks Mine:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
Juniper mill carbon kiln (Drum)	Wet scrubber, mercury scrubber
Pinon mill carbon regeneration kiln (Drum)	Wet scrubber
Sage mill autoclaves	Venturi scrubber
Mercury retort furnaces	Carbon adsorption
Juniper induction furnaces	Baghouse

3. For the Pipeline Mining Operation of Cortez Gold Mines of Placer Dome, Inc.:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
Electric carbon reactivation kilns, 1 and 2	Chemical treatment, added wet scrubber 10/05
Electric induction refinery furnaces, 1 and 2	Chemical treatment, baghouse
Electrowinning cells	Chemical treatment

4. For the Jerritt Canyon Mine of Queenstake Resources, Ltd.:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
East and west roasters	Gas quench scrubber, venturi dust scrubber, SO ₂ scrubber, mercury scrubber, tail gas scrubber, sodium hypochlorite injection system
Refinery and carbon regeneration kiln	Venturi mercury wet-scrubbing/carbon- polishing system

445B.3653 Identification of tier-1 thermal units that emit mercury. (NRS 445B.210, 445B.300) The existing thermal units that emit mercury which are set forth in this section, and none other, are tier-1 thermal units that emit mercury:

1. For Goldstrike Mining Operations of Barrick Gold Corporation:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
Ore roasting circuits	2	S2.209.1 and S2.209.2 from Air Permit 1041-0739
Carbon reactivation kiln, unit 2 (Drum)	1	Lockheed Haggerty, serial number 119-122
Autoclave circuits (units 1, 2, 2-3, 4 and 5-6)	6	Eaton Metals
Retorts	3	EnviroCare Systems
Retort room exhaust	1	Vented through controls on the retorts
Electric induction furnaces	2	Inductotherm Corporation: East: Model number 125 KW PowerTrak and serial number 91-50165-246-11 West: Model number 75 KW PowerTrak and serial number 87-77730-246-11
Electrowinning cells	16	Located on the second floor of the secured refinery building

2. For Newmont Mining Corporation:

(a) For the Gold Quarry Operations Area:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
North and south CFB ore preheaters	2	Thermal Transfer, custom-made
North and south CFB ore roasters	2	Mark Steel, custom-made
Carbon regeneration kilns, 1 and 2 (Drum)	2	Boliden-Allis, custom-made
Mercury retort furnaces	7	Saracco Manufacturing Corporation, custom- made
Electric induction furnaces	3	Inductotherm Corporation
Pregnant and barren solution tanks	3	Two tanks located inside and one tank located immediately outside the refinery building

(b) For the Twin Creeks Mine:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
Juniper mill carbon kiln (Drum)	1	Lockheed Haggerty
Pinon mill carbon regeneration kiln (Drum)	1	Lockheed Haggerty, Serial number 171-63

Sage mill autoclaves	2	Eaton Metals
Mercury retort furnaces, A, B, C and D	4	Lockheed Haggerty: Retorts A-D: Model number 13053 Retort A: Serial number 171-64a Retort B: Serial number 171-64b Retort C: Serial number 16082, equipment number 370-514-103 Retort D: Serial number 16082, equipment number 370-514-104
Juniper induction furnaces, east and west	2	Inductotherm Corporation: East: New furnace located in smelting area West: Serial number 750-72010-3-87

3. For the Pipeline Mining Operation of Cortez Gold Mines of Placer Dome, Inc.:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
Electric carbon reactivation kilns, 1 and 2	2	Lockheed Haggarty, 48X40
Electric induction refinery furnaces, 1 and 2	2	Inductotherm Corporation, VIP PowerTrak-R; serial numbers 80354 and 59585

Electrowinning cells	6	Summit Valley, 125CF
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4. For the Jerritt Canyon Mine of Queenstake Resources, Ltd.:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
East and west roasters	2	Keeler/Dorr-Oliver: East: Serial number 46DD 3250 West: Serial number 46DD 3050
Refinery and carbon regeneration kiln	1	Elmco Technologies, serial number 44DD 3071

445B.3669 Existing thermal unit that emits mercury: Submission of phase-1 application following determination of de minimis mercury emissions. (NRS 445B.210, 445B.300) Within 90 days after the date of final notification of the determination of de minimis mercury emissions pursuant to NAC 445B.3657:

1. If the owner or operator of an existing thermal unit that emits mercury determines that the thermal unit that emits mercury does or has the potential to emit mercury at a level which is greater than de minimis mercury emissions and has not yet submitted an application pursuant to subsection 1 or 2 of NAC 445B.3667, the owner or operator must submit a phase-1 application to the Director to obtain a mercury operating permit to construct for the thermal unit that emits mercury; or

2. If the owner or operator of a stationary source has a mercury operating permit to construct which was issued pursuant to a phase-1 application for one or more thermal units that emit mercury and determines that any of the thermal units that emit mercury emits or has the potential to emit mercury at a level which is greater than the de minimis mercury emissions, the owner or operator must submit an application to revise the mercury operating permit to construct to authorize the operation of the thermal unit that emits mercury at a level which is greater than de minimis mercury emissions.

445B.3673 Existing thermal unit that emits mercury: Contents of phase-1 application; sampling and testing for tier-1 thermal unit. (NRS 445B.210, 445B.225, 445B.300) A phase-1 application or an application for a revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application for an existing thermal unit that emits mercury must include:

1. An identification and a description of any equipment for the control of mercury emissions, including, without limitation, any controls that are presumptive NvMACT; and

2. A proposed monitoring plan which must be complied with by the applicant until a mercury operating permit to construct is issued pursuant to the phase-1 application and which includes, without limitation:

(a) For a tier-1 thermal unit that emits mercury:

- (1) Procedures for the operation and maintenance of the thermal unit.
- (2) Methods of the monitoring of and recordkeeping for any controls for mercury processes and emissions.
- (3) A proposed schedule for sampling and testing of mercury emissions and tests of performance to be conducted on an annual basis in accordance with the procedures set forth in

NAC 445B.252. The owner or operator of the thermal unit that emits mercury must conduct the initial sampling and testing of mercury emissions and tests of performance and submit the results of the initial sampling and testing and tests of performance to the Director not later than December 31, 2006. After the owner or operator of the thermal unit has submitted the results of the initial sampling and testing of mercury emissions and tests of performance, the owner or operator may submit a request to the Director to waive the requirement for annual sampling and testing of mercury emissions or consider other schedules for the frequency with which such sampling and testing and tests of performance must be conducted.

(4) A requirement to report the level of mercury emissions on an annual basis which must be based on mercury emissions test data.

(5) A requirement to report any mercury co-product on an annual basis.

(b) For a tier-2 thermal unit that emits mercury:

(1) Procedures for the operation and maintenance of the thermal unit.

(2) Methods of the monitoring of and recordkeeping for any controls for mercury processes and emissions.

(3) A proposed schedule for sampling and testing of mercury emissions and tests of performance for the thermal unit that emits mercury.

(4) A requirement to report the level of mercury emissions on an annual basis which must be based on mercury emissions test data.

(5) A requirement to report any mercury co-product on an annual basis.

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission Permanent No: R077-24P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

The purpose of the proposed amendments is to repeal regulations that no longer serve a purpose for achieving the intents and purposes of NRS 4458.110 to NRS 4458.640, inclusive. It is necessary to repeal these regulations to improve efficiency in administering Nevada's Air Program and minimize the resources needed to understand the regulatory requirements that may affect businesses and the public.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

The Legislative Counsel Bureau published its draft, R077-24P, in the Nevada Register on July 1, 2024.

The NDEP held two hybrid (in-person and virtual) public workshops for R077-24P: one on May 23, 2024, and one on July 31, 2024. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada, as well as at the NDEP offices at 375 East Warm Springs Road in Las Vegas, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Seven members of the public and regulated industry attended the workshop either in person or virtually. During and after the second public workshop, the Division received several verbal questions. Regarding the mercury portion of the regulation:

- 1) One commenter asked about the reasoning for the removal of these provisions of the Nevada Mercury Control Program. NDEP explained that the removal of these regulations is based on Executive Order 2023-003, and that these regulations referencing Tier 1 thermal units, Phase-1 and the Early Mercury Reduction Credit no longer had any applicability, as the timeframe for the need for those regulations has been superseded by the issuance of Phase-2 Mercury Operating Permits for all facilities regulated by the Nevada Mercury Control Program.

- 2) Another commenter asked for confirmation that facilities previously classified as Tier 1 would be classified as Tier 2 as a result of these amendments. The participant also asked for clarification regarding the definition of Tier 2.
- 3) Another commenter was originally concerned that annual mercury tests were proposed to be removed from regulations. NDEP clarified that only regulations that did not apply anymore were being removed, and that annual testing was still occurring under the Phase-2 MOPTC's. This commenter also asked NDEP to look into the following (comment followed by agency response):
 - a. Are the facilities that were in Tier 1 moving into Tier 2 category?
 - i. For all intents and purpose those facilities would move into the Tier 2 category
 - b. Can conditions be added about mercury collection, storing, and transportation?
 - i. This is outside the scope of this action and outside the bureau's jurisdiction.
 - c. The effectiveness of carbamate chemical mercury precipitants when added to process solutions.
 - i. This comment is also outside the scope of the proposed regulatory action.
 - d. Requested annual Hg reporting numbers be shown on the NDEP website.
 - i. NDEP is preparing to upgrade the website in the near future, which will include updated annual mercury emission reporting for all years since the inception of the NMCP by facility.

Regarding the odor portion of the regulation:

- 4) One commenter had multiple questions concerning the lack of replacement or amended regulations to handle odor complaints, as well as what prompted the proposed repeal.
 - a. NDEP reiterated its commitment to continuing to receive and investigate odor complaints to determine if there are Clean Air Act violations or permit violations. NDEP also stated that removal of the odor regulations would not prevent any enforcement-related issues from a local jurisdiction. NDEP stated the repeal was prompted by Executive Order EO2023-003, along with ongoing research by the program regarding the effectiveness and enforceability of the regulation.
- 5) Another commenter stated they did not see any harm in keeping the regulation even though there are difficulties with enforcement and it is something to use if a facility is not cooperating.
 - a. NDEP's position remains that the regulation is not enforceable, creates false expectations for the public, resulting in frustration, and has not resulted in a successful outcome.

A summary of the workshop, including all public comment and bureau response, is included on the NDEP website as well as the SEC website.

The proposed regulations were also distributed to the Bureau of Air Quality Planning's email distribution list. The Division accepted written comments on R077-24I and R077-24P for 15 days ending on July 31, 2024.

The SEC held a hybrid regulatory hearing on May 28, 2025, to consider possible action on R077-24P. The SEC posted its public notice, which included a link¹ and instructions to access R077-24P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The public notice was also published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended May 28, 2025, hearing: 34 (approximately)
- (b) Testified on this Petition at the hearing: 3

- 1. Jeff Kinder, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9307
jkinder@ndep.nv.gov
- 2. Jennifer Schumacher, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9551
jschumacher@ndep.nv.gov
- 3. Ken McIntyre, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9493
kmcintyre@ndep.nv.gov

¹ <https://sec.nv.gov/meetings/sec-meeting-may-28-2025>

(c) Submitted to the agency written comments: None

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through one public workshop and at the May 28, 2025, SEC hearing as noted in number 2 above. Three members of the public provided verbal comments in opposition to the regulatory amendments during the May 28, 2025, SEC meeting:

1. Glenn Miller, retired University of Nevada, Reno professor (opposed odor amendment; generally supported mercury amendment)
2. Ray Johnson, resident of Silver Springs, Nevada
3. Brian Bass, Environmental Engineer

A recording of these comments is available on the SEC website.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Commissioners unanimously adopted R077-24P without change because the SEC was satisfied with the proposed regulation.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry: There are no economic impacts to businesses associated with this action in the short- or long-term.

Public: There are no adverse or economic impacts on the public associated with this action in the short- or long-term.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Enforcing Agency. The proposed amendments will have no economic effect on the agency.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

Not applicable; the proposed amendments are only to repeal and amend existing regulations to remove unnecessary requirements.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The proposed amendments do not include requirements that are more stringent than the regulations of other state or federal agencies.

10. If the 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.

R07-24P does not provide for any new fees or increases to existing fees.

Form #4

Small Business Impact Disclosure and Statement

Approved 5-2-2014



NEVADA
STATE ENVIRONMENTAL
COMMISSION

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the State Environmental Commission (SEC) and to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

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

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

This proposed amendments will not have an impact or significant economic burden on small businesses. This regulation will improve efficiency in administering Nevada's Air Program and will minimize the resources needed to understand the regulatory requirements that may affect businesses and the public.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

This proposed amendments does not provide any barrier to the formation, operation, or expansion of small business. The proposed amendments are to repeal regulations that no longer serve a purpose for achieving the intents and purposes of NRS 445B.110 to NRS 445B.640, inclusive.

If **Yes** to either of question 1 & 2, a SBIS must be noticed and available at the public workshop.

FORM 4: SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)
(Provide attachments as needed)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.)*

On March 30, 2023, NDEP held a preliminary public workshop to solicit comments on this proposed regulatory amendment. Additional, comments will be solicited through a workshop held in Carson City and video conferenced to Las Vegas. Notices of the workshop and an invitation for comments will be posted in all county public libraries, the Nevada Division of Environmental Protection (NDEP) buildings in Carson City and Las Vegas, the NDEP website, the Legislative Council Bureau's website, and the official State website. The workshop notice will also be emailed to an extensive distribution list maintained by NDEP's Bureau of Air Quality Planning. A summary of the workshop will be posted on the SEC website at <http://sec.nv.gov/meetings> when notice is posted for this proposed regulation to go before the SEC as an item for action.

2. The manner in which the analysis was conducted (if an impact was determined).

The agency determined that small business would not be impacted (see Small Business Impact Disclosure #1 and #2).

3. The estimated economic effect of the proposed regulation on small businesses:

Not applicable (see Small Business Impact Statement #2).

a. Both adverse and beneficial effects:

Not applicable (see Small Business Impact Statement #2).

b. Both direct and indirect effects:

Not applicable (see Small Business Impact Statement #2).

4. 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 the methods. *(Include a discussion of any considerations of the methods listed below.)*

Not applicable (see Small Business Impact Statement #2).

A. Simplification of the proposed regulation:

Not applicable (see Small Business Impact Statement #2).

B. Establishment of different standards of compliance for a small business:

Not applicable (see Small Business Impact Statement #2).

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine:

Not applicable (see Small Business Impact Statement #2).

5. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

The proposed amendments will have no economic effect on the agency.

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

The proposed amendments do not create new fees or increase existing fees.

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

The proposed amendments do not overlap or duplicate any other regulations.

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

The proposed amendments do not impose any requirements, burdens, or fees on any businesses.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and the information contained in this statement was prepared properly and is accurate.


Jennifer Carr (Apr 9, 2024 12:24 PDT)

Administrator, NDEP

04/09/24

Date

Supporting Documents



Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>

**ADOPTED REGULATION OF THE
NEVADA ATHLETIC COMMISSION**

LCB File No. R104-24

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

AUTHORITY: §§ 1-4, 6, 7 and 10, NRS 467.030 and 467.153; §§ 5, 8, 9 and 11, NRS 467.030; § 12, NRS 467.030, 467.080 and 467.100.

A REGULATION relating to unarmed combat; providing that the possession, use or consumption of cannabis or cannabis products does not violate anti-doping requirements; revising the definition of “prohibited substance”; authorizing the Nevada Athletic Commission or the Executive Director of the Commission to issue an order to cease and desist against a person engaging in certain activities; revising certain publications adopted by reference by the Commission; revising certain duties of a promoter; requiring a female unarmed combatant to provide a medical test showing that she is not pregnant upon request by the Commission; revising provisions governing the circumstances in which the Commission will change a decision at the end of a contest or exhibition; repealing various provisions relating to unarmed combat; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Nevada Athletic Commission to adopt regulations for the administration of the provisions of law governing unarmed combat. (NRS 467.030)

Existing regulations establish anti-doping requirements and prohibit an unarmed combatant from possessing, utilizing, applying, ingesting, injecting or consuming certain banned substances. (NAC 467.570-467.589) **Sections 4 and 7** of this regulation provide that the possession, use or consumption of cannabis or cannabis products will not be deemed an anti-doping violation. **Sections 2 and 3** of this regulation define the terms “cannabis” and “cannabis product,” respectively. **Section 6** of this regulation revises the definition of “prohibited substance” to provide that the term does not include cannabis and cannabis products.

Existing regulations authorize the Commission to take certain disciplinary actions against a person licensed, approved, registered, sanctioned or otherwise associated with unarmed combat who violates any provision of the regulations governing unarmed combat. (NAC 467.885, 467.915-467.956) **Section 5** of this regulation authorizes the Commission or the Executive Director of the Commission to issue an order to cease and desist against a person who is engaging in, has engaged in or is planning to engage in an activity that violates existing law or regulations. **Section 5** further: (1) establishes certain service requirements for such an order to cease and desist; (2) provides that an order to cease and desist must contain certain provisions; and (3) prohibits a person served with an order to cease and desist from continuing in the activity during the pendency of the cease and desist proceedings.

Existing regulations adopt by reference certain publications relating to anti-doping. (NAC 467.011) **Sections 7 and 10** of this regulation update the names of certain publications adopted by reference.

Existing regulations require: (1) drinks at a program of unarmed combat to be dispensed in paper or plastic cups or any other type of container approved by the Commission; and (2) food provided at such a program to be served on plates and materials made from lightweight, nonflammable and nontoxic materials. (NAC 467.272) **Section 8** of this regulation instead requires the promoter to ensure that such materials are used for food and drinks at a program of unarmed combat.

Existing regulations require a female unarmed combatant to provide a medical test taken not later than 10 days before the day of the bout which shows that she is not pregnant. (NAC 467.568) **Section 9** of this regulation authorizes the Commission to request such a medical test at any other time.

Existing regulations establish the limited circumstances in which the Commission will change a decision rendered at the end of a contest or exhibition. (NAC 467.770) **Section 11** of this regulation authorizes a change when a referee or review official has rendered an incorrect decision as the result of misinterpreting certain rules adopted by the Commission.

Section 12 of this regulation repeals various provisions relating to unarmed combat.

Section 1. Chapter 467 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Cannabis” has the meaning ascribed to it in NRS 678A.085.*

Sec. 3. *“Cannabis product” has the meaning ascribed to it in NRS 678A.120.*

Sec. 4. *For the purposes of NAC 467.5705 to 467.5735, inclusive, the possession, use or consumption of cannabis or cannabis products will not be deemed an anti-doping violation, notwithstanding the laws of the jurisdiction where the possession, use or consumption may have occurred.*

Sec. 5. 1. *If the Commission or the Executive Director has sufficient evidence to believe that a person is engaging in, has engaged in or is planning to engage in any activity which violates the provisions of this chapter, chapter 467 of NRS, the rules adopted pursuant to NRS 467.075 or any other policy adopted by the Commission, the Commission or the Executive*

Director may issue an order to the person that directs the person to cease and desist from that activity.

2. An order to cease and desist issued pursuant to subsection 1 must:

(a) Be in writing.

(b) Except as otherwise provided in this paragraph, be served personally upon the person or by registered or certified mail to the last known mailing address of the person. If the person is unable to be contacted in person or by mail, service shall be deemed complete by the filing with the Commission by the Executive Director or the Commission of proof of diligent efforts reasonably calculated to provide actual notice to the person. The Commission shall post the date any such proof is filed on the Internet website of the Commission.

(c) State that, in the opinion of the Commission, the person is engaging in, has engaged in or is planning to engage in an activity:

(1) For which the person has not received a license, approval, registration, permit or sanctioning as required by this chapter or chapter 467 of NRS; or

(2) That violates the provisions of this chapter, chapter 467 of NRS, the rules adopted pursuant to NRS 467.075 or any other policy adopted by the Commission.

(d) State that:

(1) The person has 30 business days after the date of service of the order to cease and desist to file a petition for a hearing with the Commission; and

(2) The order shall be deemed final if the Commission does not receive a petition for a hearing by the deadline set forth in this paragraph.

3. The person to whom the order to cease and desist is served pursuant to this section shall not engage in any activity prohibited by the order after the person is served with the order unless or until the order is suspended or rescinded.

4. If the recipient of an order to cease and desist issued pursuant to subsection 1 does not file a petition for a hearing within 30 calendar days after the date of service of the order, the person waives his or her right to an administrative hearing. If a petition for a hearing is filed, the Commission will hold an administrative hearing on the activity that is the subject of the order. The Commission will promptly notify the parties by registered or certified mail of the time and place set for the hearing.

5. An order to cease and desist issued pursuant to subsection 1 may be amended or rescinded at any time before or during the administrative hearing held pursuant to subsection 4. Subject to the discretion of the Commission, the administrative hearing may be continued if an amendment to the order materially alters the facts or legal issues relating to the order or the respondent demonstrates an inability to prepare for the hearing as a result of the amendment.

6. Any person who violates an order to cease and desist issued pursuant to subsection 1 may be subject to disciplinary proceedings as described in NRS 467.110 to 467.117, inclusive, 467.157 or 467.158, or NAC 467.885.

7. Nothing in this section limits the authority of the Commission or the Executive Director to take disciplinary action for any violation of the provisions of this chapter, chapter 467 of NRS, the rules adopted pursuant to NRS 467.075 or any other policy adopted by the Commission.

Sec. 6. NAC 467.00307 is hereby amended to read as follows:

467.00307 “Prohibited substance” :

1. Except as otherwise provided in subsection 2, means any substance, or class of substances, identified as prohibited on the *Prohibited List*.

2. The term does not include cannabis or cannabis products as set forth in section 4 of this regulation and NAC 467.011.

Sec. 7. NAC 467.011 is hereby amended to read as follows:

467.011 1. ~~{The}~~ *Except as otherwise provided in subsection 4, the* Commission hereby adopts by reference the most recent version of the:

(a) *Prohibited List* published by the World Anti-Doping Agency.

(b) *International Standard for Laboratories* published by the World Anti-Doping Agency.

(c) ~~{The}~~ *Technical Documents* published by the World Anti-Doping Agency, including, without limitation, *Decision Limits for the Confirmatory Quantification of Exogenous Substances by Chromatography-Based Analytical Methods* and *Measurement and Reporting of Endogenous Anabolic Androgenic Steroids, Measurement and Reporting of Steroid (EAAS) Markers of the Urinary Steroid Profile*.

2. A copy of the publications adopted by reference pursuant to subsection 1 is available, free of charge, at the Internet address **www.wada-ama.org**.

3. If a publication adopted by reference pursuant to subsection 1 is revised, the Commission will review the revision to ensure its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination within 6 months after the date of publication of the revision and give notice of that hearing within 30 days after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision

is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the pertinent publication adopted by reference pursuant to subsection 1.

4. Pursuant to section 4 of this regulation, the Commission will not deem the possession, use or consumption of cannabis or cannabis products as an anti-doping violation under this chapter even if cannabis or cannabis products are included in one or more of the publications listed in subsection 1 as prohibited or banned substances.

Sec. 8. NAC 467.272 is hereby amended to read as follows:

467.272 ~~1. All~~ *A promoter shall ensure that:*

1. All drinks at a program of unarmed combat ~~must be~~ *are* dispensed in paper or plastic cups or any other container approved by the Commission.

2. ~~Plates~~ All plates and any other materials for serving food that are provided for patrons at a program of unarmed combat ~~must be~~ *are* made from lightweight, nonflammable and nontoxic materials.

Sec. 9. NAC 467.568 is hereby amended to read as follows:

1. A female unarmed combatant shall not engage in a contest or exhibition with a male unarmed combatant.

2. Before each bout in which a female unarmed combatant is scheduled to compete, the female unarmed combatant shall provide to the Commission an original or certified copy, or other authenticated copy, of the result of a medical test taken not later than 10 days before the day of the bout , *or at any other time requested by the Commission, the Executive Director or the designee of either,* which shows that the *unarmed* combatant is not pregnant. The Commission will not permit a female unarmed combatant to compete if she:

- (a) Is determined to be pregnant; or
- (b) Fails to comply with this subsection.

3. The promoters of a contest or exhibition between female unarmed combatants shall provide them with adequate separate dressing rooms.

Sec. 10. NAC 467.570 is hereby amended to read as follows:

467.570 1. At any time requested by the Commission or its representative, an unarmed combatant, whether in-competition or out-of-competition, shall submit to a drug test.

2. A test of any sample or specimen of an unarmed combatant may be performed by a laboratory approved by the Commission or a laboratory approved and accredited by the World Anti-Doping Agency.

3. To be approved by the Commission to test a sample or specimen of an unarmed combatant, a laboratory must implement the *International Standard for Laboratories* and the *Decision Limits for the Confirmatory Quantification of Exogenous Threshold Substances* ~~and~~ *by Chromatography-Based Analytical Methods*, which are adopted by reference pursuant to paragraphs (b) and (c) of subsection 1 of NAC 467.011.

4. The Executive Director shall administer the Commission's drug testing program, including, without limitation, selecting which drug testing organization or drug testing laboratory approved by the Commission to use.

5. The promoter shall pay the costs for such testing.

Sec. 11. NAC 467.770 is hereby amended to read as follows:

467.770 1. Except as otherwise provided in NAC 467.579, the Commission will not change a decision rendered at the end of any contest or exhibition unless:

(a) The Commission determines that there was collusion affecting the result of the contest or exhibition;

(b) The compilation of the scorecards of the judges discloses an error which shows that the decision was given to the wrong unarmed combatant; or

(c) As the result of an error in interpreting a provision of this chapter ~~H~~ *or a provision within the rules adopted pursuant to NRS 467.075*, the referee or review official has rendered an incorrect decision.

2. The Executive Director may reject any protest seeking the change of a decision if, in the sole judgment of the Executive Director, the protest fails to state a basis that would allow for a change in the decision pursuant to this section.

Sec. 12. NAC 467.0028, 467.0034, 467.0035, 467.0085, 467.208 and 467.792 are hereby repealed.

TEXT OF REPEALED SECTIONS

467.0028 “Manager” defined. (NRS 467.030)

1. “Manager” means a person who:

(a) Undertakes to represent the interest of another person, by contract, agreement or other arrangement, in procuring, arranging or conducting a professional contest or exhibition in which such person is to participate as a contestant;

(b) Directs or controls the professional unarmed combat activities of an unarmed combatant;

(c) Receives or is entitled to receive 10 percent or more of the gross purse or gross income of any professional unarmed combatant for services relating to participation of the unarmed combatant in a professional contest or exhibition; or

(d) Receives compensation for service as an agent or representative of an unarmed combatant.

2. The term does not include an attorney licensed to practice in this State, if his or her participation in such activities is restricted solely to legal representation of the interests of an unarmed combatant as his or her client.

467.0034 “Respondent” defined. (NRS 467.030) “Respondent” means a person against whom a complaint has been filed pursuant to this chapter.

467.0035 “Ring official” defined. (NRS 467.030) “Ring official” means any person who performs an official function during the progress of a contest or exhibition.

467.0085 Request for public book or record: Review by Attorney General to determine confidentiality provisions; review and approval for dissemination by Chair, Executive Director or designee of Executive Director. (NRS 467.030)

1. Upon receipt of a request for a public book or record pursuant to chapter 239 of NRS, the Executive Director, the Executive Director’s designee or a person designated by the Commission to respond to the request shall request the Office of the Attorney General to conduct a review of the requested books or records to determine whether:

(a) The requested books or records are public books or records for the purposes of chapter 239 of NRS; and

(b) Any confidentiality provisions prevent the release of the requested books or records, in part or in full.

2. Upon completion of the review by the Office of the Attorney General, the requested books or records must be reviewed and approved for dissemination by the Chair, the Executive Director or the Executive Director's designee.

467.208 Certain persons retained by promoter must have licenses. (NRS 467.030, 467.100) A promoter shall not retain a matchmaker unless the matchmaker is licensed by the Commission.

467.792 Martial arts involving full contact: Applicability of statutes and regulations; use of official rules; filing of official rules by sponsoring organization or promoter; approval of Commission required. (NRS 467.030)

1. All full-contact martial arts are forms of unarmed combat.
2. Except as otherwise provided by a specific statute, regulation or rule adopted by the Commission, the provisions of this chapter and chapter 467 of NRS apply to contests or exhibitions of such martial arts.
3. A contest or exhibition of a martial art must be conducted pursuant to the official rules for the particular art. The sponsoring organization or promoter must file a copy of the official rules with the Commission before it will approve the holding of the contest or exhibition.



Joe Lombardo
Governor

STATE OF NEVADA
ATHLETIC COMMISSION

Jeff Mullen
Executive Director

Chairman: Dallas Haun

Members: Gregory Bortolin, Alexander G. Chen, Anthony A. Marnell III, Richard Reviglio

December 17, 2024

**INFORMATIONAL STATEMENT
REGARDING LCB FILE NO. R104-24
(NRS 233B.066)**

Pursuant to NRS 233B.066, the Nevada Athletic Commission ("Commission") hereby submits the following Information Statement regarding its adopted regulation identified in LCB File No. R104-24:

a. A clear and concise explanation of the need for the adopted regulation.

The need and purpose of the proposed permanent regulations identified in LCB File No. R104-24 is to:

1. Add a provision and amend NAC 467.011 to provide that the possession, use, or consumption of cannabis and cannabis products will not be deemed an anti-doping violation. (See sections 4 and 7 of R104-24 attached hereto.)
2. Add provision defining the terms "cannabis" and "cannabis product." (See sections 2 and 3 of R104-24 attached hereto.)
3. Amend NAC 467.00307 to revise the definition of "prohibited substance" to exclude "cannabis" and "cannabis products." (See section 6 of R104-24 attached hereto.)
4. Add provisions that authorize the Commission or the Executive Director to issue an order to cease and desist against a person who is engaging in, has engaged in, or is planning to engage in an activity the violated existing law or regulations relating to unarmed combat. (See section 5 of R104-24 attached hereto.)
5. Add provisions that: (1) establish certain service requirements for an order to cease and desist; (2) provide that an order to cease and desist must contain certain provisions; and (3) prohibits a person served with an order to cease and desist from continuing in the activity during the pendency of the cease-and-desist proceedings. (See section 5 of R104-24 attached hereto.)

6. Amend NAC 467.011 and NAC 467.570 to update the names of certain publications adopted by the Athletic Commission by reference. (See sections 7 and 10 of R104-24 attached hereto.)
7. Amend NAC 467.272 to clarify that it is the promoter's responsibility to ensure that the requirements regarding containers used to serve drinks and food to patrons are complied with. (See section 8 of R104-24 attached hereto.)
8. Amend NAC 467.568 to permit the Athletic Commission to perform the indicated medical tests at any time requested by the Athletic Commission, Executive Director, or designee. (See section 9 of R104-24 attached hereto.)
9. Amend 467.770 to include violations of the Rules of Unarmed Combat adopted by the Athletic Commission to the list of errors that are covered under the regulation. (See section 11 of R104-24 attached hereto.)
10. Repeal The following sections of NAC Chapter 467 as redundant (addressed in Chapter 467 of NRS) or no longer necessary:
 - (1) NAC 467.0028 – Definition of "Manager". (See section 12 of R104-24 attached hereto.)
 - (2) NAC 467.0034 – Definition of "Respondent". (See section 12 of R104-24 attached hereto.)
 - (3) NAC 467.0035 – Definition of "Ring Official". (See section 12 of R104-24 attached hereto.)
 - (4) NAC 467.0085 – Provision regarding the Nevada Attorney General. (See section 12 of R104-24 attached hereto.)
 - (5) NAC 467.208 – Provision requiring promoter to only retain certain licensed individual for certain positions. (See section 12 of R104-24 attached hereto.)
 - (6) NAC 467.792 – Provision addressing martial arts involving full contact. (See section 12 of R104-24 attached hereto.)
11. Take such additional actions as may be necessary and proper to effectuate this stated purpose and/or enforce the requirements of chapter 467 of NRS and chapter 467 of NAC.

b. A description of how public comment was solicited, a summary of the public response, and an explanation of how other interested persons may obtain a copy of the summary.

The Commission solicited written and oral public comment by distributing the proposed permanent regulation identified in LCB File No. R104-24 to its interested party listserv, as well as posting it on its public website. The Commission also notified the public of the opportunity to offer comment in its Notice for the public workshop it held on April 9, 2024, its Notice of the public hearing and adoption hearing held on October 29, 2024, and its Notice of the public hearing and adoption hearing held on December 17, 2024.

No public comments, written or oral, were received on the proposed permanent regulation identified in LCB File No. R104-24.

c. The Commission recorded the following data regarding public participation in the public workshop and public hearing on the proposed permanent regulation:

1. Persons who attended the public workshop held on April 9, 2024: 7
2. Persons who testified at the public workshop held on April 9, 2024: 0
3. Persons who attended the public hearing and adoption hearing held on October 29, 2024: 15
4. Persons who testified at the public hearing and adoption hearing held on October 29, 2024: 0
5. Persons who attended the public hearing and adoption hearing held on December 17, 2024: 3
6. Persons who testified at the public hearing and adoption hearing held on December 17, 2024: 0
7. Persons who submitted written statements to the Commission regarding the proposed permanent regulation: 0

d. For each person identified in subsections (2), (3), and (5) of section c above, the following information was obtained by the Commission:

Workshop held on April 9, 2024

N/A

Public hearing and adoption hearing held on October 29, 2024

N/A

Public hearing and adoption hearing held on December 17, 2024

N/A

Written Comment:

N/A

- e. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested parties may obtain a copy of the summary.**

On August 31, 2024, and September 1, 2024, the Commission emailed and mailed small business impact questionnaires to 129 individuals, which included licensees, officials, inspectors, and other interested parties on the Commission's interested parties list. The Commission also posted the small business impact questionnaire on its public website. The Commission received no responses to the small business impact questionnaire.

In addition, on April 9, 2024, the Commission held a public workshop regarding the provisions that ultimately became LCB File No. R104-24. While 7 members of the public attended the workshop, no one testified regarding the regulations or that the regulations would have a negative economic impact on their operations in Nevada.

Lastly, on October 29, 2024, and December 17, 2024, the Commission held a public hearing on LCB File No. R104-24 at which the public was given the opportunity to comment. While a combined total of 18 members of the public attended these two hearings, no one testified regarding the regulations or that the proposed regulations would have a negative fiscal impact on their operations in Nevada.

Other interested parties may obtain a copy of the summary by submitting a written request to the Commission at boxing@boxing.nv.gov.

- f. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No member of the public testified regarding the regulations, nor was any written comment received. As such, the Commission staff determined that no changes to the regulation draft were necessary.

- g. The estimated economic effect of the regulation on the business which it is to regulate and on the public as required by NRS 233B.066(1)(g).**

Business:

There is no anticipated adverse economic effect for businesses.

There is no anticipated beneficial economic effect for businesses.

Public:

There is no anticipated adverse effect for the public.

The anticipated beneficial effect for the public is the codification of the Commission's policy regarding the use and possession of cannabis. Further, the amendments provide a process the Commission is to follow when issuing cease and desist orders and provides the procedures to seek review of such orders. Both of these changes make the regulations clear, which benefits the public and the industry.

- h. The estimated cost to the agency for enforcement of the proposed regulation as required by NRS 233B.066(1)(h).**

The Commission will not incur additional costs to enforce the proposed permanent regulation.

- i. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, name the regulating federal agency. This is required by NRS 233B.066(1)(i).**

None known.

- j. If the regulation included provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions as required by NRS 233b.066(1)(j).**

None known.

- k. If the regulation provides a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used as required by NRS 233b.066(1)(k).**

Not applicable. The regulation does not provide a new fee or increase an existing fee.



Joe Lombardo
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STATE OF NEVADA
ATHLETIC COMMISSION

Chairman: Dallas Haun

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December 17, 2024

**SMALL BUSINESS IMPACT STATEMENT
REGARDING LCB FILE NO. R104-24
(NRS 233B.0608)**

I, Jeff Mullen, being the duly appointed Executive Director of the Nevada State Athletic Commission ("Commission"), do hereby certify that, to the best of my knowledge or belief, the proposed permanent regulation, Legislative Counsel Bureau ("LCB") File No. R104-24 will not: (a) impose a direct or significant economic burden upon small businesses; or (b) directly restrict the formation, operation, or expansion of small businesses.

I hereby further certify, to the best of my knowledge or belief, a concerted effort was made by the Commission pursuant to NRS 233B.0608 to determine the impact of the proposed permanent regulation, LCB File No. R104-24, on small businesses. The following details those efforts:

- a. 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 parties may obtain a copy of the summary.**

On August 31, 2024, and September 1, 2014, the Commission emailed a Small Business Impact Questionnaire to close to 129 licensees, promoters, and other parties on the Commission's interested parties list serves. Additionally, the Commission posted the Small Business Impact Questionnaire on its website. The Commission received no responses back regarding the questionnaire. Other

interested parties may obtain a copy of the summary by contacting the Commission at boxing@boxing.nv.gov.

b. The manner in which the analysis was conducted.

Because there were no responses to the Commission's Small Business Impact Questionnaire, the Commission's Executive Director and staff members performed their own analysis of the proposed permanent regulations to assess whether any provision contained therein was likely to impose a direct or significant economic burden upon small businesses or directly restrict the formation, operation, or expansion of small businesses.

c. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation: (1) both adverse and beneficial effects; and (2) both direct and indirect effects.

Based on the lack of any responses to the Small Business Impact Questionnaire, as well as the analysis performed by the Executive Director and Commission staff of the proposed permanent regulation, it was concluded that:

1. The proposed regulation amendments to NAC 467 will not impose adverse economic effects upon small businesses; and
2. The proposed amendments to NAC 467 will not directly or indirectly restrict the formation, operation or expansion of a small business.

d. 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.

As the Commission determined that the proposed regulation will not have an economic impact on small business, it did not consider or use any methods that may reduce the impact of the proposed regulation.

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

The Commission does not anticipate that the enforcement of the proposed regulation will cause any increase in the costs of regulating unarmed combat in this state, as the requirements imposed on the Commission by the regulation are substantially the same as they currently are under existing regulations.

f. 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.

The proposed regulation does not provide a new fee or an increase to an existing fee.

g. 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.

The proposed regulation does not include provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity.

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

The Commission has concluded that the regulation will not have an adverse economic effect on small businesses based on the lack of any responses to the Small Business Impact Questionnaire and on the Executive Directors and Commission staff's analysis of the proposed permanent regulations.

I hereby certify, to the best of my knowledge and belief, that the information contained in this Small Business Impact Statement was prepared properly and is accurate.



Jeff Mullen
Executive Director, Nevada State Athletic Commission

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R108-24

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

AUTHORITY: § 1, NRS 439.200 and 459.201; §§ 2-7, 9-11, 13-16 and 18-27, NRS 634B.120; § 8, NRS 634B.100; § 12, NRS 634B.120 and 634B.220; § 17, NRS 634B.120 and 634B.250; §§ 28-37, NRS 634B.120 and 634B.700; § 38, NRS 634B.120, 634B.700 and 634B.720; § 39, NRS 439.200, 652.123, 652.125 and 652.130.

A REGULATION relating to naprapathy; authorizing a naprapath to engage in certain activity; prescribing the conditions under which certain notices will be deemed valid; authorizing the Division of Public and Behavioral Health of the Department of Health and Human Services to request certain documents; prescribing the rate for the per diem allowance and travel expenses provided to the members of the Naprapathic Practice Advisory Board; prescribing requirements governing the issuance or renewal of a license to practice naprapathy; prescribing the requirements and fees to register as a teacher, advisor or supervisor; prescribing requirements relating to a program of education in naprapathy; requiring a naprapath to maintain certain liability insurance; imposing certain requirements and prohibitions relating to the practice of naprapathy; providing for the discipline of applicants and licensees for certain violations; establishing procedures for appeals relating to disciplinary action; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 153 of the 2023 Legislative Session provides for the regulation of the practice of naprapathy by the State Board of Health and the Division of Public and Behavioral Health of the Department of Health and Human Services. (Assembly Bill No. 153, chapter 251, Statutes of Nevada 2023, at page 1661 (Chapter 634B of NRS)) **Sections 4-6** of this regulation define certain terms relating to naprapathy. **Section 7** of this regulation: (1) prescribes conditions under which notices provided under provisions of law governing naprapaths will be deemed valid; and (2) authorizes the Division to request any document from an applicant for or the holder of a license or registration related to the practice of naprapathy as necessary to carry out its duties.

Existing law creates the Naprapathic Practice Advisory Board, which is made up of naprapaths and members of the public. (NRS 634B.100) Existing law requires the State Board, with the advice of the Advisory Board, to adopt regulations governing the licensure of naprapaths and the practice of naprapathy. (NRS 634B.120) Existing law provides that, while

engaged in the business of the Advisory Board, each member of the Advisory Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the State Board. (NRS 634B.100) **Section 8** of this regulation prescribes the rate for that per diem allowance and travel expenses.

Existing law sets forth certain required qualifications of an applicant for a license to practice naprapathy. (NRS 634B.200) **Section 9** of this regulation prescribes: (1) the required contents of an application for such a license; and (2) certain procedures related to such an application. **Section 10** of this regulation prescribes certain requirements that an applicant must satisfy to receive an initial license. **Section 11** of this regulation prescribes requirements to obtain a license by endorsement, in addition to the requirements prescribed by existing law. (NRS 634B.210, 634B.220)

Existing law authorizes the Division to grant certain applicants for licensure by endorsement a provisional license to practice naprapathy before making a final decision on the applicant's application. (NRS 634B.220) **Section 12** of this regulation requires an applicant to submit certain information to the Division before the Division may issue a provisional license to the applicant.

Existing law authorizes a person who is not licensed to practice naprapathy to practice naprapathy in this State for not more than 1 month as a teacher, advisor or supervisor if the person registers with the Division. (NRS 634B.080) **Section 13** of this regulation prescribes the required contents of an application for such registration.

Section 14 of this regulation requires an applicant for a license to pay certain costs related to his or her criminal background investigation.

Section 15 of this regulation prescribes certain procedures related to a criminal background investigation of an applicant or licensee that cannot be completed. **Section 16** of this regulation prescribes the procedures for an applicant or a licensee to challenge the accuracy of a criminal background investigation.

Existing law requires the State Board to: (1) prepare or cause to be prepared a test on the practice of naprapathy which must be passed by an applicant for a license; or (2) designate a national examination for that purpose. (NRS 634B.250) **Section 17** of this regulation designates the national examination administered by the National Board of Naprapathic Examiners, or its successor organization, for that purpose.

Section 18 of this regulation requires that an application to renew a license include certain attestations. **Section 18** also prescribes the conditions under which the Division is authorized to renew the license of an applicant who has committed an act which is a ground for disciplinary action. **Section 19** of this regulation requires: (1) a licensee to successfully complete certain continuing education in order to renew his or her license; and (2) a former licensee to complete certain continuing education in order to obtain a new license.

Existing law requires: (1) the State Board to adopt regulations prescribing requirements for the approval of programs of education in naprapathy by the Division; and (2) an applicant for a license to practice naprapathy to have graduated from such an approved program. (NRS 634B.120, 634B.200) **Section 20** of this regulation prescribes the contents of an application for such approval. **Sections 21-24** of this regulation establish requirements governing the operations, policies and procedures, and curriculum of such a program. **Section 20** authorizes the Division, in consultation with the Advisory Board, to approve a program that is accredited by a nationally recognized accrediting agency without an application.

Section 25 of this regulation requires a licensee to maintain certain liability insurance. **Section 26** of this regulation requires a licensee and any person working under a licensee who provides direct care to a patient to follow nationally recognized infection control and prevention guidelines that are applicable to the setting in which the care is provided. **Section 27** of this regulation prohibits a licensee from performing certain acts. **Section 28** of this regulation prohibits a licensee from advertising or using promotional materials to make certain claims or statements.

Existing law requires the State Board, with the advice of the Advisory Board, to adopt regulations governing the procedure for imposing disciplinary action and the disciplinary actions that may be imposed. (NRS 634B.700) **Section 29** of this regulation authorizes the Division to deny an application for a license or suspend or revoke a license if the applicant or licensee, as applicable, has been convicted of certain crimes. **Section 30** of this regulation authorizes an applicant or licensee who is convicted of such a crime to petition the Division to refrain from denying his or her application or suspending or revoking his or her license, as applicable. **Section 31** of this regulation sets forth certain acts that constitute grounds for disciplinary action. **Section 32** of this regulation prescribes the disciplinary actions that the Division may impose. **Section 32** also: (1) requires a licensee to pay the costs incurred in connection with any disciplinary action taken against the licensee; and (2) authorizes the Division to consult with the Advisory Board before imposing disciplinary action. **Section 33** of this regulation establishes the procedure for the investigation and resolution of a complaint that a person is engaging in the practice of naprapathy without a license. **Section 34** of this regulation: (1) authorizes a person to submit a complaint against an applicant or licensee; and (2) sets forth the procedure for the investigation of such a complaint. **Section 35** of this regulation prescribes requirements governing: (1) the revocation of a license; and (2) the reinstatement of a revoked license. **Section 36** of this regulation requires a person whose license is suspended to comply with the terms of the suspension as specified by the Division and to pay the costs of such compliance. **Section 36** also authorizes the Division to extend, modify or terminate a suspension or revoke a suspended license under certain circumstances. **Section 37** of this regulation: (1) authorizes a person aggrieved by a decision of the Division relating to disciplinary action to appeal that decision; and (2) prescribes the procedures governing such an appeal.

Existing law requires the State Board, with the advice of the Advisory Board, to adopt regulations for a hearing concerning certain violations of the Nevada Industrial Insurance Act. (NRS 634B.720) **Section 38** of this regulation prescribes certain requirements for such a hearing.

Section 1 of this regulation authorizes a naprapath to authorize the exposure of a person to certain radiation for the purpose of the healing arts.

Existing regulations exempt an employee of a laboratory who is performing certain laboratory tests from the regulatory provisions governing medical laboratories if the director, a designee of the director or a licensed physician at the laboratory discharges certain duties to ensure that the test is performed properly. (NAC 652.155) **Section 39** of this regulation deems a naprapath to be a licensed physician for that purpose.

Section 1. NAC 459.554 is hereby amended to read as follows:

459.554 1. Except for patients who cannot be moved out of the room, only the staff and ancillary personnel required for the medical procedure or training may be in the room during the radiographic exposure. Other than the patient being examined:

(a) All persons must be positioned so that no part of the body which is not protected by 0.5 mm lead equivalent will be struck by the useful beam.

(b) Staff and ancillary personnel must be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent.

(c) A patient who cannot be removed from the room must be protected from the direct scatter radiation by a whole body protective barrier of 0.25 mm lead equivalent or be so positioned that the nearest portion of the body is at least 2 meters from both the tube head and the nearest edge of the image receptor.

(d) When a portion of the body of any member of the staff or ancillary personnel is potentially subjected to stray radiation which could result in his or her receiving 10 percent of the maximum permissible dose, as defined in NAC 459.320 to 459.374, inclusive, additional protective devices must be employed.

2. Persons must not be exposed to the useful beam except for the purposes of the healing arts where each exposure has been authorized by a licensed practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(a) Exposure of a person for training, demonstration or other purposes unless there are also healing arts requirements and proper prescription has been provided.

(b) Exposure of a person for the purpose of healing arts screening without prior written approval of the Division. Screening means an exposure of a person without a prior examination by a licensed practitioner.

3. When a patient or film must be provided with auxiliary support during a radiation exposure:

(a) Mechanical holding devices must be used when the technique permits. The safety rules, required by NAC 459.552 to 459.558, inclusive, must include individual protections where holding devices cannot be utilized;

(b) Written safety procedures required by subsection 6 of NAC 459.552 must indicate the requirements for selecting a holder and include the procedure the holder must follow;

(c) The human holder must be protected as required by subsection 1;

(d) No person may be used routinely to hold film or patients;

(e) In those cases where the patient must hold the film, except during intraoral examinations, any portion of the body other than the area of clinical interest struck by the useful beam must be protected by not less than 0.5 mm lead equivalent material; and

(f) Such holding is permitted only in very unusual and rare situations.

4. As used in this section, “licensed practitioner of the healing arts” means a physician, homeopathic physician, osteopathic physician, licensed veterinarian, dentist, chiropractic physician, practitioner of Oriental medicine , *naprapath* or podiatric physician, as those terms are defined or used, respectively, in NRS 630.014, 630A.050, 633.091 or 638.007 or chapter 631, 634, 634A , *634B* or 635 of NRS.

Sec. 2. Chapter 634B of NAC is hereby amended by adding thereto the provisions set forth as sections 3 to 38, inclusive, of this regulation.

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4, 5 and 6 of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“License” means a license issued pursuant to this chapter and chapter 634B of NRS that authorizes a natural person to practice naprapathy in this State.*

Sec. 5. *“Licensee” means a person licensed as a naprapath pursuant to this chapter and chapter 634B of NRS.*

Sec. 6. *“Program” means a program of education in naprapathy.*

Sec. 7. *1. Any notice that is required by the provisions of this chapter or chapter 634B of NRS to be delivered by mail or electronically to an applicant for a license or a licensee shall be deemed to be validly given if the notice is sent to the last address or electronic mail address that was provided to the Division by the applicant or licensee.*

2. The Division may request any document from an applicant for or the holder of a license or registration that the Division determines are necessary to carry out the duties prescribed in this chapter or chapter 634B of NRS.

Sec. 8. *While engaged in the business of the Advisory Board, each member of the Advisory Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

Sec. 9. *1. An application for a license must include:*

(a) The applicant’s full name, including his or her first name, middle name, if applicable, and last name;

(b) Any other name that has been used by the applicant;

(c) The applicant’s date of birth;

(d) The applicant’s physical address and the applicant’s mailing address, if different than the physical address;

(e) A telephone number at which the applicant can be reached;

(f) An electronic mail address at which the applicant can be reached;

(g) An attestation by the applicant acknowledging the mandatory reporting requirements concerning the abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person set forth in NRS 200.5093 and the abuse or neglect of a child set forth in NRS 432B.220;

(h) If the applicant was previously licensed in this State, an attestation in the form prescribed by the Division stating whether the applicant has completed continuing education that meets the requirements of subsection 2 of section 19 of this regulation during the time that has lapsed since the applicant was most recently licensed in this State; and

(i) Any other information required by the Division to determine the applicant's identity or eligibility for a license.

2. An applicant must provide all of the information requested by the Division to complete the application not later than 90 days after the date on which the application is submitted. If the applicant does not submit the information requested by the Division on or before that date, the Division shall deny the application. The applicant may submit a new application after such denial.

3. An applicant or licensee shall notify the Division of any change to the information contained in his or her application within 30 days after the change. The notification may be made in writing, by electronic mail or by any other method authorized by the Division. The failure of an applicant or licensee to comply with the requirements of this subsection constitutes grounds for the denial of an application or an imposition of a \$1,000 fine for each instance in which the applicant or licensee fails to notify the Division of such a change.

4. The Division may require a personal interview with an applicant to evaluate the qualifications of the applicant.

Sec. 10. Except as otherwise provided in this chapter and chapter 634B of NRS, the Division shall grant an initial license to an applicant who provides evidence satisfactory to the Division that the applicant meets the requirements of subsections 1 to 4, inclusive, of NRS 634B.200 and:

1. Submits a complete application for a license in accordance with section 9 of this regulation;

2. Submits the application fee required by NRS 634B.200;

3. Submits proof that the applicant has a policy of professional liability insurance that complies with section 25 of this regulation;

4. If applicable, provides the name of every state or other jurisdiction of the United States in which the person currently holds or previously held a license to practice naprapathy, the number associated with each license and the date of expiration of each license;

5. Has not had a license to practice naprapathy or another license, registration or certificate as a provider of health care refused, revoked or suspended by any other jurisdiction based on the ability of the applicant to practice naprapathy unless that license, registration or certification was reinstated and the applicant is in good standing in that jurisdiction;

6. Submits two letters of recommendation, each of which must be from:

(a) A naprapath who is licensed in this State, the District of Columbia or any state or territory of the United States at the time the letter of recommendation was written and who has personal knowledge of the moral character and competence of the applicant; or

(b) A physician who is so licensed and who has such personal knowledge;

7. Submits to the Division the complete set of fingerprints and the written permission required by NRS 634B.230 in the form prescribed by the Division;

8. Attests that the information contained in his or her application and any accompanying materials is true and correct; and

9. Submits to the Division any other information requested by the Division.

Sec. 11. *1. In addition to the requirements of NRS 634B.210 or 634B.220, as applicable, for a license by endorsement, an application must include:*

(a) The jurisdiction where the applicant holds a corresponding and unrestricted license to practice naprapathy and the number of the license;

(b) An attestation under penalty of perjury that the applicant meets the requirements of subparagraphs (2) and (3) of paragraph (a) of subsection 2 of NRS 634B.210 or subparagraphs (2) and (3) of paragraph (a) of subsection 2 of NRS 634B.220, as applicable;

(c) The complete set of fingerprints and written permission required by paragraph (b) of subsection 2 of NRS 634B.210 or paragraph (b) of subsection 2 of NRS 634B.220, as applicable, in the form prescribed by the Division; and

(d) Any other information required by the Division.

2. If the entity that issued the applicant's corresponding license does not have an electronic system to verify licensure that is accessible through the Internet, the applicant must submit a request to the entity that issued the applicant's corresponding license for the entity to send verification of the applicant's licensure directly to the Division.

Sec. 12. *The Division may grant an applicant a provisional license pursuant to subsection 4 of NRS 634B.220 provided that the applicant submits to the Division:*

1. Evidence satisfactory to the Division that the applicant meets the requirements of subsection 1 of NRS 634B.220; and

2. The complete set of fingerprints and written permission required by paragraph (b) of subsection 2 of NRS 634B.220 in the form prescribed by the Division.

Sec. 13. *An application to register as a teacher, advisor or supervisor pursuant to subsection 2 of NRS 634B.080 must include, without limitation:*

1. The applicant's full name, including his or her first name, middle name, if applicable, and last name;

2. The applicant's date of birth;

3. The applicant's social security number or taxpayer identification number;

4. The applicant's physical address and the applicant's mailing address, if different than the physical address;

5. A telephone number at which the applicant can be reached;

6. An electronic mail address at which the applicant can be reached;

7. As deemed sufficient by the Division, proof of licensure to practice naprapathy in the District of Columbia or any state or territory of the United States;

8. The state of issuance, license number and expiration date of a license to practice naprapathy issued by the District of Columbia or any state or territory of the United States;

9. An attestation by the applicant acknowledging the mandatory reporting requirements concerning the abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person set forth in NRS 200.5093 and the abuse or neglect of a child set forth in NRS 432B.220;

10. An application fee of \$50; and

11. Any other information required by the Division to determine the applicant's identity or eligibility to register as a teacher, advisor or supervisor.

Sec. 14. An applicant for a license is responsible for paying the amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprints and issuance of the reports of criminal histories.

Sec. 15. 1. If the Division determines that a background investigation of an applicant for a license or a licensee cannot be completed because pertinent information is missing, the Division shall send a notice to the applicant or licensee which specifies the missing information and provides that the applicant or licensee must submit:

- (a) The missing information to the Division within 30 days after receipt of the notice; or*
- (b) Satisfactory evidence to the Division that the missing information cannot be obtained.*

2. If a background investigation cannot be completed because the applicant or licensee has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct, and there has been no disposition of the matter, the applicant or licensee shall:

(a) Notify the Division immediately upon:

- (1) The scheduling of any judicial proceeding concerning the matter; and*
- (2) The disposition of the matter; and*

(b) Forward to the Division evidence of the disposition of the matter as soon as it is available.

3. As used in this section, "disposition" has the meaning ascribed to it in NRS 179A.050.

Sec. 16. If an applicant for a license or a licensee wishes to challenge the accuracy of the information provided through a background investigation, the applicant or licensee must notify the Division within 10 working days after being notified of the results of the background investigation. The Division shall give the applicant or licensee not less than 30 days after the Division receives notice of the challenge to provide satisfactory evidence to the Division that the information is incorrect before denying the application or suspending or revoking a license.

Sec. 17. For the purposes of NRS 634B.250, the Board designates the national examination administered by the National Board of Naprapathic Examiners, or its successor organization.

Sec. 18. 1. In addition to meeting the requirements of NRS 634B.260, an application to renew a license must include an attestation in the form prescribed by the Division stating whether the applicant:

(a) Has completed continuing education that meets the requirements of subsection 1 of section 19 of this regulation; and

(b) Has committed any act which is a ground for disciplinary action.

2. The Division may renew the license of an applicant who has committed any act which is a ground for disciplinary action only if the Division determines that:

(a) The applicant made sufficient restitution; or

(b) The act was not substantially related to the practice of naprapathy.

Sec. 19. 1. To renew a license, each licensee must successfully complete a total of 30 hours of continuing education that satisfies the requirements of subsection 3, with a minimum

of 3 hours of continuing education in ethics, during the 12 months immediately preceding the expiration of the license.

2. Each applicant for a license who was previously licensed in this State must have successfully completed, during the time that has lapsed since the applicant was most recently licensed in this State, a total of 30 hours of continuing education that satisfies the requirements of subsection 3, with a minimum of 3 hours of continuing education in ethics, for each period of 12 months that has passed since the applicant was most recently licensed in this State.

3. To satisfy the requirements of this section, a course of continuing education must:

- (a) Be approved or provided by an accredited school of naprapathic medicine in the District of Columbia or any state or territory of the United States;*
- (b) Be approved or provided by a governmental entity that licenses naprapaths in the District of Columbia or any state or territory of the United States;*
- (c) Be approved by a nationally recognized naprapathic organization, including, without limitation, the American Naprapathic Association or its successor organization;*
- (d) Offer a certificate of Category 1 credit as recognized by the American Medical Association that is relevant to the practice of naprapathy, as determined by the Division;*
- (e) Be approved by a governmental entity that licenses providers of health care in the District of Columbia or any state or territory of the United States and that is relevant to the practice of naprapathy, as determined by the Division;*
- (f) Be provided by an accredited college or university that offers courses relevant to the practice of naprapathy, as determined by the Division; or*
- (g) Be recommended by the Advisory Board and approved by the Division.*

4. The Division shall perform random audits of licensees to ensure compliance with the requirements for continuing education set forth in this section.

5. If audited by the Division, a licensee shall prove that he or she successfully completed the continuing education required by this section by presenting photocopies of original certificates of completion or computer printouts from approved providers of continuing education to the Division. A certificate of completion or computer printout must include:

- (a) The title of the course;*
- (b) The name of the provider of the course;*
- (c) The name of the body which approved the course;*
- (d) The date on which the course was presented;*
- (e) The name and license number of the licensee; and*
- (f) The number of hours of continuing education earned in the course.*

6. Each licensee shall maintain a copy of a certificate of completion or computer printout described in subsection 5 for a period of 4 years after the date on which the licensee completed the course of continuing education to which the certificate or printout applies.

Sec. 20. *1. Except as otherwise provided in subsection 3, a person who wishes to offer a program must apply to the Division on a form prescribed by the Division. An application to offer a program must include:*

- (a) The name of the program;*
- (b) The address of the program;*
- (c) The name, telephone number and electronic mail address of the point of contact for the application;*
- (d) The resume or curriculum vitae of each instructor;*

- (e) The course curriculum and the related instructional materials;*
- (f) The policies and procedures required by section 22 of this regulation;*
- (g) The requirements for a student to complete the program;*
- (h) Proof that the program is accredited by a nationally recognized accrediting agency that is recognized by the United States Department of Education; and*
- (i) Any other information or documentation required by the Division.*

2. The Division shall consider the information submitted pursuant to subsection 1 to be proprietary information and shall not release that information without the consent of the applicant.

3. The Division, in consultation with the Advisory Board, may approve a program, including, without limitation, a program that does not comply with sections 21 to 24, inclusive, of this regulation, that is accredited by a nationally recognized accrediting agency that is recognized by the United States Department of Education without the submission of an application pursuant to subsection 1. A program approved pursuant to this subsection shall be deemed to meet the requirements for a program set forth in this chapter.

4. The Division shall maintain a list of approved programs on the Internet website of the Division.

Sec. 21. *Except as otherwise provided in subsection 3 of section 20 of this regulation, a program must:*

- 1. Be based on a 4-year academic curriculum which must not be completed more than 3 years earlier or 5 years later than the original date on which a student enrolls in the program.*
- 2. Have a naprapathic research project committee composed of three members, of which at least one member is a licensee. Any member of a naprapathic research project committee*

who is not a licensee must be qualified for membership based on education, training and experience. The naprapathic research project committee must supervise each naprapathic research project required by section 23 of this regulation.

3. Specifically designate the courses that include hands-on practical training or a laboratory component.

4. Prepare students to take the examination designated by the Board in section 17 of this regulation upon completion of the program.

5. Require an applicant to enroll in the program to have completed a bachelor's degree from an accredited institution of higher education with a grade point average of at least 2.5 on a scale of 4.0 and at least 24 hours of credit, using a quarter system, in general education. Each quarter must consist of 12 weeks of academic activities. The 24 hours of credit in general education must, include, without limitation, at least 6 hours of credit in each of the following:

(a) English;

(b) Humanities;

(c) Natural and physical sciences, including, without limitation, biology and organic chemistry; and

(d) Social sciences.

6. Require a prospective student to submit official transcripts from each institution of higher education that the prospective student has attended.

7. Require that official transcripts from an institution of higher education that is located in a foreign country be evaluated by a recognized member of the National Association of Credential Evaluation Services, or its successor organization.

8. *Require that a student, in order to graduate, must:*
- (a) Earn a minimum 3.0 cumulative grade point average;*
 - (b) Successfully complete each course required by section 23 of this regulation; and*
 - (c) Successfully complete a clinical internship that meets the requirements of section 24 of this regulation.*
9. *Require each student to pass and finish each course in order to move onto the next course.*
10. *Maintain paper copies of each student record for a minimum of 5 years after the most recent date to which the record applies.*

Sec. 22. *Except as otherwise provided in subsection 3 of section 20 of this regulation, a program must have policies and procedures:*

- 1. To determine the cumulative grade point average of a student;*
- 2. For a grading scale under which a letter grade of:*
 - (a) A is achieved with a percentage score of 90 to 100 percent and is equivalent to a grade point of 4.0;*
 - (b) B is achieved with a percentage score of 80 to 89 percent and is equivalent to a grade point of 3.0;*
 - (c) C is achieved with a percentage score of 70 to 79 percent and is equivalent to a grade point of 2.0;*
 - (d) D is achieved with a percentage score of 60 to 69 percent and is equivalent to a grade point of 1.0; and*
 - (e) F is achieved with a percentage score of 0 to 59 percent and is equivalent to a grade point of 0.0.*

3. *For a drug-free environment in accordance with the Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101 et seq.*

4. *That allow students to appeal an academic dismissal from the program.*

5. *Concerning attendance, absences and tardiness, including, without limitation, policies and procedures concerning students who leave class early, making up missed class time and leave due to military duty, jury duty or illness. Such policies and procedures must require:*

(a) Students to attend at least 80 percent of the scheduled time for each course for the purpose of achieving satisfactory attendance; and

(b) The program to automatically withdraw a student who misses 14 or more consecutive days of class, unless the student makes prior arrangements for the absence with the program.

6. *For disciplinary probation for excessive absences, tardiness, unacceptable conduct, violating the policies and procedures of the program and the excessive use of alcohol or controlled substances.*

7. *To ensure that each instructor is qualified to teach the courses that the instructor is assigned to teach.*

8. *To ensure the program has a sufficient number of licensees to teach courses that require knowledge in the practice of naprapathy and supervise the clinical internship required by subsection 8 of section 21 of this regulation.*

Sec. 23. 1. *Except as otherwise provided in subsection 4 of this section and subsection 3 of section 20 of this regulation, the curriculum for the first and second year of the program must include, without limitation:*

(a) A course on the history, theories and principles of naprapathy, with a minimum of 90 hours of instruction.

- (b) A course on anatomy, with a minimum of 270 hours of instruction.*
- (c) A course on physiology, with a minimum of 270 hours of instruction.*
- (d) A course on connective tissue dynamics, with a minimum of 270 hours of instruction, including a laboratory component.*
- (e) A course on medical terminology, with a minimum of 90 hours of instruction.*
- (f) A course on information literacy for evidence-based practice, with a minimum of 90 hours of instruction.*
- (g) A course on spinal anatomy, with a minimum of 90 hours of instruction.*
- (h) A course on histology, genetics and embryology, with a minimum of 90 hours of instruction.*
- (i) A course on evidence-based practice for naprapathic professionals, with a minimum of 90 hours of instruction.*
- (j) Two courses on biochemistry, with a minimum of 90 hours of instruction for each course.*
- (k) A course on principles of rehabilitation, with a minimum of 90 hours of instruction.*
- (l) A course on scholarly design and review, with a minimum of 90 hours of instruction.*
- (m) A course on exercise physiology and biomechanics, with a minimum of 90 hours of instruction.*
- (n) A course on kinesiology, with a minimum of 90 hours of instruction.*
- (o) A course on naprapathic technique, with a minimum of 90 hours of instruction.*
- (p) A course on naprapathic clinical evaluation, with a minimum of 90 hours of instruction.*

(q) A course on scholarly implementation and dissemination, with a minimum of 90 hours of instruction.

2. Except as otherwise provided in subsection 4 of this section and subsection 3 of section 20 of this regulation, the curriculum for the second and third years of the program must include, without limitation:

(a) A course on microbiology and public health, with a minimum of 90 hours of instruction.

(b) Two courses on neuroscience, with a minimum of 90 hours of instruction for each course.

(c) A course on naprapathic technique, with a minimum of 90 hours of instruction.

(d) Two courses on naprapathic clinical evaluation, with a minimum of 90 hours of instruction for each course.

(e) A course on applied biomechanics, with a minimum of 90 hours of instruction.

(f) A course on the components of naprapathic research projects, with a minimum of 90 hours of instruction.

(g) A course on therapeutic exercise, with a minimum of 90 hours of instruction.

(h) Two courses on the pathology of human diseases, with a minimum of 90 hours of instruction for each course.

(i) Two courses on the science of nutrition and diet, with a minimum of 90 hours of instruction for each course.

(j) A course for students to develop a proposal for a naprapathic research project, with a minimum of 120 hours of instruction.

(k) Two courses on accessory techniques, with a minimum of 90 hours of instruction for each course.

(l) A course on clinical orthopedic and neurological evaluation, with a minimum of 90 hours of instruction.

(m) A course on the interpretation of radiological reports and normal radiographic anatomy, with a minimum of 90 hours of instruction.

(n) A course for students to complete two naprapathic research projects, with a minimum of 240 hours of instruction.

(o) A course on stress and the body, with a minimum of 90 hours of instruction.

(p) A course to prepare students for practice in a clinical setting, with a minimum of 90 hours of instruction.

(q) A course on mind-body medicine, with a minimum of 90 hours of instruction.

(r) A course on sports and exercise injury assessment and treatment, with a minimum of 90 hours of instruction.

3. Except as otherwise provided in subsection 4 of this section and subsection 3 of section 20 of this regulation, the curriculum for the third and fourth years of the program must include, without limitation:

(a) A course on clinical protocols and public health, with a minimum of 90 hours of instruction.

(b) Four courses on clinical practice, with a minimum of 150 hours of practice in a clinical setting for each course.

(c) Four courses on the development of professional skills for practice, with a minimum of 30 hours of instruction for each course.

(d) A course for students to complete one naprapathic research project, with a minimum of 120 hours of instruction.

(e) Three courses on clinical adjunctive therapy, with a minimum of 90 hours of instruction for each course.

(f) A course on the dissemination of naprapathic research projects, with a minimum of 90 hours of instruction.

4. The courses required by this section may be combined or divided into several courses depending on the whether the program is structured to be completed in 3 or 5 years, provided that all of the requirements of this section are met.

Sec. 24. *1. Except as otherwise provided in subsection 3 of section 20 of this regulation, a program must require that, before participating in a clinical internship for the purpose of satisfying the requirements of subsection 8 of section 21 of this regulation, a student must:*

(a) Satisfy all of the academic requirements of the program; and

(b) Pass a clinical examination approved by the program.

2. A clinical internship completed for the purpose of satisfying the requirements of subsection 8 of section 21 of this regulation must last for at least 1 year and must include, without limitation:

(a) At least 12 hours of supervised practice in a clinic for at least 2 days each week for a total of 50 weeks;

(b) The administration of at least 500 naprapathic treatments;

(c) The performance of at least 15 nutritional counseling sessions; and

(d) The successful completion of clinical academic courses.

3. *Except as otherwise provided in subsection 3 of section 20 of this regulation, a program must:*

(a) Develop a clinical evaluation tool to measure and evaluate the skills of interns.

(b) Require that an intern:

(1) Earn a minimum of 80 percent for each day based on the clinical evaluation tool developed by the program pursuant to paragraph (a); and

(2) Maintain an average grade point average of 3.0 for clinical work.

(c) Require that a naprapathic preceptor or intern clinician designated by a licensed naprapathic preceptor:

(1) Be on duty at all times an intern is performing clinical activities to observe treatments; and

(2) Evaluate each intern daily on his or her progress toward achieving goals of the program.

Sec. 25. *A licensee shall maintain a policy of professional liability insurance with a minimum coverage of \$200,000 for each claim and a minimum aggregate amount of \$600,000 for each year.*

Sec. 26. *A licensee and any person working under a licensee who provides direct care to a patient shall follow nationally recognized infection control and prevention guidelines that are applicable to the setting in which the care is provided. Such guidelines may include, without limitation:*

1. The guidelines provided in the Guide to Infection Prevention for Outpatient Settings: Minimum Expectations for Safe Care developed by the National Center for Emerging and

Zoonotic Infectious Diseases of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

2. Any applicable guidelines prescribed by the Association for Professionals in Infection Control and Epidemiology, or its successor organization.

Sec. 27. 1. A licensee shall not:

(a) Falsify records of health care, including, without limitation, falsification so as to indicate:

(1) The licensee's presence at a time when the licensee was not in attendance with a patient; or

(2) That procedures were performed by the licensee which were in fact not performed by the licensee;

(b) Render professional services to a patient while the licensee is under the influence of alcohol or any controlled substance or is in any impaired mental or physical condition;

(c) Recommend anabolic steroids for any person to increase muscle mass for competitive or athletic purposes;

(d) Make an unreasonable additional charge for tests in a laboratory, radiological services or other services for testing which are ordered by the licensee and performed outside the office of the licensee;

(e) Fail to honor the advance directive of a patient without informing the patient or the surrogate or the guardian of the patient, and without documenting in the records of the patient the reasons for failing to honor the advance directive of the patient; or

(f) Administer or use, or allow any person under his or her supervision, direction or control to administer or use, a single-use medical device:

(1) For more than one procedure;
(2) For more than one patient; or
(3) In a manner inconsistent with the manufacturer's instruction or directions included on or with the single-use medical device.

2. As used in this section, "single-use medical device" means a medical device that is intended for one use or a single patient during a single procedure.

Sec. 28. 1. *A licensee shall not advertise in such a manner that the advertising or use of promotional materials:*

- (a) Claims that a manifestly incurable disease can be permanently cured;*
- (b) Includes any false claim of a licensee's skill as a naprapath, or the efficacy or value of his or her treatment;*
- (c) Claims or implies professional superiority of the performance of any professional service in a manner superior to that of other providers of health care;*
- (d) Guarantees any professional service or the results of any course of treatment or the performance of any procedure painlessly;*
- (e) Includes any statement which is known to be false, or through the exercise of reasonable care should be known to be false, deceptive, misleading or harmful, in order to induce any person to purchase, utilize or acquire any professional services or to enter into any obligation or transaction relating thereto;*
- (f) Includes any extravagant claim, aggrandizement of abilities or self-laudatory statement calculated to attract patients, and which has a tendency to mislead the public or produce unrealistic expectations in particular cases; or*

(g) Is false, deceptive or misleading in regard to the price, cost, charge, fee or terms of credit or services performed or to be performed.

2. It is sufficient for disciplinary purposes that any statement or other advertising described in paragraph (e), (f) or (g) of subsection 1 has a tendency to:

(a) Deceive, mislead or harm the public because of its false, deceptive, misleading or harmful character; or

(b) Produce unrealistic expectations in particular cases, even where no member of the public is actually deceived, misled or harmed, or no unrealistic expectations are actually produced by the statement or other advertising.

Sec. 29. *1. The Division may, subject to the provisions of this section and section 16 of this regulation, deny an application for a license or suspend or revoke a license if the applicant or licensee has been convicted of:*

(a) Murder, voluntary manslaughter or mayhem;

(b) Any felony involving the use of a firearm or other deadly weapon;

(c) Assault or battery with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime that is punished as a felony;

(e) Abuse or neglect of a child or contributory delinquency;

(f) Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

(g) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years; or

(h) Any offense involving moral turpitude.

2. If the Division receives a petition pursuant to section 30 of this regulation or notification that an applicant or licensee intends to challenge a background investigation pursuant to section 16 of this regulation, the Division may stay the denial of an application for or the suspension or revocation of a license pursuant to subsection 1 pending the outcome of the petition or challenge.

Sec. 30. *1. An applicant or a licensee who is convicted of a crime listed in section 29 of this regulation may petition the Division to refrain from denying the applicant's application for a license or suspending or revoking the license of the licensee.*

2. A petition submitted pursuant to subsection 1 must be in the form prescribed by the Division and include:

(a) The name of the petitioner;

(b) The social security number of the petitioner or, if the petitioner has not been assigned a social security number, the taxpayer identification number of the petitioner; and

(c) The consent of the petitioner for the Division to:

(1) Interview the petitioner or any other person or entity whom the Division determines may have information relevant to the petition, including, without limitation, current and prior employers and family members of the petitioner; and

(2) Obtain any information that the Division determines necessary to evaluate the petition.

3. A petitioner shall provide the Division with any documentation requested by the Division for the purpose of evaluating the petition.

4. When evaluating a petition submitted pursuant to subsection 1, the Division shall consider:

(a) The amount of time that has passed since the conviction;

(b) The number of times the applicant or the licensee has been convicted of any crime listed in section 29 of this regulation;

(c) The rehabilitation of the petitioner;

(d) The relevance of the crime to the practice of naprapathy;

(e) Whether the applicant or licensee is required by federal or state law to register as a sex offender; and

(f) Any relevant extenuating circumstances.

5. Not later than 90 days after the date on which the petitioner submits a petition to the Division pursuant to subsection 1, the Division shall issue a written decision to the petitioner concerning the petition.

6. The Division may rescind its written decision concerning a petition submitted pursuant to subsection 1 at any time.

7. An applicant for a license whose application is denied after submitting a petition pursuant to subsection 1 may not apply for a license for a period of 2 years after the date on which the application was denied.

8. A petition submitted pursuant to subsection 1 and all supplemental information is confidential. A written decision issued pursuant to subsection 5 is a public record.

Sec. 31. 1. The following acts constitute grounds for disciplinary action:

(a) Any disciplinary action, including, without limitation, the revocation, suspension, modification or limitation of a license to practice naprapathy, taken by another state, the Federal Government, a foreign country or any other jurisdiction or the surrender of a license to practice naprapathy or discontinuing the practice of naprapathy while under investigation by any licensing authority, a medical facility, a branch of the Armed Forces of the United States, an insurance company, an agency of the Federal Government or an employer.

(b) Malpractice, which may be evidenced by claims settled against a licensee, but only if the malpractice is established by a preponderance of the evidence.

(c) Engaging by a licensee in any sexual activity with a patient who is currently being treated by the licensee.

(d) Engaging in sexual contact with the surrogate of a patient or other key persons related to a patient, including, without limitation, a spouse, parent or legal guardian, which exploits the relationship between the licensee and the patient in a sexual manner.

(e) Disruptive behavior with naprapaths, licensed physicians, hospital personnel, patients, members of the families of patients or any other persons if the behavior interferes with patient care or has an adverse impact on the quality of care rendered to a patient.

(f) Engaging in conduct that violates the trust of a patient and exploits the relationship between the licensee and the patient for financial or other personal gain.

(g) Failure to offer appropriate procedures or studies, to protest inappropriate denials by insurers, to provide necessary services or to refer a patient to an appropriate provider, when the failure occurs with the intent of positively influencing the financial well-being of the licensee or an insurer.

(h) Obtaining, maintaining or renewing or attempting to obtain, maintain or renew a license by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement.

(i) Practicing or attempting to practice naprapathy under another name.

(j) Attempting directly or indirectly, by way of intimidation coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

(k) Terminating the naprapathic care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

(l) Directly or indirectly receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation which is intended or tends to influence the naprapath's objective evaluation or treatment of a patient.

(m) Dividing a fee between licensees except where:

(1) The patient is informed of the division of fees; and

(2) The division of fees is made in proportion to the services portion actually performed and the responsibility assumed by each licensee.

(n) Referring, in violation of NRS 439B.425, a patient to a health facility, medical laboratory, diagnostic imaging or radiation oncology center or commercial establishment in which the licensee has a financial interest.

(o) Charging for visits to the office of the licensee which did not occur or for services which were not rendered or documented in the records of the patient.

(p) Aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of naprapathy contrary to the provisions of this chapter or chapter 634B of NRS.

- (q) Delegating responsibility for the care of a patient to a person if the licensee knows, or has reason to know, that the person is not qualified to undertake that responsibility.*
- (r) Failing to disclose to a patient any financial or other conflict of interest.*
- (s) The inability to practice naprapathy with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs or any other substance.*
- (t) Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.*
- (u) Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of naprapathy is experimental.*
- (v) Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by naprapaths in good standing.*
- (w) Having an alcohol or other substance use disorder.*
- (x) Failure by an applicant or a licensee to report in writing, within 30 days, any disciplinary action taken against the applicant or licensee by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice naprapathy in another jurisdiction. The provisions of this paragraph do not apply to any disciplinary action taken by the Board or taken because of any disciplinary action taken by the Division.*
- (y) Failure by an applicant or a licensee to report in writing, within 30 days, any criminal action taken or conviction obtained against the applicant or licensee, other than a minor*

traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

(z) Violating any state or federal law or regulation that is applicable to an applicant for a license or a licensee.

(aa) Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(bb) Altering the medical records of a patient.

(cc) Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or knowingly or willfully obstructing or inducing another to obstruct such filing.

(dd) Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061, if the licensee is the custodian of health care records with respect to those records.

(ee) Knowingly or willfully disclosing a communication that is privileged pursuant to a statute or court order.

2. As used in this section:

(a) "Custodian of health care records" has the meaning ascribed to it in NRS 629.016.

(b) "Licensed physician" means a physician licensed pursuant to chapter 630 or 633 of NRS.

Sec. 32. 1. The Division may take one or more of the following disciplinary actions against an applicant or a licensee who commits any act or omission which is grounds for disciplinary action:

(a) Deny, suspend, revoke or refuse to renew a license;

(b) Impose a limitation on the practice of naprapathy by the applicant or licensee;

(c) Impose an administrative fine not to exceed \$5,000 for each violation;

(d) Require an applicant or licensee to enter into a contract to obtain alcohol or drug rehabilitation services, if the reason for the disciplinary action is related to the use of alcohol or a controlled substance; or

(e) Any other disciplinary action that the Division determines to be appropriate.

2. A licensee shall pay all costs incurred in connection with any disciplinary action taken against the licensee.

3. The Division may consult with the Advisory Board before imposing any disciplinary action pursuant to this section.

Sec. 33. *1. Upon receipt of a complaint that a person is engaging the practice of naprapathy without a license, the Division shall investigate such a complaint.*

2. A person under investigation pursuant to subsection 1 shall cooperate with the Division during the course of the investigation by:

- (a) Participating in any interviews requested by the Division;*
- (b) Allowing the Division to inspect the location at which the person allegedly practiced naprapathy without a license;*
- (c) Providing any documentation requested by the Division, including, without limitation, documentation that the person is not engaged in the practice of naprapathy without a license; and*
- (d) Performing or refraining from the performance of any other act, as requested by the Division to facilitate the investigation.*

3. *If the Division determines that the person is practicing naprapathy without a license, the Division shall:*

(a) Direct the person to immediately cease and desist from the practice of naprapathy; and
(b) Notify the person that he or she must submit to the Division within 10 days an application for a license or evidence satisfactory to the Division that the person is not engaged in the practice of naprapathy.

4. *A person who submits an application pursuant to paragraph (b) of subsection 3 shall not engage in the practice of naprapathy until the Division issues the person a license pursuant to this chapter and chapter 634B of NRS.*

5. *If the person fails to submit the application or the evidence in accordance with paragraph (b) of subsection 3 or does not cooperate with the investigation of the Division pursuant to subsection 2, the Division shall refer the matter to the Office of the Attorney General and the district attorney of the county in which the alleged violation occurred for investigation and possible prosecution pursuant to NRS 634B.900.*

6. *If an application submitted pursuant to paragraph (b) of subsection 3 is denied, the applicant may not apply for a license for a period of 2 years after the date on which the application was denied.*

Sec. 34. 1. *A person may submit a complaint to the Division alleging that an applicant for a license or a licensee has engaged in conduct which is grounds for disciplinary action pursuant to this chapter or chapter 634B of NRS.*

2. *The Division shall examine each complaint received pursuant to subsection 1 to determine whether there is good cause to conduct an investigation. If the Division determines that there is good cause, the Division shall investigate the complaint.*

3. While conducting an investigation pursuant to subsection 2, the Division may:

(a) Interview the applicant or licensee or any other person or entity whom the Division determines may have relevant information concerning the complaint;

(b) Conduct onsite inspections to make observations, interview persons and review any records, including, without limitation, medical records; and

(c) Obtain any information that the Division determines necessary to conduct the investigation.

4. The Division may consult with the Advisory Board concerning any complaint. Information presented to the Advisory Board concerning a complaint is confidential.

5. An applicant or a licensee shall provide the Division with any documentation requested by the Division, including, without limitation, medical records, for the purpose of conducting an investigation pursuant to this section.

6. The failure of a licensee to cooperate with an investigation conducted pursuant to this section constitutes grounds for disciplinary action against the licensee.

Sec. 35. *1. The Division shall, in each order revoking a license, prescribe a period during which a licensee may not apply for the reinstatement of his or her license. The period must not be less than 1 year or more than 10 years.*

2. An applicant for the reinstatement of a license must:

(a) Submit an application for reinstatement on a form prescribed by the Division;
(b) Satisfy all of the requirements for the renewal of a license, including, without limitation, completing the continuing education set forth in section 19 of this regulation;

(c) Attest that he or she has not, during the period of revocation of his or her license, violated any state or federal statute or regulation governing the practice of naprapathy; and

(d) Attest that he or she is not currently under investigation by a regulatory authority of the District of Columbia or the state or territory of the United States in which the applicant holds a license to practice naprapathy.

3. The Division may designate requirements in addition to the requirements of subsection 2 that must be satisfied before the Division will consider an applicant for the reinstatement of his or her license, including, without limitation, conducting an interview of the applicant or requiring the applicant to complete additional courses or programs if the license of the applicant has been revoked for more than 2 years.

4. The Division:

(a) Shall review an application for the reinstatement of a license to determine whether the application satisfies the requirements of this section; and

(b) May deny an application for the reinstatement of a license which the Division determines does not satisfy those requirements.

5. In considering an application for the reinstatement of a license which has been revoked, the Division shall evaluate:

(a) The severity of the act which resulted in the revocation of the license;

(b) The conduct of the applicant after the revocation of the license;

(c) The lapse of time since the revocation of the license;

(d) The degree of compliance by the applicant with any conditions the Division specified as a prerequisite for the reinstatement of the license;

(e) The degree of rehabilitation attained by the applicant as evidenced by statements to the Division from qualified people who have professional knowledge of the applicant; and

(f) The truthfulness of the attestations made by the applicant pursuant to subsection 2.

6. *After evaluating an application for the reinstatement of a license, the Division shall grant or deny the reinstatement of the license.*

7. *If the Division takes any disciplinary action against a licensee after the reinstatement of his or her license, the first disciplinary action taken after the reinstatement of his or her license shall be deemed to be the licensee's first offense.*

8. *Before granting or denying the reinstatement of a licensee pursuant to subsection 6, the Division may consult with the Advisory Board.*

Sec. 36. 1. *A person whose license is suspended shall comply with the terms of the suspension that are specified by the Division, which may include, without limitation:*

(a) *Informing the Division of the name and address of his or her employer, or if self-employed, the name and address of his or her business.*

(b) *Submitting to the Division copies of evaluations of his or her performance made by his or her employer.*

(c) *Undergoing counseling with a qualified therapist.*

(d) *If the suspension was related to the use of alcohol or a controlled substance or another condition that may be assisted with treatment for addiction, undergoing such treatment provided by a qualified provider of health care.*

(e) *Entering into a contract to obtain services for rehabilitation from an alcohol or other substance use disorder, if the suspension was related to the use of alcohol or a controlled substance.*

(f) *Submitting to the Division copies of reports prepared by a qualified therapist or other provider of health care.*

(g) *Submitting to the Division self-evaluation reports.*

(h) Submitting to the Division copies of the results of random screenings for alcohol or controlled substances.

(i) Meeting with the Division or a designated representative of the Division at specified intervals.

(j) Working under supervision as approved by the Division or a designated representative of the Division.

(k) Successfully completing any courses of education required by the Division.

(l) Successfully completing a rehabilitation program specified by the Division.

2. If, at any time the Division determines that the licensee violated the terms of the suspension or that the progress and performance of the licensee under the suspension are unsatisfactory, the Division may extend the period of the suspension, modify the terms of the suspension or revoke the license of the licensee.

3. The licensee shall pay all costs incurred by the licensee to comply with the terms of the suspension of his or her license which are specified by the Division pursuant to this section.

4. The Division may consult with the Advisory Board regarding the terms of the suspension of a licensee and whether to terminate or extend the suspension.

5. Except as otherwise provided in subsection 6, the Division may terminate the suspension of a license at any time.

6. If the Division consults with the Advisory Board regarding the terms of suspension of a licensee or whether to terminate or extend the suspension, the Division shall also consult with the Advisory Board before terminating the suspension and reinstating a license pursuant to subsection 5.

Sec. 37. 1. *If a person is aggrieved by a decision of the Division pursuant to this chapter or chapter 634B of NRS relating to the denial, suspension, refusal to renew or revocation of a license, the imposition of an administrative sanction or any other disciplinary action, the aggrieved person may file an appeal of the decision with the Division.*

2. In any appeal filed with the Division pursuant to subsection 1, unless otherwise provided by law or the Division, the procedures set forth in NAC 439.300 to 439.395, inclusive, apply.

3. As used in this section, “disciplinary action” means any disciplinary action taken pursuant to this chapter and chapter 634B of NRS.

Sec. 38. 1. *The Board will hold a hearing not later than 45 days after the Division receives a report pursuant to subsection 5 of NRS 228.420 concerning a licensee or at the next scheduled meeting of the Board after the Division receives such a report, whichever is later, to consider the contents of the report and the advice of the Advisory Board concerning such a report.*

2. The provisions of NAC 439.190 and 439.195 apply to a hearing held pursuant to this section and NRS 634B.720.

Sec. 39. NAC 652.155 is hereby amended to read as follows:

652.155 1. Except as otherwise provided in this section and NAC 652.296 and NRS 652.071, the provisions of this chapter:

(a) Apply to:

(1) A laboratory which is licensed pursuant to NRS 652.080 and which provides services to the public; and

(2) A nonexempt laboratory which is registered pursuant to NAC 652.175; and

(b) Do not apply to:

(1) An exempt laboratory which:

(I) Is licensed pursuant to chapter 652 of NRS; and

(II) Pays the applicable fees required by NAC 652.488;

(2) An HIV testing laboratory which:

(I) Is licensed pursuant to chapter 652 of NRS; and

(II) Pays the applicable fees required by NAC 652.488;

(3) A licensed laboratory only for the collection of specimens which:

(I) Is licensed pursuant to chapter 652 of NRS:

(II) Pays the applicable fees required by NAC 652.488;

(III) Has a director who possesses the qualifications prescribed by NAC 652.397; and

(IV) Complies with the requirements of NAC 652.296; or

(4) A laboratory which is registered as exempt pursuant to NAC 652.175.

2. Except as otherwise provided in subsection 3, a person who is employed by a laboratory that is licensed by or registered with the Division pursuant to chapter 652 of NRS may perform a test without complying with the provisions of this chapter if:

(a) The test has been classified as a waived test pursuant to 42 C.F.R. Part 493, Subpart A; and

(b) The director, a designee of the director or a licensed physician at the laboratory at which the test is performed:

(1) Verifies that the person is competent to perform the test;

(2) Ensures that the test is performed in accordance with instructions of the manufacturer of the test; and

(3) Validates and verifies the manner in which the test is performed by using controls which ensure that the results of the test will be accurate and reliable.

3. Except as otherwise provided in subsection 4, the provisions of subsection 2 do not relieve a person who performs a test from the requirement to:

(a) Comply with the policies and procedures that the director of the laboratory at which the test is performed has established pursuant to NAC 652.280;

(b) Comply with the laboratory safety guidelines adopted by the laboratory pursuant to NAC 652.291; or

(c) Obtain certification pursuant to NAC 652.470 and pay the applicable fees as set forth in NAC 652.488.

4. An advanced practice registered nurse as defined in NRS 632.012 or a physician assistant as defined in NRS 630.015 who is employed by a laboratory that is licensed by or registered with the Division pursuant to chapter 652 of NRS and who has not received certification pursuant to NAC 652.470 may perform a test without complying with the provisions of this chapter if the test:

(a) Has been classified as a waived test pursuant to 42 C.F.R. Part 493, Subpart A; or

(b) Is a provider-performed microscopy procedure categorized pursuant to 42 C.F.R. § 493.19.

5. Except as otherwise provided in this subsection, a person may perform a test for the detection of the human immunodeficiency virus that is classified as a waived test pursuant to 42 C.F.R. Part 493, Subpart A, without complying with the provisions of this chapter if he or she complies with NRS 652.186. This subsection does not apply to a person who holds a license or

certification issued pursuant to this chapter or a license or certification described in NRS 652.210.

6. A medical officer employed by the Armed Forces of the United States to provide clinical laboratory services who is not licensed or certified pursuant to this chapter may provide clinical laboratory services in a hospital as part of a training or educational program pursuant to an agreement entered into in accordance with the provisions of NRS 449.2455.

7. As used in this section, “licensed physician” includes:

- (a) A physician licensed as a doctor of medicine pursuant to chapter 630 of NRS;
- (b) A physician licensed as a doctor of osteopathic medicine pursuant to chapter 633 of NRS;
- (c) A chiropractic physician licensed pursuant to chapter 634 of NRS; ~~and~~
- (d) *A naprapath licensed pursuant to chapter 634B of NRS; and*
- (e) A podiatric physician licensed pursuant to chapter 635 of NRS.

**DIVISION OF PUBLIC & BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
LCB File No. R108-24**

Informational Statement per NRS 233B.066

1. A clear and concise explanation of the need for the adopted regulation.

The purpose of the proposed regulations is to move forward the regulations required by Assembly Bill 153 of the 82nd Legislative Session (2023) needed to license and regulate the practice of naprapathy.

R108-24 addresses the following topics as they relate to the licensure and practice of naprapathy:

- Infection Control.
- General application requirements.
- Initial application requirements.
- Licensure by endorsement requirements.
- Provisional Licensure requirements.
- Licensure renewal requirements.
- Validity of notices sent to licensees or applicants.
- Requirements to register as a teacher, advisor, or supervisor pursuant to NRS 634B.080.
- Rules of professional conduct for naprapaths.
- List of crimes, that if convicted, may result in disciplinary action of a naprapath.
- The process for an applicant for licensure as a naprapath or a licensee to petition the Division to not impose disciplinary action despite a report of being convicted of a crime that may result in disciplinary action.
- The required actions by an applicant or licensee that must be taken if a background check cannot be completed.
- The required actions to be taken by an applicant for a license or licensee if the person feels the background check information provided by the Division is not accurate
- The actions the Division may take upon determining that an applicant has been convicted of a disqualifying crime
- Fees.
- Grounds for initiating disciplinary action
- Disciplinary action that may be imposed by the Division; Consultation with Advisory Board.
- Contents of order of revocation of license; reinstatement of license following revocation.
- Licensee to pay costs of disciplinary action.
- Unlicensed practice complaints.
- Complaints against licensee or applicant.
- Terms of suspension of license.
- Appeal of decision related to disciplinary action.

- Reports received by the Division pursuant to subsection 5 of NRS 228.420.
- Continuing education requirements.
- Requirements governing advertising or the use of promotional materials by a naprapath
- Approval by Division of Program of Education in Naprapathy and related items.
- Per diem allowances and reimbursement for travel expenses for Naprapathic Practice Advisory Board members.
- Request for documents by the Division from applicants or licensees.
- Amendments to NAC 459.554 to authorize naprapaths licensed in Nevada to order medical x-rays, excluding nuclear medicine studies.
- Amendments to NAC 652.155 as it relates to medical laboratory tests.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Below is a summary of how public comment was solicited and a summary of the public's response. Please refer to number 5 for full details on revisions made to the proposed regulations.

The requirement to govern the licensure of naprapaths and the practice of naprapathy was established by AB 153 of the 82nd legislative session (2023); therefore, there is not a list of Nevada licensees available to solicit public comment on the proposed regulations. The Division worked with Dr. Patrick Nuzzo and staff from the Southwest University of Naprapathic Medicine in New Mexico to distribute the proposed regulations and small business impact questionnaire to the University's alumni. The University's alumni were identified as persons who may have an interest in becoming licensed as a naprapath in Nevada or opening a small business in Nevada, which may include opening a school of naprapathy or an individual naprapathic practice. The proposed regulations and small business impact questionnaire were distributed via email to 35 of the University's alumni on April 16, 2024.

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 Responses

Summary of Comments Received (1 response was received out of 35 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 0 No - 1	Yes – 0 No - 1	Yes –0 No – 1	Yes – 0 No – 1
No additional comments were provided.	No additional comments were provided.	No additional comments were provided.	No additional comments were provided.

Public Workshop – May 22, 2024

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. One (1) of the five (5) participants provided public comment.

The individual testified he was in favor of the regulations and in full support of the bill that passed.

Written Feedback

Written feedback was also accepted from the public and taken into consideration.

The President of the American Naprapathic Association submitted two documents, each dated July 25, 2024, one titled “Nevada Naprapathy License by Endorsement Recommendations” and one titled “Concerns and Recommendations Regarding Nevada’s Naprapathy Proposed Regulations 2024 V2.0.” Points of concern included:

1. Potential Bias in Advisory Input: Proposed regulations are predominantly influenced by a single institution with an accredited DN Program.
2. Recognition of Established Institutions: Proposed regulations may inadvertently discriminate against graduates from established US naprapathy schools (those that are not accredited) such as NCNM which is chartered by the State of Illinois and recognized by the Illinois Board of Higher Education to grant a Doctor of Naprapathy degree.
3. Licensure Reciprocity: “The specific requirements for endorsement are not detailed, which could lead to subjective interpretations and potential discrimination against naprapaths from other states or schools.”
4. Concerns with educational requirements including with the curriculum requirements and

accreditation.

Recommendations included:

“Clarify Endorsement Criteria: Provide detailed and objective criteria for license endorsement to ensure fair treatment of out-of-state practitioners.

Flexible Curriculum Recognition: Allow for the recognition of equivalent courses and competencies from other accredited programs to facilitate smoother transitions for transfer students.

Inclusive Accreditation: Recognize a broader range of accrediting bodies to ensure that graduates from various reputable programs are not unfairly excluded.”

In addition, another individual provided written public comment which is included with this informational statement noting concerns that the proposed regulations would prohibit graduates of any currently operating Naprapathic programs from licensure noting “why the regulations would be written to exclude 3000 potential practitioners globally and 200 Naprapaths domestically, in comparison to the 50 who have graduated from Southwest University of Naprapathic Medicine, is confounding and disappointing.”

A health program manager met with the president of the American Naprapathic Association and the individual that provided public comments on August 1, 2024, to discuss the concerns presented in the written comments. It was explained that in addition to the requirements prescribed in the proposed regulations to obtain a license by endorsement, AB 153 outlined additional requirements to obtain a license by endorsement. After review of the statutory requirements for licensure by endorsement, it appeared the concerns related to the requirements for licensure by endorsement were addressed in a satisfactory manner.

For full details on the written comments received, please refer to the written documents included with this informational statement.

NRS 634B.120 requires the Board of Health adopt regulations governing the licensure of naprapaths and the practice of naprapathy with the advice of the Naprapathic Practice Advisory Board. The president of the American Naprapathic Association and the individual that provided the public comments were emailed a copy of the Naprapathy Practice Advisory Board agenda on 10/8/2024, with information on how they can participate.

Naprapathic Practice Advisory Board – October 15, 2024

The proposed regulations were reviewed by the Naprapathic Practice Advisory Board on October 15, 2024.

The Advisory Board also reviewed and took into consideration the written feedback submitted by the American Naprapathic Association, titled “Concerns and Recommendations Regarding Nevada’s Naprapathy Proposed Regulations 2024 V2.0” which is included in your packet.

There was no testimony provided by members of the public in opposition to or with concerns related to the proposed regulations during the advisory board meeting.

The Advisory Board voted unanimously to move the proposed regulations forward, as written, for adoption by the State Board of Health.

Public Hearing – January 17, 2025

A public hearing was held on January 17, 2025, before the Board of Health.

One person testified recommending that the word “authenticated” be removed from the following sentence in Section 19, subsection 5:

If audited by the Division, a licensee shall prove that he or she successfully completed the continuing education required by this section by presenting ~~authenticated~~ photocopies of original certificates of completion or computer printouts from approved providers of continuing education to the Division.

The individual testified that having photocopies of original certificates of continuing education authenticated would create a burden. There was also mention that “authentication” was not used by other states in which the individual was licensed (as a naprapath). After discussion with the individual that testified and Division of Public and Behavioral Health representatives, the Board of Health voted to remove the word “authenticated” from the above-mentioned sentence.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

3. A statement indicating the number of persons who attended each hearing, testified at each hearing, and submitted written statements regarding the proposed regulation. This statement should include for each person identified pursuant to this section that testified and/or provided written statements at each hearing regarding the proposed regulation, the following information, if provided to the agency conducting the hearing:
 - (a) Name
 - (b) Telephone Number
 - (c) Business Address

- (d) Business telephone number
- (e) Electronic mail address; and
- (f) Name of entity or organization represented

Public Workshop – May 22, 2024

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. One (1) of the five (5) participants provided public comment.

Dr. Patrick Nuzzo provided public comment at the public workshop. His electronic mail address is: docnuzzo@sunm.edu and his telephone number is: 847-710-4327.

Written Statements Regarding the Proposed Regulation

Dr. Shante Griggs submitted two documents with written comments via email on July 26, 2024. One was titled, “Concerns and Recommendations Regarding Nevada’s Naprapathy Proposed Regulations 2024 V2.0” and one was titled, “Nevada Naprapathy License by Endorsement Recommendations”, both of which are included with this informational statement.

Dr. Griggs provided the following information:

Dr Shante Griggs, PharmD, RPh, DN
ANA President & NCNMU President/CEO
American Naprapathic Association
www.naprapath.org, drgriggs@naprapath.org
3330 N Milwaukee Ave, Chicago, IL 60641
312-967-7019

NCNM University (NCNMU)

www.ncnm.edu, drgriggs@ncnm.edu
3330 N Milwaukee Ave, Chicago, IL 60641
312-487-1084

Dr Fionda Williams Brock also provided written testimony via email on July 26, 2024. Her written testimony is also included with this informational statement.

Dr. Williams Brock provided the following information:

Fionda Williams Brock, PhD, DN, MSN, MSHS, RN
c: 702.427.9800
o: 702.329.0799
e: fionda@fimasfi.com

Naprapathic Practice Advisory Board – October 15, 2024

There were two (2) Division of Public Health Staff, one (1) deputy attorney general, and five (5) Advisory Board members in attendance. There was one (1) member of the public that attended virtually who provided a phone number of 1-702-897-5294 but did not provide a name.

There was no testimony provided by members of the public.

Public Hearing – January 17, 2025

There were 27 individuals that attended the public hearing virtually, including Division of Public and Behavioral Health staff and Board of Health members. There was one person who signed the in-person sign in sheet. Division of Public and Behavioral Health staff also intended in-person. As there were other agenda items on the public hearing agenda it is unknown how many individuals were present specifically for the hearing on LCB Draft of Proposed Regulation R108-24 related to naprapathy.

Of those attending the public hearing, one person provided testimony:

- Dr. Patrick Nuzzo provided public comment at the public workshop. His electronic mail address is: docnuzzo@sunm.edu and his telephone number is: 847-710-4327.

Although written testimony was provided during the public workshop process, no additional written testimony was provided for the public hearing.

4. A description of how comment was solicited (i.e., notices) from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (1)(a) (b), the Division of Public and Behavioral Health (DPBH), before conducting the public workshop for the proposed regulation, made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

The requirement to govern the licensure of naprapaths and the practice of naprapathy was established by AB 153 of the 82nd legislative session (2023); therefore, there was not a list of Nevada licensees available to distribute the list. The Division worked with Dr. Patrick Nuzzo and staff from the Southwest University of Naprapathic Medicine in New Mexico to distribute the proposed regulations and small business impact questionnaire to the University's alumni. The University's alumni were identified as persons who may have an interest in becoming licensed as a naprapath in Nevada or opening a small business in Nevada, which may include opening a school of naprapathy or an individual naprapathic practice. The proposed regulations and small business impact questionnaire were distributed via email to 35 of the University's alumni on April 16, 2024.

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 Responses

Summary of Comments Received (1 response was received out of 35 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 0 No - 1	Yes – 0 No - 1	Yes –0 No – 1	Yes – 0 No – 1
No additional comments were provided.	No additional comments were provided.	No additional comments were provided.	No additional comments were provided.

There currently are no naprapaths licensed by the State of Nevada. A public workshop was held on May 22, 2024, the Naprapathic Practice Advisory Board held a meeting on the proposed regulations on October 15, 2024, and a public hearing was held on the proposed regulations on January 17, 2025. For a summary of responses provided during these meetings, please refer to number 2.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The proposed regulations were changed at the January 17, 2025, Board of Health meeting by removing the word “authenticated” from the following sentence in Section 19, subsection 5:

If audited by the Division, a licensee shall prove that he or she successfully completed the continuing education required by this section by presenting ~~authenticated~~ photocopies of original certificates of completion or computer printouts from approved providers of continuing education to the Division.

Testimony provided during the Board of Health indicated that having photocopies of original certificates of continuing education authenticated would create a burden. There was also mention that “authentication” was not used by other states in which the individual was licensed (as a naprapath).

6. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:
 - (a) Both adverse and beneficial effects; and
 - (b) Both immediate and long-term effects.

Anticipated effects on the business which NRS Chapter 634B regulates:

- A. *Adverse effects:* Direct adverse effects include licensure fees, fines, insurance costs, costs to become accredited if opening a program of education in naprapathy and other related costs. Certain fees, such as the \$500 initial application fee and the renewal fee of \$500 is set in statutes and is not a direct result of the proposed regulations but is instead directly related to the passage of AB 153 of the 82nd legislative session (2023).

The fee to register as a teacher, advisor or supervisor pursuant to Section 1.29 of AB 153 of the 82nd legislative session (2023) is set at \$50. It is anticipated that this will not create a significant financial burden or prevent individuals from registering to be a teacher, advisor or supervisor.

There will be a cost associated with obtaining the liability insurance required pursuant to Section 25 of the proposed regulations. The actual costs are unknown as they may vary based on the amount of coverage a person obtains and other factors. The proposed regulations set a minimum coverage of \$200,000 per claim and a minimum aggregate amount of \$600,000 per year. As it is anticipated most practicing naprapaths would carry liability insurance, it is not anticipated that this would prevent persons from becoming licensed as naprapaths in Nevada. By providing a minimum coverage amount it also provides flexibility for individuals who want to purchase a higher level of coverage.

NRS 634B.120 requires the Board, with the advice of the Advisory Board, to adopt regulations related to the requirements for continuing education for the renewal of a license as a naprapath. There are costs associated with continuing education but the proposed regulations are written to provide several options to meet the continuing education requirements which may allow flexibility in the cost of courses. The cost is unknown as it is dependent on which courses are chosen and the applicable costs.

If disciplinary action is imposed on a licensee there are additional costs that may be incurred, for example penalties may be incurred that are not to exceed \$5,000 for each violation of NRS Chapter 634B, Naprapaths or any regulation adopted pursuant thereto. In addition, a licensee is required pay all costs incurred in connection with any disciplinary action taken against the licensee. It is anticipated that the majority of licensees will not be subject to disciplinary action; therefore, these costs would not apply. If disciplinary action is taken it is unknown what the costs would entail as it would be dependent on a variety of factors.

NRS 634B.120 requires the Board, with the advice of the Advisory Board, to adopt regulations prescribing the requirements for the approval of programs of education in naprapathy by the Division, including, without limitation, regulations governing the curriculum for such programs. Although the proposed regulations do not set a fee for the approval of such programs, there is a requirement that a program be accredited by a nationally recognized accrediting agency of institutions of higher education that is recognized by the United States Department of Education. The cost is unknown as it is dependent on several factors, including, but not limited to the accrediting organization. One estimate cited on the JAC Consulting website (<https://jacconsultingservices.com/how-much-does-it-cost-to-get-a-school-accredited/>) noted that *“Accreditation costs are between 5% and 10% of the overall investment costs of any institution.”*

There is also a preventable fine related to failing to notify the Division of a change of information, of \$1,000 per instance. An applicant or licensee can avoid paying this fine by complying with the change of information requirements noted in subsection 3 of Section 9 of the proposed regulations.

NRS 634B.230 requires each applicant for a license, to submit to the Division a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The proposed regulations require the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories be paid by the applicant. According to the Nevada Department of Public Safety’s website, checked on January 17, 2025, fingerprint-based submissions include a \$12.00 FBI fee and a \$27 State fee for a total fee of \$39. The applicant would also be responsible for the cost to have their fingerprint rolled which varies depending on the entity that is used.

Indirect adverse effects may include loss of revenue if disciplinary action is taken that impacts a person’s ability to practice naprapathy, for example if a license is suspended or

revoked. Complaints against a licensee that result in disciplinary action may also have indirect adverse effects including the potential loss of clients.

- B. *Beneficial*: Direct beneficial effects may include revenue that is collected by persons who open practices of naprapathy or open schools of naprapathy once the regulations become effective. It is expected that once the regulations become effective and persons can apply for and become licensed naprapaths in Nevada, this will result in individuals opening small businesses in Nevada.
- C. *Immediate*: The financial impacts, both adverse and beneficial would be immediate for anyone who applies for licensure as a naprapath and/or opens a program of education in naprapathy upon the adopted regulations becoming effective.
- D. *Long-term*: The immediate impacts, both adverse and beneficial, would continue for the long term so long as individuals continue to be licensed as naprapaths and continue to practice naprapathy in Nevada.

Anticipated effects on the public:

- A. *Adverse*: There are no anticipated adverse effects on the public.
- B. *Beneficial*: Having licensed Naprapaths practicing in Nevada will provide the public with another option for a non-surgical, non-pharmacological treatment method to help reduce pain, and potentially avoid surgical interventions and reduce the dependence on opioids. An article published in the National Library of Medicine, titled, *Naprapathy versus orthopaedic standard care for common musculoskeletal disorders: an 8-year follow-up of a pragmatic randomized controlled trial in Sweden*, (<https://pmc.ncbi.nlm.nih.gov/articles/PMC8561905/>) concluded:
“In conclusion, naprapathy yielded significantly better long-term improvement and fewer health care interventions than orthopaedic standard care for the most common non-surgical musculoskeletal disorders in working age outpatients in specialized care. Together with the outcomes from previously published studies the results suggest that specialized manual therapy is an effective treatment that should be considered when triaging patients with common non-surgical musculoskeletal disorders in national health care systems.”
- C. *Immediate*: The immediate impact is that naprapathic services provide by Nevada licensed naprapaths will become immediately available to the public upon passage of the adopted regulations, the licensure of naprapaths and naprapaths offering their services to the public.
- D. *Long-term*: The long-term benefits to the public may include reduced surgical interventions and dependence on opioids for those who obtain pain relief from naprapathic services. This may also result in a reduction of health care costs associated with more costly interventions, such as surgical interventions.

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

The estimated cost to the agency for enforcement of the proposed regulations is \$15,489.
This is an estimate based on an estimated workload as the true workload is unknown at this time.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, name the regulating federal agency.

The proposed regulations do not overlap or duplicate any other federal or Nevada state regulations.

9. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions;

There are no other state or federal regulations addressing the same activity.

10. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The total annual amount DPBH expects to collect is unknown because we do not know the number of individuals that will apply to become licensed as a naprapath, register as a teacher, advisor or supervisor, or be assessed fines. Below is an example of a possible scenario to illustrate what the total amount may look like, but again this is an unknown amount.

Thirty (30) initial applicants at \$500 per application equals \$15,000. If all 30 applicants remained licensed and renewed annually it would be expected the Division would collect \$15,000 a year. This amount may increase or decrease depending on whether new applicants are added or existing licensees drop their licensure.

Five (5) individuals register as a teacher, advisor or supervisor at \$50. In this case, the total amount collected would be \$250.

An annual amount collected as a result of disciplinary action is not included as it is anticipated that there will be no, to very few cases of disciplinary action imposed on naprapaths and if imposed the amount and frequency is unknown.

Based on the above scenario the total annual amount DPBH would be expected to collect is \$15,250 annually but the true total annual amount DPBH expects to collect is unknown.

The money would be used to cover the Division's operating costs related to the work associated with governing the licensure of naprapaths and the practice of naprapathy in accordance with NRS Chapter 634B and the proposed regulations.



American Naprapathic Association

Headquarters at the NCNM University
3330 N. Milwaukee Avenue
Chicago, Illinois 60641

July 25, 2024

Nevada Naprapathy License by Endorsement Recommendations

License by Endorsement is a regulatory mechanism that allows practitioners licensed in one jurisdiction to obtain a license in another jurisdiction without undergoing the full licensure process again. This is particularly relevant for professionals moving between states or countries.

Key Components of License by Endorsement

- 1. Recognition of Existing Licenses:**
 - The state of Nevada would recognize the naprapathy licenses issued by other states or accredited institutions.
 - This recognition is based on the premise that the educational and professional standards in the originating jurisdiction are comparable to those in Nevada.
- 2. Eligibility Criteria:**
 - **Good Standing:** The applicant must hold a current, active license in good standing from another jurisdiction.
 - **Comparable Standards:** The educational and examination requirements in the originating jurisdiction must be equivalent to or exceed those in Nevada.
 - **No Disciplinary Actions:** The applicant should not have any pending or past disciplinary actions that would disqualify them from practicing in Nevada.
- 3. Application Process:**
 - **Submission of Documentation:** Applicants must submit proof of their current license, educational qualifications, and any other required documentation.
 - **Verification:** The Nevada regulatory body will verify the authenticity and standing of the applicant's credentials.
 - **Fees:** Applicants may need to pay a fee for the endorsement process.
- 4. Provisional Licenses:**
 - In some cases, a provisional license may be issued while the endorsement application is being processed. This allows the practitioner to begin working under certain conditions.

Potential Issues and Considerations

- 1. Standardization:**
 - Ensuring that the standards of education and practice in other jurisdictions are truly comparable can be challenging. This requires a thorough evaluation process.
- 2. Bias and Discrimination:**
 - If the criteria for endorsement are too stringent or subjective, it could unfairly exclude qualified practitioners from other reputable institutions.
 - The process should be transparent and based on clear, objective criteria to avoid any potential bias.
- 3. Impact on Local Practitioners:**
 - Local practitioners may feel that endorsement dilutes the value of their own licensure process. It's important to balance the need for inclusivity with maintaining high professional standards.
- 4. Legal and Administrative Framework:**
 - The regulatory body must have a robust legal and administrative framework to handle endorsement applications efficiently and fairly.

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Chicago, Illinois 60641

Recommendations for Improvement

1. Clear Criteria:

- Define clear, objective criteria for what constitutes "comparable standards" in education and practice.
- Include specific guidelines on how to evaluate foreign or out-of-state credentials.

2. Transparency:

- Ensure the endorsement process is transparent, with clear communication to applicants about the requirements and steps involved.

3. Flexibility:

- Allow for some flexibility in recognizing equivalent competencies, even if the exact curriculum or licensure process differs.

4. Stakeholder Input:

- Involve a broad range of stakeholders, including representatives from various naprapathy schools and professional associations, in developing and refining the endorsement criteria.

Conclusion

License by Endorsement is a valuable mechanism for facilitating the mobility of qualified naprapaths while maintaining high professional standards. By addressing potential issues and implementing clear, fair, and transparent criteria, Nevada can ensure that its regulations are inclusive and beneficial for both practitioners and the public.

Sincerely,

Dr. Shante Griggs, PharmD, RPh, DN
President, American Naprapathic Association
President & CEO, NCNM University



American Naprapathic Association

Headquarters at the NCNM University
3330 N. Milwaukee Avenue
Chicago, Illinois 60641

July 25, 2024

Concerns and Recommendations Regarding Nevada's Naprapathy Proposed Regulations 2024 V2.0

I am writing to you on behalf of the American Naprapathic Association (ANA) to address concerns regarding the "Naprapathy Proposed Regulations 2024 V2.0." As the President of the ANA and the President & CEO of NCNM University, I represent a significant portion of the naprapathic community, including graduates from other institutions with DN programs across the United States. Additionally, the ANA maintains strong relationships with international naprapathy associations in countries such as Canada, Spain, Sweden, Finland, Norway, and Italy, among others. These international collaborations underscore the global reach and influence of the ANA, positioning us as a key player in the advancement and standardization of naprapathic education and practice worldwide.

First and foremost, I would like to express my appreciation for the efforts made to advance the practice of Naprapathy in the state of Nevada. The proposed regulations are a significant step forward in ensuring the professional standards and public safety within our field. However, I have several points of concern that I believe warrant further consideration to ensure the regulations are fair and inclusive for all qualified practitioners.

Points of Concern

1. Potential Bias in Advisory Input:

- It appears that the current advisory input for the proposed regulations is predominantly influenced by a single institution with an accredited DN program. This may inadvertently create a bias, as the regulations do not adequately consider the contributions and methodologies of other established institutions, such as the Chicago National College of Naprapathy (CNCN), dba NCNM University. CNCN is a direct descendent of the original school of Naprapathy. We will simply refer to CNCN as NCNMU when speaking of the trademarked "Oakley Smith" method of Naprapathy, which is integral to our practice; and is not sufficiently acknowledged, despite its historical and practical significance.

2. Recognition of Established Institutions:

- The proposed regulations may inadvertently discriminate against graduates from established US naprapathy schools, particularly CNCN, established in 1908. The Doctor of Naprapathy (DN) program at NCNM University is based on the "Oakley Smith" method, trademarked by CNCN. Institutions must obtain explicit permission from CNCN to teach this method. Furthermore, it is important to note that NCNMU serves as the connector between all three institutions: NCNMU, SUNM, and National University of Medical Sciences (NUMS), where there is a pending alliance and agreement to teach NCNMU's DN program to their students and graduates to help support licensure of these practicing naprapaths throughout the country. Concerning naprapathic education, NCNMU will be leading the standardization of naprapathic education nationwide. With that said, all naprapathy programs, including Southwest University of Naprapathic Medicine (SUNM), utilize the same curriculum, the "Oakley Smith" method of Naprapathy.
- About NCNMU:**
 - NCNM University is chartered by the State of Illinois and recognized by the Illinois Board of Higher Education to grant the degree, Doctor of Naprapathy (D.N.), and to offer certifications and



American Naprapathic Association

Headquarters at the NCNM University
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postgraduate continuing education. The Doctor of Naprapathy program is approved by the Illinois Department of Financial and Professional Regulation. Graduates of the institution are eligible to take the Illinois Written Clinical Competency Examination to become a licensed Doctor of Naprapathy. The doctoral license is similar to the limited doctoral licenses that are granted to Optometrists, Podiatrists, and Dentists. The first school was chartered in 1908 in Chicago, Illinois and was named "Oakley Smith School of Naprapathy," becoming the Chicago College of Naprapathy in 1912. Another school, the National College of Naprapathy, was founded in Chicago in 1949. The two schools combined in 1971 to form the Chicago National College of Naprapathy, then to form the National College of Naprapathic Medicine and exist today as NCNM University.

3. Licensing Reciprocity:

- **Section 2: Licensing Requirements**

- **License by Endorsement:** While this section aims to streamline the process for practitioners licensed in other jurisdictions, it may still pose barriers. The specific requirements for endorsement are not detailed, which could lead to subjective interpretations and potential discrimination against naprapaths from other states or schools.

4. Educational Requirements:

- **Section 4: Educational Program Standards**

- **Curriculum Requirements:** The document mandates specific course content and duration, which may not align with the curricula of other schools with naprapathy programs. This could disadvantage graduates from those institutions when seeking licensure in Nevada.
- **Accreditation:** If the regulations only recognize certain accrediting bodies, this could exclude graduates from other reputable programs, creating an unfair barrier to entry.

Recommendations

- **Clarify Endorsement Criteria:** Provide detailed and objective criteria for license endorsement to ensure fair treatment of out-of-state practitioners.
- **Flexible Curriculum Recognition:** Allow for the recognition of equivalent courses and competencies from other accredited programs to facilitate smoother transitions for transfer students.
- **Inclusive Accreditation:** Recognize a broader range of accrediting bodies to ensure that graduates from various reputable programs are not unfairly excluded.

This presents an opportunity for Nevada to benefit from the expertise and contributions of these institutions by adopting language similar to the Illinois Naprapathic Practice Act, which provides a clear pathway for licensure by endorsement. Specifically, the Illinois Act states:

"The Department shall issue a license to any person who has been licensed to practice naprapathy in another state or territory of the United States or the District of Columbia, provided that the requirements for licensure in that jurisdiction are, on the date of licensure, substantially equivalent to the requirements of this Act."

By incorporating similar language, Nevada can ensure that its regulations are fair and equitable, allowing qualified practitioners from other states to contribute to the healthcare landscape in Nevada.

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Additionally, we would like to highlight the role of the Accreditation Council of Naprapathic Education (ACNE), formerly known as the American Naprapathic Association Council on Colleges (ANACOC). ACNE is recognized by the American Naprapathic Association as the accreditation and recognition agency for schools of naprapathic medicine or naprapathy both in the United States and internationally. Schools of naprapathic medicine or naprapathy should at this time be minimally recognized by ACNE. ACNE is developing accreditation procedures and shall pursue the process of approval as an accreditor by the U.S. Department of Education. Please consider ACNE as a resource and guide for all matters pertaining to naprapathic education nationwide. By considering feedback from a broader range of sources within the profession, the regulations can better serve the public and the profession as a whole. We believe that this inclusivity will enhance the quality of care provided to patients and support the growth and development of naprapathy as a recognized and respected field of healthcare.

Thank you for your attention to this matter. We look forward to your response and are available for further discussion to ensure that the regulations are fair and equitable for all qualified practitioners.

Sincerely,

Dr. Shante Griggs, PharmD, RPh, DN
President, American Naprapathic Association
President & CEO, NCNM University

Public Comment - Practice of Naprapathy.



fionda <fionda@fimasfi.com>
To: Leticia Metherell

Reply Reply All Forward ...
Fri 7/26/2024 3:47 AM

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Ms. Metherell,

Thank you for this opportunity to share my comments related to the proposed regulations for the Practice of Naprapathy.

First, a thank you to Dr. Nuzzo for working to introduce this legislation in the State of Nevada. As one who is in the state daily, I appreciate the opportunity that this could afford me as a new Naprapath.

On review of the *Proposed Regulations of the State Board of Health Practice of Naprapathy/Authority: Assembly Bill (AB) 153 of the 82nd legislative session (2023)*, I realized, as a newly graduated Naprapath, I am not eligible for licensure in the state in which I intend to practice. The legislation mirrors the curriculum that is offered at Southwest University of Naprapathic Medicine, of which Dr. Nuzzo is the founder. Though the University is accredited by a United States Department of Education accrediting agency, it does not follow any discipline-specific criteria or any updated standards for doctoral programs in healthcare that have been adopted by the American Naprapathic Association, European Council on Naprapathic Education or even those of closely related professional regulatory agencies: The Commission on Accreditation in Physical Therapy Education or the Council on Chiropractic Education.

Standards across these agencies have been updated recently to decrease attrition in doctoral programs following the emotional and financial stress that families have faced post-pandemic. Nevada has a younger, wealthier, employed citizenry when compared to New Mexico. Nevadans have plenty of educational, innovative options to choose from both in-state and via distance.

As the regulations are currently written, they would effectively prohibit graduates of any currently operating Naprapathic program from licensure, including those from the original and oldest Naprapathic college in the world--National University of Naprapathic Medicine--of which Dr. Nuzzo is a graduate. Why the regulations would be written to exclude 3000 potential practitioners globally and 200 Naprapaths domestically, in

comparison to the 50 who have graduated from Southwest University of Naprapathic Medicine, is confounding and disappointing.

Additionally, as Dr. Nuzzo did not share information related to the workshop or advisory board application with the members of the American Naprapathic Association, the Canadian Naprapathic Association or the International Federation of Naprapathic Associations one must question the absence of communication with the Naprapathic community external to his operations in New Mexico. The absence of these voices and their assessment of this legislation is significant. I am very active in the national association and find this lack of transparency daunting.

Each institution should be permitted to determine its own structure for the program's delivery as long as applicable hours are met. This allows for innovation in programming, course delivery, alignment with market needs, and adherence with ever-changing workforce needs.

1. **"Assessment of Learning Outcomes and Curricular Effectiveness:** The meta-competency outcomes are assessed through case-based activities and supervised student experiences at a DCP-managed clinic site, DCP-approved external sites, or both. In the case of external sites, student learning outcomes are identified and evaluation of these meta-competency outcomes is consistent with evaluation in the DCP settings. The DCP determines its own method of meta-competency delivery and assessment to document student competency and curricular effectiveness. Best practices are employed to assess and demonstrate achievement of meta-competency outcomes. Assessment of clinical competency must: •

- be performed in the context of the clinical workplace, based on authentic encounters, which may include simulated patient encounters, clinical case studies, or similar methods.
- be criterion-referenced through the identification of expected behaviors and skills with defined performance standards;
- include frequent assessments by multiple qualified evaluators;
- include multiple assessment strategies, as appropriate; and
- be a valid and reliable measure of the meta-competency outcome .

2. **Integrity:** The legislation should "promote integrity and transparency including, but not limited to, avoidance of conflicts of interest; advertising and marketing activities; student admissions and financial aid processes; recruiting; development and delivery of the DCP curriculum; identity verification in both student enrollment and student course

assessments; grading policies and grade appeal processes; protection of student and patient privacy; research activities; hiring; performance reviews; and catalogs and publications. Policies and procedures related to these matters are accurate, current, and readily available to all constituencies." (From Council on Chiropractic Education)

I was very much looking forward to opening my practice this month in Nevada and hope that my comments will be of assistance. Again, thank you to Dr. Nuzzo for trailblazing and hopefully increasing the profession's capacity and influence.

Thank you,

Fionda Williams Brock, PhD, DN, MSN, MSHS, RN

**SMALL BUSINESS IMPACT STATEMENT
PROPOSED REGULATIONS TO THE STATE BOARD OF HEALTH**

**PRACTICE OF NAPRAPATHY PURSUANT TO ASSEMBLY BILL 153 OF THE 82ND
LEGISLATIVE SESSION (2023)**

The Division of Public and Behavioral Health (DPBH) has determined that the proposed regulations are not likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. The proposed regulations are being moved forward as a result of the passage of AB 153 of the 82nd legislative session (2023) governing the practice of naprapathy; therefore, there are no existing Nevada licensees that the proposed regulations would impact. It is anticipated that once the proposed regulations become effective and individuals are able to apply for and become licensed naprapaths that this may increase the formation of small businesses, as some licensees may open a naprapathic medical practice or start a school of naprapathy.

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.

Background

The proposed regulations are the direct result of the passage of AB 153 of the 82nd legislative session (2023) which requires the Board of Health, with the advice of the Naprapathic Practice Advisory Board, to adopt regulations governing the licensure of naprapaths and the practice of naprapathy.

The proposed regulations provide provisions for the following:

- Infection Control.
- General application requirements.
- Initial application requirements.
- Licensure by endorsement requirements.
- Provisional Licensure requirements.
- Licensure renewal requirements.
- Validity of notices sent to licensees or applicants.
- Requirements to register as a teacher, advisor, or supervisor pursuant to subsection 2 of Section 1.29 of AB 153 of the 82nd legislative session.
- Rules of professional conduct for naprapaths.
- List of crimes, that if convicted, may result in disciplinary action of a naprapath.

- The process for an applicant for licensure as a naprapath or a licensee to petition the Division to not impose disciplinary action despite a report of being convicted of a crime that may result in disciplinary action.
- The required actions by an applicant or licensee that must be taken if a background check cannot be completed.
- The required actions to be taken by an applicant for a license or licensee if the person feels the background check information provided by the Division is not accurate
- The actions the Division may take upon determining that an applicant has been convicted of a crime listed in Section 21 of the proposed regulations.
- Fees.
- Grounds for initiating disciplinary action
- Disciplinary action that may be imposed by the Division; Consultation with Advisory Board.
- Contents of order of revocation of license; reinstatement of license following revocation.
- Licensee to pay costs of disciplinary action.
- Unlicensed practice complaints.
- Complaints against licensee or applicant.
- Terms of suspension of license.
- Appeal of decision related to disciplinary action.
- Reports received by the Division pursuant to subsection 5 of NRS 228.420.
- Continuing education requirements.
- Requirements governing advertising or the use of promotional materials by a naprapath
- Approval by Division of Program of Education in Naprapathy and related items.
- Per diem allowances and reimbursement for travel expenses for Naprapathic Practice Advisory Board members.
- Request for documents by the Division from applicants or licensees.
- Amendments to NAC 459.554 to authorize naprapaths licensed in Nevada to order medical x-rays, excluding nuclear medicine studies or other treatments that use radioactive materials.
- Amendments to NAC 652.155 to authorize naprapaths licensed in Nevada to order medical laboratory tests.

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.

Pursuant to NRS 233B.0608 (1)(a) (b), the Division of Public and Behavioral Health (DPBH), before conducting the public workshop for the proposed regulation, made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

The requirement to govern the licensure of naprapaths and the practice of naprapathy was established by AB 153 of the 82nd legislative session (2023); therefore, there was not a list of Nevada licensees available to distribute the list. The Division worked with Dr. Patrick Nuzzo and staff from the

Southwest University of Naprapathic Medicine in New Mexico to distribute the proposed regulations and small business impact questionnaire to the University's alumni. The University's alumni were identified as persons who may have an interest in becoming licensed as a naprapath in Nevada or opening a small business in Nevada, which may include opening a school of naprapathy or an individual naprapathic practice. The proposed regulations and small business impact questionnaire were distributed via email to 35 of the University's alumni on April 16, 2024.

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 Responses

Summary of Comments Received (1 response was received out of 35 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 0 No - 1	Yes – 0 No - 1	Yes –0 No – 1	Yes – 0 No – 1
No additional comments were provided.	No additional comments were provided.	No additional comments were provided.	No additional comments were provided.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
 Bureau of Health Care Quality and Compliance
 727 Fairview Drive, Suite E
 Carson City, NV 89701
 Leticia Metherell
 Phone: 775-684-1045
 Email: lmetherell@health.nv.gov

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

An analysis of industry input collected was conducted by a health program manager. The analysis involved analyzing feedback obtained from the small business impact questionnaire, review of the proposed regulations, review of AB 153 of the 82nd legislative session (2023) and review of literature to help determine the economic impact to small business. Please see number 4 for the methods the agency considered to reduce the impact of the proposed regulations on small businesses. This information was then used to complete this small business impact statement including the conclusion on the impact of the proposed regulation on a small business found in number 8.

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.

Direct Beneficial Effects: Direct beneficial effects may include revenue that is collected by persons who open practices of naprapathy or open schools of naprapathy once the regulations become effective. It is expected that once the regulations become effective and persons can apply for and become licensed naprapaths in Nevada, this will result in individuals opening small businesses in Nevada.

Indirect Beneficial Effects: Indirect beneficial effects may include reduced medical and insurance costs for persons who can avoid surgery by being treated by a naprapath.

Direct Adverse Effects: Direct adverse effects include licensure fees, fines, insurance costs, costs to become accredited if opening a program of education in naprapathy and other related costs. Certain fees, such as the \$500 initial application fee and the renewal fee of \$500 is set in statutes and is not a direct result of the proposed regulations but is instead directly related to the passage of AB 153 of the 82nd legislative session (2023).

The fee to register as a teacher, advisor or supervisor pursuant to Section 1.29 of AB 153 of the 82nd legislative session (2023) is set at \$50. It is anticipated that this will not create a significant financial burden or prevent individuals from registering to be a teacher, advisor or supervisor.

There will be a cost associated with obtaining the liability insurance required pursuant to subsection 1 (d) of Section 14 of the proposed regulations. The actual costs are unknown as they may vary based on the amount of coverage a person obtains and other factors. The proposed regulations set a minimum coverage of \$200,000 per claim and a minimum aggregate amount of \$600,000 per year. As it is anticipated most practicing naprapaths would carry liability insurance, it is not anticipated that this would prevent persons from becoming licensed as naprapaths in Nevada. By providing a minimum coverage amount it also provides flexibility for individuals who want to purchase a higher level of coverage.

AB 153 of the 82nd legislative session (2023) requires the Board, with the advice of the Advisory Board, to adopt regulations related to the requirements for continuing education for the renewal of a license as a naprapath. There are costs associated with continuing educations but the proposed regulations are written to provide several options to meet the continuing education requirements

which may allow flexibility in the cost of courses. The cost is unknown as it is dependent on which courses are chosen and the applicable costs.

If disciplinary action is imposed on a licensee there are additional costs that may be incurred, for example penalties may be incurred that are not to exceed \$5,000 for each violation of this Chapter or AB 153 of the 82nd legislative session (2023). In addition, a licensee is required pay all costs incurred in connection with any disciplinary action taken against the licensee. It is anticipated that the majority of licensees will not be subject to disciplinary action; therefore, these costs would not apply. If disciplinary action is taken it is unknown what the costs would entail as it would be dependent on a variety of factors.

AB 153 of the 82nd legislative session (2023) requires the Board, with the advice of the Advisory Board, to adopt regulations prescribing the requirements for the approval of programs of education in naprapathy by the Division, including, without limitation, regulations governing the curriculum for such programs. Although the proposed regulations do not set a fee for the approval of such programs, there is a requirement that a program be accredited by a nationally recognized accrediting agency of institutions of higher education that is recognized by the United States Department of Education. The cost is unknown as it is dependent on several factors, including, but not limited to the accrediting organization. One estimate cited on the JAC Consulting website (<https://jacconsultingservices.com/how-much-does-it-cost-to-get-a-school-accredited/>) noted that “Accreditation costs are between 5% and 10% of the overall investment costs of any institution.”

There is also a preventable fine related to failing to notify the Division of a change of information, of \$1,000 per instance. An applicant or licensee can avoid paying this fine by complying with the change of information requirements noted in subsection 3 of Section 13 of the proposed regulations.

Section 1.4 of AB 153 of the 82nd legislative session (2023) requires each applicant for a license, to submit to the Division a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The proposed regulations require the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories be paid by the applicant. According to the Nevada Department of Public Safety’s website, checked on April 16, 2024, fingerprint-based submissions include a \$13.25 FBI fee and a \$27 State fee for a total fee of \$40.25. The applicant would also be responsible for the cost to have their fingerprint rolled which varies depending on the entity that is used.

Indirect Adverse Effects: Indirect adverse effects may include loss of revenue if disciplinary action is taken that impacts a person’s ability to practice naprapathy, for example if a license is suspended or revoked. Complaints against a licensee that result in disciplinary action may also have indirect adverse effects including the potential loss of clients.

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 considered and used the following method to reduce the impact of the proposed regulation on small business.

The Division reviewed AB 153 of the 82nd legislative session (2023) to identify the minimum requirements that must be established in regulations and attempted to meet those requirements without adding a significant financial burden to small business. The Division also identified requirements that could not be modified via regulations, for example, the costs for initial and renewal applications are set in statutes; therefore, cannot be modified in regulations. The costs related to being fingerprinted pursuant to Section 1.4 of AB 153 of the 82nd legislative session (2023) is set by outside entities, such as the Department of Public Safety.

An industry member was also consulted during regulation development to help ensure minimum requirements were not a significant financial burden, for example when setting the minimum coverage required for professional liability insurance.

A public workshop will be held allowing for further input by stakeholders regarding the proposed regulations and their impact. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on programs.

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

The estimated cost to the agency for enforcement of the proposed regulations is \$15,489.

This is an estimate based on an estimated workload as the true workload is unknown at this time.

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.

The total annual amount DPBH expects to collect is unknown because we do not know the number of individuals that will apply to become licensed as a naprapath, register as a teacher, advisor or supervisor, or be assessed fines. Below is an example of a possible scenario to illustrate what the total amount may look like, but again this is an unknown amount.

Thirty (30) initial applicants at \$500 per application equals \$15,000. If all 30 applicants remained licensed and renewed annually it would be expected the Division would collect \$15,000 a year. This amount may increase or decrease depending on whether new applicants are added or existing licensees drop their licensure.

Five (5) individuals register as a teacher, advisor or supervisor at \$50 per year. In this case, the total amount collected would be \$250.

An annual amount collected as a result of disciplinary action is not included as it is anticipated that there will be no, to very few cases of disciplinary action imposed on naprapaths and if imposed the amount and frequency is unknown.

Based on the above scenario the total annual amount DPBH would be expected to collect is \$15,250 annually but the true total annual amount DPBH expects to collect is unknown.

The money would be used to cover the Division's operating costs related to the work associated with governing the licensure of naprapaths and the practice of naprapathy in accordance with AB 153 of the 82nd legislative session (2023) and 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.

There are no known federal, state, or local standards that regulate the same activity.

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

The reasons for the conclusion of the Division regarding the impact of a regulation on small business include:

The requirement to license naprapaths and govern the practice of naprapathy is the direct result of the passage of AB 153 of the 82nd legislative session (2023). The proposed regulations address the requirements in the bill without adding a significant additional burden beyond the bill's requirements.

It is anticipated that the passage of the proposed regulations will encourage individuals to become licensed naprapaths in Nevada which may result in the opening of small businesses such as naprapathic medical practices.

Certification by Person Responsible for the Agency

I, Cody 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 Cody Phinney Date: 4/26/2024

**ADOPTED REGULATION OF
THE BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R109-24

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

AUTHORITY: §§ 1, 2 and 4-8, NRS 501.105, 501.181 and 502.160; § 3, NRS 501.105, 501.181 and 502.210; § 9, NRS 501.105, 501.181, 502.160 and 503.040; § 10, NRS 501.105, 501.181, 502.160 and 502.370.

A REGULATION relating to wildlife; providing that a duplicate tag must be issued in the same format as the original tag; requiring a hunter with an electronic tag who has killed an animal to obtain a validation code and attach the validation code to the animal; authorizing, under certain circumstances, a supervising adult to possess the tag or permit of a holder of a tag or permit who is under 18 years of age; revising provisions relating to the use of a tag as a transportation permit; revising provisions relating to the transportation of a legally harvested animal to a taxidermist; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that a tag be attached to a species of wildlife before the holder of a tag takes possession of the species. (NRS 502.150) Existing law requires the Department of Wildlife to designate the electronic and paper forms of the tag, requiring such numbering or other manner of identification as is necessary to designate the name or hunting license number of the person to whom it is issued. (NRS 502.160) Existing law requires the Board of Wildlife Commissioners to adopt any regulations necessary relating to the manner of using, attaching, filling out, punching, inspecting, validating or reporting tags. (NRS 501.181)

Existing regulations provide that, with certain exceptions, when a person reaches any wildlife which the person has killed, he or she must validate his or her tag or permit immediately by clearly punching out the spaces necessary to properly identify the physical description of the animal, including its sex and antler points, where appropriate, and the day and month of the kill. (NAC 502.390) **Section 7** of this regulation provides that if the tag or permit is an electronic tag or permit, the person is required to validate the electronic tag or permit by submitting the requested information through the Department's designated electronic system and receiving a validation code upon submission.

Existing regulations provide that, with certain exceptions, the owner of a tag or permit must firmly attach the tag or permit to the carcass of an animal killed by the owner, at or before the time he or she first reaches his or her means of transportation or camp. (NAC 502.400) **Section 8** of this regulation provides instead that the owner of a tag or permit must securely attach the paper tag or permit or the legible validation code, as applicable, to the carcass of an

animal killed by the owner, at or before the time he or she first reaches his or her means of transportation or camp.

Sections 4 and 5 of this regulation make conforming changes to require the validation of an electronic tag and the secure attachment of a legible validation code on a wild turkey or swan that is killed by a hunter.

Existing regulations set forth the circumstances in which a person may use his or her game tag as a transportation permit. (NAC 502.401) **Section 9** of this regulation provides the circumstances in which a person may use the validation code related to an electronic game tag as a transportation permit.

Existing regulations provide that, under certain circumstances, a person to whom a game tag has been lawfully issued may use that portion of his or her game tag designated as the taxidermy record stub to transport an animal lawfully harvested to a taxidermist. (NAC 502.403) **Section 10** of this regulation provides that, under certain circumstances, a person may use the validation code to transport an animal lawfully harvested to a taxidermist.

Section 1 of this regulation defines the term “validation code.” **Section 2** of this regulation makes a conforming change to indicate the proper placement of **section 1** in the Nevada Administrative Code.

Existing law provides that a duplicate tag may not be issued except in certain circumstances. (NRS 502.210) Existing regulations provide that upon submission of a completed application for a duplicate tag, a duplicate tag may be purchased from the Department or certain license agents. (NAC 502.314) **Section 3** of this regulation provides that: (1) a duplicate tag must be issued in the same format as the original tag; and (2) for purposes of obtaining a duplicate tag, the term “tag” includes a swan hunt permit.

Existing regulations provide that the tag or permit must be carried by the holder of the tag or permit at all times while the holder is hunting or trapping or while he or she is fishing for wildlife for which a tag or permit is required. (NAC 502.385) **Section 6** of this regulation creates an exception to this requirement and provides that if the holder of a tag or permit is under 18 years of age, a supervising adult who is physically present with the holder may possess the tag or permit while the holder is hunting, trapping or fishing.

Section 1. Chapter 502 of NAC is hereby amended by adding thereto a new section to read as follows:

“Validation code” means a code that is electronically issued by the Department at the time that the holder of an electronic tag or permit validates the electronic tag or permit, as required by NAC 502.390.

Sec. 2. NAC 502.001 is hereby amended to read as follows:

502.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 502.0015 to 502.115, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 502.314 is hereby amended to read as follows:

502.314 1. An application for a duplicate tag must be made as provided in NRS 502.210 on a form provided by the Department.

2. Upon submission of a completed application for a duplicate tag, a duplicate tag may be purchased from the Department or a license agent who issues duplicate tags.

3. A duplicate tag issued by the Department or a license agent must be in the same format as the original tag.

4. For purposes of this section and NRS 502.210, the Department shall interpret the term "tag" to include a swan hunt permit issued pursuant to NAC 502.380.

Sec. 4. NAC 502.378 is hereby amended to read as follows:

502.378 1. A tag is required to hunt wild turkey. The fee for a resident tag is \$20. The fee for a nonresident tag is \$50. In addition, a nonrefundable fee in the amount set forth in subsection 3 of NAC 502.331 will be charged for acting upon each application for a tag. Except as otherwise provided in regulations adopted by the Commission, the award of these tags by the Department will be based on a drawing held after the deadline established by the Commission for the drawing.

2. A person, while hunting wild turkey, shall have in his or her possession:

(a) A valid hunting license; and

(b) A valid tag to hunt wild turkey issued to the person.

3. A hunter who has killed a wild turkey and taken it into his or her possession shall immediately punch the *paper tag* *or validate the electronic tag* and *securely* attach ~~the~~ *the paper tag or legible validation code, as applicable*, to the body of the turkey as required by NAC 502.390 and 502.400.

Sec. 5. NAC 502.380 is hereby amended to read as follows:

502.380 1. A permit is required to hunt swan. The fee for the permit is \$10. A person must apply for the permit on a form provided by the Department. The form must be completed in accordance with regulations adopted by the Commission. Award of the swan hunt permits by the Department will be based on a drawing held after the deadline established in an annual regulation of the Commission.

2. Each person, while hunting swan, shall carry on his or her person a:

(a) Hunting license or permit issued by the Department, unless the person is under the age of 12 years;

(b) Swan hunt permit issued by the Department; and

(c) Federal migratory bird hunting stamp, or any other such documentation as the Federal Government provides as proof that the person has paid to the Federal Government the fee for the federal migratory bird hunting stamp, unless the person is not subject to the payment of the fee.

3. When a hunter has killed a swan and taken it into his or her possession, the hunter shall:

(a) Immediately punch *the paper permit or validate the electronic permit* and *securely* attach the ~~{swan hunt permit}~~ *paper permit or legible validation code, as applicable*, in the manner required by NAC 502.390 and 502.400; and

(b) Except as otherwise provided by an order or regulation of the Commission, not later than 5 days after the hunter has killed and taken the swan into his or her possession, submit the head

and neck of the swan to a representative of the Department for inspection at a location designated by the Department. The Department shall provide a list of the locations upon the issuance of the swan hunt permit.

4. ~~4A~~ *Except as otherwise provided in NAC 502.385, a* person shall not use or possess a swan hunt permit issued to any other person, or transfer or give a swan hunt permit issued to him or her to any other person.

Sec. 6. NAC 502.385 is hereby amended to read as follows:

502.385 1. ~~The~~ *Except as otherwise provided in this section, the* tag or permit must be carried by the holder at all times while the holder is hunting or trapping or while he or she is fishing for wildlife for which a tag or permit is required.

2. Except as otherwise provided in *this section and* NAC *502.337 and* 502.42905 , ~~and~~ ~~section 1 of LCB File No. R022-19,~~ it is unlawful for any person to:

- (a) Use or possess a tag or permit issued to any other person;
- (b) Transfer or give a tag or permit issued to him or her to any other person;
- (c) Use any tag or permit in a management area or unit for which it is not intended; or
- (d) Use a tag or permit at any time other than at the time intended.

3. *If the holder of a tag or permit is under 18 years of age, a supervising adult who is physically present with the holder may possess the tag or permit while the holder is hunting, trapping or fishing.*

4. After it has been issued, a tag or permit may not be exchanged or a refund made except in accordance with the policies and regulations of the Commission.

Sec. 7. NAC 502.390 is hereby amended to read as follows:

502.390 *1.* Except as otherwise provided in NAC 502.42905, when a person reaches any wildlife which the person has killed, he or she must validate his or her tag or permit immediately by :

(a) If the tag or permit is a paper tag or permit, clearly punching out the spaces necessary to properly identify the physical description of the animal, including its sex and antler points, where appropriate, and the day and month of the kill.

(b) If the tag or permit is an electronic tag or permit, submitting the requested information through the Department's designated electronic system and receiving a validation code upon such submission.

2. If a person validates his or her tag or permit pursuant to paragraph (b) of subsection 1, the Department will provide the person with the option to share his or her location data.

Sec. 8. NAC 502.400 is hereby amended to read as follows:

502.400 *1.* Except as otherwise provided in subsection 2 and NAC 502.42905, the owner of a tag or permit must ~~firmly~~ *securely* attach ~~it~~ *the paper tag or permit or legible validation code, as applicable,* to the carcass of an animal killed by the owner, at or before the time he or she first reaches his or her means of transportation or camp, whichever he or she reaches first. The tag , ~~or~~ permit *or validation code* must remain with the major portion of the meat until it is consumed.

2. If the animal killed is a mountain lion or fur-bearing mammal for which a tag or permit is required, the owner of the tag or permit or a designated licensed assistant pursuant to NAC 502.42905 must ~~firmly~~ *securely* attach ~~it~~ *the paper tag or permit or legible validation code* to the hide or pelt of the animal. The tag , ~~or~~ permit *or validation code* must remain attached to the hide or pelt while it is transported and until it is processed.

Sec. 9. NAC 502.401 is hereby amended to read as follows:

502.401 1. A person to whom a game tag has been lawfully issued may use his or her game tag *or validation code, as applicable*, as a transportation permit in the manner described in this section if:

(a) The game tag includes the *physical or electronic* signature of the holder of the game tag and the date on which and time at which the holder signed the game tag;

(b) The game tag has been validated pursuant to NAC 502.390; ~~and~~

(c) The game tag *or legible validation code, as applicable*, has been *securely* attached to the carcass, hide or pelt of the animal pursuant to NAC 502.400 ~~†~~; *and*

(d) The holder complies with subsections 2 and 3, as applicable.

2. ~~†The~~ *If a game tag is a paper tag, the* holder of the game tag ~~†~~ *must provide in a legible manner to* the person who will transport the carcass, hide or pelt of the animal ~~†and a witness each shall, at the time~~:

(a) Proof of the permission to transport the carcass, hide or pelt ~~†is transferred~~ from the holder of the game tag to the person who will transport the carcass, hide or pelt ~~†~~:

~~—(a) Sign the portion of the game tag designated as the tag holder copy of the transportation permit and the portion of the game tag designated as the transporter copy of the transportation permit; and~~

~~—(b) Include on each portion of the game tag described in paragraph (a):~~

~~—(1) The date and time that the carcass, hide or pelt of the animal is transferred from~~ *on a form prescribed the Department; or*

(b) The following information:

(1) The name and client identification number of the holder of the game tag ~~to the~~
person who will transport the carcass, hide or pelt of the animal; and

~~—(2) Except as otherwise provided in subsection 3, his or her driver's license number or the
number of any other identification card issued by a governmental agency to the person.~~

~~—3. If the holder of~~ ;

(2) The number of the game tag ~~to~~ ; and

(3) The sex and physical characteristics of the animal.

*3. If a game tag is an electronic tag, the holder of the game tag must provide the
validation code to* the person who will transport the carcass, hide or pelt of the animal . ~~for the
witness does not have a driver's license or any other identification card issued by a governmental
agency, he or she shall include on each portion of the game tag described in paragraph (a) of
subsection 2 his or her date of birth.~~

~~—4. In addition to the requirements of subsections 2 and 3, the holder of the game tag shall
include on each portion of the game tag described in paragraph (a) of subsection 2 the destination
of the carcass, hide or pelt being transported.~~

~~—5. A~~ *4. If the* person who ~~provides a signature pursuant to this section~~ *will transport the
carcass, hide or pelt of the animal has obtained the information required by subsection 2 or 3,
as applicable, the person* shall be deemed to have attested, under penalty of perjury, to the
transfer of the carcass, hide or pelt of the animal from the holder of the game tag . ~~to the person
who will transport the carcass, hide or pelt.~~

~~—6. A~~ *5. Except as provided in NAC 502.400, a* person shall not remove from the carcass,
hide or pelt of an animal ~~either portion of~~ the game tag ~~described in paragraph (a) of~~

~~subsection 2 until the carcass, hide or pelt has been transferred from the holder of the game tag to the person who will transport the carcass, hide or pelt.~~

~~—7. The holder of the game tag shall retain the portion of the game tag designated as the tag holder copy of the transportation permit and the person who transports the carcass, hide or pelt shall retain the portion of the game tag designated as the transporter copy of the transportation permit for at least 1 year after the date that the carcass, hide or pelt of the animal is transferred from the holder of the game tag to the person who transports the carcass, hide or pelt.~~

~~—8.]~~ *or validation code.*

.6 If the carcass, hide or pelt of an animal is transferred from the holder of a game tag to a person who will transport the carcass, hide or pelt, that portion of the cape or scalp of the animal which includes the ears to the base of the muzzle and any antlers or horns must be kept with the carcass, hide or pelt until the carcass, hide or pelt is frozen, smoked, dried, consumed or accepted by a commercial processing plant for processing.

Sec. 10. NAC 502.403 is hereby amended to read as follows:

502.403 1. Except as otherwise provided in this section, a person to whom a game tag has been lawfully issued may use that portion of his or her game tag designated as the taxidermy record stub *or the validation code* in the following manner:

(a) The person may ship by commercial carrier any nonedible game parts taken from the animal lawfully harvested under the authority of the tag to a commercial or noncommercial taxidermist . ~~licensed and located in this State.]~~ If such parts are placed for shipment ~~and:~~

(1) The tag is a paper tag, the taxidermy record stub must accompany the shipment ~~and:~~
or

(2) The tag is an electronic tag, a legible copy of the validation code must accompany the shipment.

(b) If the person reaches his or her place of residence with an animal which has been lawfully harvested under the authority of the tag or delivers the animal to a commercial processor for processing, the person may authorize another person to transport any nonedible game parts taken from the animal to a commercial or noncommercial taxidermist . ~~licensed and located in this State. The~~ *If the tag is a paper tag, the* person shall, at the time of making the authorization, print in ink on the taxidermy record stub both the name of the authorized transporter and the date of the authorization. The taxidermy record stub *or validation code, as applicable,* must accompany the transportation of the parts.

(c) The person who is specified on the tag may deliver any nonedible game parts taken from the animal lawfully harvested under the authority of the tag to a commercial or noncommercial taxidermist licensed in any state.

2. Whenever antlers are shipped, transported or delivered in the manner provided in subsection 1, the holder of the game tag shall :

(a) If the tag is a paper tag, indicate in ink on the taxidermy record stub the number of both the left and right antler points.

(b) If the tag is an electronic tag, provide a legible copy of the validation code.

3. If a person who holds a game tag delivers any nonedible game parts of a game animal which he or she has lawfully harvested under the authority of the tag to a taxidermist before the carcass of the animal is delivered for processing to a commercial processing plant or before the carcass of the animal is taken to or left at the holder's place of residence, the holder shall obtain

from the taxidermist, and the taxidermist shall provide to the holder, an itemized receipt which includes the following printed information:

- (a) The date on which the nonedible game parts were received;
- (b) The species of game from which the nonedible game parts were taken;
- (c) A brief description of each of the nonedible game parts received; ~~and~~
- (d) The number of antler points, both left and right, if any, of the animal ~~+~~ ; *and*
- (e) The validation code obtained by the holder, if applicable.*

↪ Both the holder of the tag and the taxidermist shall sign the receipt. The holder of the tag shall retain possession of the receipt until he or she acquires physical possession of the nonedible game parts specified in the receipt from the taxidermist to whom the parts were delivered.

4. Except as otherwise provided in this section, a taxidermy record stub may not be used or possessed by any person other than the person to whom the game tag ~~to which the stub is attached~~ was issued ~~+~~ *or a person who is transporting an animal in the manner provided in subsection 1.*

5. A taxidermy record stub *or validation code* is valid only for the type of hunt, season and animal specified on the tag and may only be used as authorized in this section.

6. Nonedible game parts taken from a harvested game animal which is required to be presented to a representative of the Department for inspection and branding or sealing may not be shipped, transported or delivered pursuant to the provisions of this section until the animal has been properly inspected and branded or sealed by the Department.

7. The provisions of NAC 503.173 do not apply to a person who ships, transports or delivers nonedible game parts in compliance with the provisions of this section.

8. As used in this section, “nonedible game parts” means the hide, head, skull, antlers, horns, paws, hooves or claws of any game animal. The term does not include the carcass of the animal.

**STATE OF NEVADA
BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066**

**LCB FILE NO. R109-24
Commission General Regulation 522**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapters 278.

1. A clear and concise explanation of the need for the adopted regulation:

This regulation is necessary for the advancing of technology and allows the Department to offer game tags in an electronic format for utilization in the field on an electronic device. This regulation creates opportunities to offer additional conveniences to the public by accessing required documents more efficiently for game tag holders.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary:

How comments were solicited:

Public comment was solicited during three regulation workshops with the Nevada Board of Wildlife Commissioners (NBWC) on May 3, 2024, August 17, 2024, and September 28, 2024. There were three public comments made by the Clark, Elko, and Washoe County Advisory Boards at the September 28, 2024, meeting.

Public comment was solicited during a regulation adoption hearing with the Nevada Board of Wildlife Commissioners (NBWC) on November 16, 2024.
There was no public comment.

Summary:

Public comments surrounded clarifications on initial regulation language regarding validation codes and fixing those codes to the animal portions through durable material and how the process would be manageable for processors, taxidermists, and hunters. Concerns arose regarding tracking location data and how that would be managed within the roll out of the application. The Department worked to answer their questions through multiple public workshops at Nevada Board of Wildlife Commissioners Meetings.

Copies:

Meeting minutes from the Nevada Board of Wildlife Commissioners' meetings include all public comment and can be found here when posted: <https://nvboardofwildlife.org/#meetings>

3. The number of persons who:

(a) Attended each hearing:

November 16, 2024: 20 Attendees

September 28, 2024: 20 Attendees

August 17, 2024: 12 Attendees

May 3, 2024: 37 Attendees

(b) Testified at each hearing:

November 16, 2022: 0

September 28, 2024: 3

August 17, 2024: 0

May 3, 2024: 0

(c) Submitted written comments:

November 16, 2024: 0

September 28, 2024: 0

August 17, 2024: 0

May 3, 2024: 0

4. For each person identified in number 3 above, the following information if provided to the agency conducting the hearing:

(a) Name: Paul Dixon

(b) Telephone number: 505-699-1744

(c) Business address:

(d) Business telephone number:

(e) Electronic mail address: noxid1960@gmail.com

(f) Name of entity or organization represented: Clark CABMW

(a) Name: Jim Cooney

(b) Telephone number: 775-397-2504

(c) Business address:

(d) Business telephone number:

(e) Electronic mail address: jcooney4@gmail.com

(f) Name of entity or organization represented: Elko CABMW

(a) Name: Coby Rowe

(b) Telephone number:

(c) Business address:

(d) Business telephone number:

(e) Electronic mail address: oenflynv@gmail.com

(f) Name of entity or organization represented: Washoe CABMW

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary:

Comment was not solicited from small businesses. This regulation does not affect small businesses as the changes are associated with individual customers of the Nevada Department of Wildlife.

A copy of the Small Business Impact Statement can be found attached to the Notice of Intent:

<https://www.ndow.org/wp-content/uploads/2024/10/CGR522NoticeofAdoption.pdf>

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change:**

N/A

7. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) **Both adverse and beneficial effects on businesses; and**

It has been determined that there are neither significant adverse nor beneficial effects on businesses.

- (b) **Both immediate and long-term effects on businesses:**

It has been determined that there are neither immediate nor long-term effects on businesses.

- (a) **Both adverse and beneficial effects on the public; and**

It has been determined that there are no adverse effects on the public.

- (b) **Both immediate and long-term effects on the public:**

It has been determined that there are neither immediate nor long-term effects on the public.

8. **The estimated cost to the agency for enforcement of the adopted regulation:**

There will be no additional cost to the Department for the enforcement of this regulation.

9. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency:**

This regulation does not overlap or duplicate any local, state, or federal regulation.

10. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions:**

This regulation does not include provisions that are more stringent than a federal regulation that regulates the same activity.

11. **If the 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.**

The proposed regulation does not provide new or increased fees.

**STATE OF NEVADA
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NRS233B**

Commission General Regulation 522 LCB File No. XXX E-tags

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 to determine whether a small business impact statement is required for submittal of a proposed regulation before the Nevada Board of Wildlife Commissioners. Note: Small business is defined as a "business conducted for profit which employs fewer than 150 full-time or part-time employees" (NRS233B.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:

Comment was not solicited from small businesses. This regulation does not affect small businesses as the changes are associated with individual customers of the Nevada Department of Wildlife.

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

ANSWER:

Agency personnel concluded that there would be no small businesses impact and no need for a small business impact analysis.

3. Describe 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:

ANSWER:

There will be no adverse or beneficial effects from the proposed regulation on small business because it does not regulate the operation of any small business.

- b.) Both direct and indirect effects:

ANSWER:

There will be no direct or indirect economic effects from the proposed regulation on small business because it does not regulate the operation of any small business.

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:

There will be no impact from the proposed regulation on small businesses, therefore no methods were considered or taken by the agency.

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

ANSWER:

The enforcement of the regulation falls within current operations of the Department; therefore, there will be no additional cost to the agency above the current legislatively approved budget.

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 new or increased fees.

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:

This regulation does not include provisions that duplicate or are more stringent than 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 agency concluded that this regulation does not impact small businesses because the changes are associated with individual customers of the Nevada Department of Wildlife.

I hereby 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 this statement was prepared properly and is accurate.


FOR Alan Jenne, Director
Nevada Department of Wildlife

**ADOPTED REGULATION OF
THE BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R112-24

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

AUTHORITY: § 1, NRS 501.3575.

A REGULATION relating to wildlife; revising the deadline for completion of certain conservation projects; authorizing, under certain circumstances, an extension of the deadline for the completion of certain conservation projects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Wildlife Heritage Account and requires the Department of Wildlife to use the money in the Account for the protection, propagation, restoration, transplantation, introduction and management of any game fish, game mammal, game bird or fur-bearing mammal in this State and the management and control of predatory wildlife in this State. Existing law authorizes the Board of Wildlife Commissioners to adopt regulations for the administration of the Account. (NRS 501.3575)

Existing regulations require that a conservation project that receives money from the Account must be completed by the end of the fiscal year for which money is awarded from the Account for the project. (NAC 501.340) This regulation provides instead that a conservation project that receives money from the Account must be completed not later than June 30 of the fiscal year immediately following the fiscal year in which money is first obligated from the Account for the project. This regulation further authorizes the person who is responsible for managing or supervising the project to request an extension of time to complete the project. Any such request must include an explanation of why the project will not be completed on or before June 30 of the fiscal year immediately following the fiscal year in which money is first obligated from the Account for the project. Finally, this regulation provides that the Commission may grant such an extension.

Section 1. NAC 501.340 is hereby amended to read as follows:

501.340 1. A person who is responsible for managing or supervising a conservation project that is approved by the Commission shall:

(a) Enter into an agreement prescribed by the Department and approved by the Commission for the receipt of a grant of money from the Account;

(b) Comply with all local, state and federal laws when executing the project;

(c) Coordinate all relevant sources of money for the project;

(d) Submit written requests for money in accordance with the policy of the Department before receiving a payment from the Account; and

(e) Upon request of the Commission, allow the Commission or a representative of the Commission who has been designated by the Commission for such a purpose to observe any activity related to the project.

2. A conservation project that receives money from the Account must be completed ~~by the end~~ *not later than June 30* of the fiscal year ~~for~~ *immediately following the fiscal year in* which money is ~~awarded~~ *first obligated* from the Account for the project. ~~If, unless, before that date, a person who is responsible for managing or supervising the project demonstrates that unusual circumstances exist which require an extension of time and the Commission approves such an extension.~~ *The person who is responsible for managing or supervising the project may request an extension of time on or before June 30 of the fiscal year immediately following the fiscal year in which money is first obligated from the Account for the project. Any such request must include, without limitation, an explanation of why the project will not be completed on or before June 30 of the fiscal year immediately following the fiscal year in which money is first obligated from the Account for the project. The Commission may grant such an extension.*

3. If a person who is responsible for managing or supervising a project fails to meet any requirement of subsection 1, the Commission may cancel funding of the project and disqualify the project from any future funding.

**STATE OF NEVADA
BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066**

**LCB FILE NO. R112-24
Commission General Regulation 523**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapters 278.

1. A clear and concise explanation of the need for the adopted regulation:

This regulation change is a procedural change to the Wildlife Heritage Program, whereby we are proposing to extend Heritage project awards from one to two years. Currently, the project awardees have one year to complete a project. However, typically more than 75 percent of projects have not been completed, necessitating an extension request. Extension requests place an additional burden on NDOW staff and commissioners.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary:

How comments were solicited:

Public comment was solicited during one regulation workshop with the Nevada Board of Wildlife Commissioners (NBWC) on August 17, 2024.

There was one public comment from the Clark County Advisory Board.

Public comment was solicited during a regulation adoption hearing with the Nevada Board of Wildlife Commissioners (NBWC) on November 16, 2024.

There was no public comment.

Summary:

Public comment received was positive feedback of having this option and the importance of moving it forward so that it did not interfere with funding. There was also a recommendation of suggesting changes to the regulation language for Section 2. The Department worked to answer their questions through public workshops at Commission Meetings

Copies:

Meeting minutes from the Nevada Board of Wildlife Commissioners' meetings include all public comment and can be found here when posted: <https://nvboardofwildlife.org/#meetings>

3. The number of persons who:

(a) Attended each hearing:

November 16, 2024: 20 Attendees

August 17, 2024: 12 Attendees

(b) Testified at each hearing:

November 16, 2022: 0

August 17, 2024: 1

(c) Submitted written comments:

November 16, 2024: 0

August 17, 2024: 0

4. For each person identified in number 3 above, the following information if provided to the agency conducting the hearing:

(a) Name: Dan Gilbert

(b) Telephone number:

(c) Business address:

(d) Business telephone number:

(e) Electronic mail address: dangilbertcab@gmail.com

(f) Name of entity or organization represented: Clark CABMW

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary:

Comment was not solicited from small businesses. This regulation simply would extend the Wildlife Heritage Grant Awards for projects from one to two years. No negative impacts to small businesses are anticipated.

A copy of the Small Business Impact Statement can be found attached to the Notice of Intent:

<https://nvboardofwildlife.org/wp-content/uploads/2024/10/CGR-523.pdf>

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change:

N/A

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects on businesses; and

It has been determined that there are neither significant adverse nor beneficial effects on businesses.

(b) Both immediate and long-term effects on businesses:

It has been determined that there are neither immediate nor long-term effects on businesses.

(a) Both adverse and beneficial effects on the public; and

It has been determined that there are no adverse effects on the public.

(b) Both immediate and long-term effects on the public:

It has been determined that there are neither immediate nor long-term effects on the public.

8. **The estimated cost to the agency for enforcement of the adopted regulation:**
There will be no additional cost to the Department for the enforcement of this regulation.
9. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency:**
This regulation does not overlap or duplicate any local, state, or federal regulation.
10. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions:**
This regulation does not include provisions that are more stringent than a federal regulation that regulates the same activity.
11. **If the 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.**
The proposed regulation does not provide new or increased fees.

**STATE OF NEVADA
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NRS233B**

Commission General Regulation 523 LCB File No. RXXX-XX Heritage Revision

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 to determine whether a small business impact statement is required for submittal of a proposed regulation before the Nevada Board of Wildlife Commissioners. Note: Small business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS233B.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: Comment was not solicited from small businesses. This proposed regulation is simply extending Wildlife Heritage Grant Awards for projects from one to two years and no negative impacts to small businesses are anticipated. If anything, small business may benefit given increased timelines to complete a project.

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

ANSWER: Agency personnel concluded that there would be no small businesses impacted, this no need for an analysis to be conducted.

3. Describe 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:

ANSWER: No impacts are anticipated due to this regulation.

b.) Both direct and indirect effects:

ANSWER: No indirect or direct effects from the proposed regulation are anticipated.

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: There will be no impact from the proposed regulation on small businesses, therefore no methods were considered or taken by the agency.

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

ANSWER: No additional cost are anticipated due to 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: No additional fees or increased fees will occur with this proposed regulation change.

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: This regulation does not include provisions that duplicate or are more stringent than, federal, state or local standards.

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

ANSWER: Due to the nature of the regulation, we concluded that the changes are associated with a program administered by the Nevada Department of Wildlife and do not impact small businesses.

I hereby 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 this statement was prepared properly and is accurate.


Alan Jenne, Director
Nevada Department of Wildlife

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R119-24

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

AUTHORITY: § 1, NRS 445B.210.

A REGULATION relating to air pollution; revising provisions that adopt by reference certain federal regulations relating to air quality; revising provisions adopting certain standards previously adopted by reference; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations to prevent, abate and control air pollution and to establish standards for air quality. (NRS 445B.210) Under existing regulations, the Commission has adopted by reference certain provisions of federal regulations and certain standards for testing air quality. (NAC 445B.221) This regulation: (1) revises which provisions of federal regulations are adopted by reference; (2) revises certain standards for testing air quality previously adopted by reference; and (3) updates the price for and manner of obtaining the publications containing those standards.

Section 1. NAC 445B.221 is hereby amended to read as follows:

445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(nn) and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, ~~2021.~~ *2023.*

2. Title 40 C.F.R. § 51.165 is hereby adopted by reference as it existed on July 1, ~~2021.~~ *2023.*

3. Appendices M and W of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, ~~2021.~~ *2023.*

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, ~~2021.~~ *2023.*

5. Appendix E of 40 C.F.R. Part 52 is hereby adopted by reference as it existed on July 1, ~~2021;~~ **2023.**
6. The following subparts of 40 C.F.R. Part 60 are hereby adopted by reference:
- (a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3), 60.8(g) and 60.11(e), as it existed on ~~July 1, 2021;~~ **February 14, 2024;**
 - (b) Section 60.21 of Subpart B, as it existed on ~~July 1, 2021;~~ **December 18, 2023;**
 - (c) Subparts C, Cb, Cc, Cd, Ce, Cf, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, Y, Z, ~~AA, AAa,~~ CC, EE, GG, HH, KK, **KKa**, LL, MM, **MMa**, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, **TTTa**, UUU, VVV, WWW, **XXX**, AAAA, CCCC, DDDD, EEEE, FFFF, IIII, JJJJ, KKKK, **OOOO** and QQQQ as they existed on July 1, ~~2021;~~ **2023;**
 - (d) ~~Subpart XXX as it existed on February 14, 2022; and~~
 - ~~—(e) Subparts OOOO and OOOOa as they existed on July 1, 2019.~~ **Subparts L and La as they existed on November 20, 2023;**
 - (e) Subparts AA, AAa and AAb as they existed on February 14, 2024; and**
 - (f) Subparts OOOOa, OOOOb and OOOOc as they existed on May 7, 2024.**
7. Appendices A, B and F of 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, ~~2021;~~ **2023.**
8. **The following subparts of 40 C.F.R. Part 61 are hereby adopted by reference:**
- (a) Subparts ~~A,~~ C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, Y, BB and FF ~~of 40 C.F.R. Part 61 are hereby adopted by reference~~ as they existed on July 1, ~~2021;~~ **2023; and****
 - (b) Subpart A as it existed on December 12, 2023.**

9. Appendix B of 40 C.F.R. Part 61 is hereby adopted by reference as it existed on July 1, ~~2021.~~ **2023.**

10. The following subparts of 40 C.F.R. Part 63 are hereby adopted by reference:

(a) Subparts **A**, B, C, F, G, H, I, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, CC, **DD**, EE, HH, II, JJ, KK, **LL**, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, **YY**, CCC, EEE, GGG, HHH, III, JJJ, LLL, MMM, OOO, PPP, QQQ, TTT, UUU, VVV, **XXX**, **AAAA**, DDDD, EEEE, FFFF, GGGG, HHHH, **IIII**, JJJJ, **KKKK**, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, **VVVV**, WWW, XXXX, **YYYY**, ZZZZ, AAAAA, BBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, **IIIII**, JJJJJ, **KKKKK**, LLLLL, **MMMMM**, NNNNN, PPPPP, QQQQQ, ~~RRRRR,~~ **SSSSS**, UUUUU, WWWWW, ZZZZZ, BBBBB, CCCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, JJJJJ, LLLLL, MMMMM, NNNNN, **OOOOO**, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT, VVVVV, WWWWW, XXXXX, ZZZZZ, AAAAAA, BBBBBB, CCCCCC, EEEEE and HHHHHH as they existed on July 1, ~~2021.~~ **2023; and**

(b) ~~{Subparts MMMMM and OOOOO as they existed on November 18, 2021;~~

~~—(c) Subparts A, YY, III, KKKK, VVVV, KKKKK and SSSS as they existed on November 19, 2021;~~

~~—(d) Subpart AAAA as it existed on February 14, 2022; and~~

~~—(e) Subpart YYYY~~ **Subpart RRRRR** as it existed on March ~~9, 2022.~~ **6, 2024.**

11. Appendix A of 40 C.F.R. Part 63 is hereby adopted by reference as it existed on July 1, ~~2021.~~ **2023.**

12. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, ~~2021.~~ **2023.** If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.390, inclusive, the provisions of 40 C.F.R. Part 72 apply.

13. Title 40 C.F.R. Part 75 is hereby adopted by reference as it existed on June 1, 2024.

14. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, ~~2021.~~ **2023.** If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.390, inclusive, and section 1 of LCB File No. R138-24, the provisions of 40 C.F.R. Part 76 apply.

15. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on October 1, 1993.

16. The *Standard Industrial Classification Manual*, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual is available, free of charge, at the Internet address **<https://www.osha.gov>**.

17. A copy of the publications which contain the provisions adopted by reference in subsections 1 to 15, inclusive, may be obtained from the:

(a) Division of State Library, Archives and Public Records of the Department of Administration for 10 cents per page.

(b) Government Publishing Office, free of charge, at the Internet address ~~<http://www.gpo.gov/fdsys/>~~ **<https://www.govinfo.gov>**.

18. The following standards of ASTM International are hereby adopted by reference:

(a) ASTM D5504-08, "Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence," set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D5504-08 is

available from ASTM International, 100 Barr Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~1~~\$64.1 *\$83*.

(b) ASTM D2234/D2234M-07, “Standard Practice for Collection of a Gross Sample of Coal,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2234/D2234M-07 is available from ASTM International, 100 Barr Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~1~~\$64.1 *\$83*.

(c) ASTM D2013-07, “Standard Practice for Preparing Coal Samples for Analysis,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2013-07 is available from ASTM International, 100 Barr Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~1~~\$72.1 *\$91*.

(d) ASTM D6784-02(2008), “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” set forth in Volume 11.07 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D6784-02(2008) is available from ASTM International, 100 Barr Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~1~~\$72.1 *\$91*.

(e) ~~1~~*ASTM D2015, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter,” dated April 10, 2000. A copy of ASTM D2015 is available for purchase at the IHS Markit Standards Store, 15 Inverness Way East, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of \$74.*

~~—(f)~~ ASTM D5865, “Standard Test Method for Gross Calorific Value of Coal and Coke,” dated October 1, 2013. A copy of ASTM D5865 is available for purchase at the ~~[HHS Markit]~~ *Accuris* Standards Store ~~[, 15 Inverness Way East, Englewood, Colorado 80112, or]~~ at the Internet address ~~[http://global.ihs.com,]~~ <https://store accuristech.com>, for the price of ~~[\$83.]~~ *\$67.*

19. For the purposes of the provisions of 40 C.F.R. Parts 60, 61 and 63, adopted by reference pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

20. Except as otherwise provided in subsections 12 and 14, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.390, inclusive, and section 1 of LCB File No. R138-24, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

21. For the purposes of this section, “administrator” as used in the provisions of 40 C.F.R. Part 60, except Subpart B § 60.21, and Parts 61 and 63, adopted by reference pursuant to this section, means the Director.

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission Permanent No: R119-24P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

The U.S. Environmental Protection Agency (EPA) has delegated the implementation of certain federal New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAP) rules that apply in Nevada to the Nevada Division of Environmental Protection (NDEP; Division). The proposed amendments update the State's "adoption by reference" regulation, so that Nevada can request delegation for the implementation of new and revised NSPS and NESHAP rules promulgated since the last update. This will allow the regulated industry to continue to work with the State rather than the EPA.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

The NDEP held a hybrid (in-person and virtual) public workshop for R119-24P on July 31, 2024. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada, as well as at the NDEP offices at 375 East Warm Springs Road in Las Vegas, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Seven members of the public and regulated industry attended the workshop either in person or virtually. The proposed regulations were also distributed to the Bureau of Air Quality Planning's email distribution list.

The Legislative Counsel Bureau published its draft, R119-24P, in the Nevada Register on July 5, 2024. The Division accepted written comments on R119-24I and R119-24P for 15 days ending on July 31, 2024. The Division did not receive any verbal questions concerning R119-24I and/or R119-24P during the public workshop. A summary of the workshop, including any public comment and bureau response, is included on the NDEP website as well as the SEC website.

The SEC held a hybrid regulatory hearing on March 19, 2025, to consider possible action on R119-24P. The SEC posted its public notice, which included a link¹ and instructions to access R119-24P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

3. The number of persons who attended the SEC Regulatory Hearing:

(a) Attended March 19, 2025, hearing: 38 (approximately)

(b) Testified on this Petition at the hearing: 2

1. Jennifer Schumacher, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9340
jschumacher@ndep.nv.gov
2. Ken McIntyre, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9493
kmcintyre@ndep.nv.gov

(c) Submitted to the agency written comments: None

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through one public workshop and at the March 19, 2025, SEC hearing as noted in number 2 above.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

¹ <https://sec.nv.gov/meetings/sec-meeting-march-19-2025>

The Commissioners unanimously adopted R119-24P without change because the public and the SEC were satisfied with the proposed regulation.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry: There are no economic impacts to businesses associated with this action in the short- or long-term.

Public: There are no adverse or economic impacts on the public associated with this action in the short- or long-term.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Enforcing Agency. The regulation does not impose functions on the agency that it does not already provide, so no additional costs beyond what the agency would normally incur are expected.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

Not applicable; the proposed amendments adopt federal regulations from Chapter 40 Code of Federal Regulation Parts 51, 60, 61 and 63 in order to allow the NDEP to implement them in Nevada.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The proposed amendments do not include requirements that are more stringent than the regulations of other state or federal agencies.

10. If the 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.

R119-24P does not provide for any new fees or increases to existing fees.

Form #4

Small Business Impact Disclosure and Statement

Approved 5-2-2014



NEVADA
STATE ENVIRONMENTAL
COMMISSION

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the State Environmental Commission (SEC) and to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

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

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

There will be no added economic burden to small businesses due to the NDEP's update to the federal rules adopted by reference in NAC 445B.221. The rules are federal requirements that the regulated business/industry must comply with regardless of whether the U.S Environmental Protection Agency (USEPA) or the NDEP implements them. Therefore, there will be no added economic impacts on the regulated industry due to this update.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No, adopting by reference does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of the NDEP to enforce standards; however, a small business impact statement was prepared.

If **Yes** to either of question 1 & 2, a SBIS must be noticed and available at the public workshop.

FORM 4: SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)
(Provide attachments as needed)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.)*

Comment will be solicited through a workshop held in Carson City and video conferenced to Las Vegas. Notices of the workshop and an invitation for comments will be posted in county public libraries, the Nevada Division of Environmental Protection (NDEP) buildings in Carson City and Las Vegas, the NDEP website, the Legislative Council Bureau's website, and the official State website. The workshop notice will also be emailed to an extensive distribution list maintained by NDEP's Bureau of Air Quality Planning. A summary of the workshop will be posted on the SEC website at <http://sec.nv.gov/meetings> when notice is posted for this proposed regulation to go before the SEC as an item for action.

2. The manner in which the analysis was conducted (if an impact was determined).

The agency determined that small businesses would not be impacted (see Small Business Impact Disclosure #1 and #2).

3. The estimated economic effect of the proposed regulation on small businesses:

Not applicable (see Small Business Impact Statement #2).

a. Both adverse and beneficial effects:

Not applicable (see Small Business Impact Statement #2).

b. Both direct and indirect effects:

Not applicable (see Small Business Impact Statement #2).

4. 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 the methods. *(Include a discussion of any considerations of the methods listed below.)*

Not applicable (see Small Business Impact Statement #2).

A. Simplification of the proposed regulation:

Not applicable (see Small Business Impact Statement #2).

B. Establishment of different standards of compliance for a small business:

Not applicable (see Small Business Impact Statement #2).

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine:

Not applicable (see Small Business Impact Statement #2).

5. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

The regulation does not impose functions on the agency that it does not already provide, so no additional costs beyond what the agency would normally incur are expected.

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

The regulation does not address fees.

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

Not applicable, the proposed amendments do not include requirements that are more stringent than federal regulations.

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

The regulation does not impose any requirements, burdens, or fees on any businesses.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and the information contained in this statement was prepared properly and is accurate.


Jennifer Carr (Jun 11, 2024 16:48 PDT)

Administrator, NDEP

06/11/2024

Date

Supporting Documents



Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>

**CORRECTED ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R126-24

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

AUTHORITY: §§ 1-15, NRS 459.892.

A REGULATION relating to brownfield sites; revising the activities for which financial assistance from the Fund for Brownfield Projects may be used; revising the entities eligible to receive subgrants from the Fund; revising the requirements for a site to be eligible for financial assistance from the Fund; revising the maximum amount of money in the Fund that the Division of Environmental Protection of the State Department of Conservation and Natural Resources may use to make subgrants to eligible entities; authorizing a recipient of financial assistance from the Fund to satisfy a requirement to match such assistance by sharing costs through certain contributions to an activity; authorizing a recipient of financial assistance from the Fund to obtain an exemption from cost-sharing requirements under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Fund for Brownfield Projects and requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources to administer the Fund. (NRS 459.878) Under existing law, money in the Fund must be used only to finance the cleanup of brownfield sites or provide other assistance to brownfield projects. (NRS 459.880) Existing law authorizes the State Environmental Commission to adopt regulations to carry out the provisions of existing law governing the Fund. (NRS 459.892)

Existing regulations establish two forms of financial assistance from the Fund: (1) a loan from the Fund; and (2) a subgrant from the Fund to an eligible entity. (NAC 459.99917, 459.9993) **Section 9** of this regulation removes a requirement that 40 percent of the money in the Fund is the maximum amount of money in the Fund that the Division may use to make subgrants, thereby authorizing the Division to establish the amount of money in the Fund that will be used to make subgrants, subject to any restrictions on grants received by the Division. (NAC 459.99929)

Under existing law and regulations: (1) a person, including, without limitation, certain private entities and governmental entities, is authorized to apply for a loan from the Fund with respect to a property that meets certain criteria; and (2) only an eligible entity is authorized to apply for a subgrant from the Fund with respect to such a property. (NRS 0.039; NAC 459.9992, 459.99926, 459.9993) **Section 7** of this regulation revises the eligible entities authorized to apply for a subgrant from the Fund by: (1) removing the exclusion of governmental entities created by a state legislature, thereby authorizing such entities to apply for a subgrant from the Fund; and

(2) prohibiting organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in certain lobbying activities with respect to the Federal Government from being eligible for a subgrant from the Fund. (NAC 459.99916) **Section 8** of this regulation revises the criteria for a property that was the site of a release of certain hazardous substances to be eligible for a loan or subgrant from the Fund.

Under existing regulations, to receive a subgrant from the Fund with respect to a property, an eligible entity is required to own the property or hold the property in trust. (NRS 459.99929) **Section 9** removes this requirement, and **section 5** of this regulation authorizes an eligible entity to obtain a loan or subgrant from the Fund before a property is acquired and use the loan or subgrant to pay for certain activities, including, without limitation, engaging in “community involvement,” as defined in **section 2** of this regulation, “site assessment,” as defined in **section 4** of this regulation, planning, research and training.

Existing regulations prohibit a recipient from using money received as a loan or subgrant from the Fund for the payment of certain costs. (NAC 459.99933) **Section 12** of this regulation revises the costs which a recipient is prohibited from paying with money received as a loan or subgrant from the Fund. **Section 5** establishes that the costs that may be paid using financial assistance from the Fund are “funded activities,” as defined in **section 3** of this regulation. **Sections 10 and 12-15** of this regulation make conforming changes to reflect the use of the term “funded activities” to describe those activities.

Existing regulations require a recipient of a loan or subgrant from the Fund to provide matching money equal to at least 20 percent of the amount received as financial assistance from the Fund. (NAC 459.99932) **Section 11** of this regulation authorizes a recipient to comply with this requirement by contributing money, labor, material or services from a non-federal source. **Section 11** further authorizes the Division to grant an exemption from this cost-sharing requirement if the Division finds that a hardship exists that makes such an exemption necessary.

Section 6 of this regulation makes the definitions in existing regulations governing financial assistance from the Fund applicable to the provisions adopted by this regulation, and also makes the definitions adopted in **sections 2-4** applicable to those existing regulations and the provisions adopted by this regulation.

Section 1. Chapter 459 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Community involvement” means the process through which community members and stakeholders are engaged in the planning and decision-making process in determining the reuse and redevelopment goals of a brownfield site.*

Sec. 3. *“Funded activities” means activities performed by a recipient of financial assistance from the Fund, including, without limitation, identifying inventory, community*

involvement, site preparation, site assessment, corrective action, monitoring and any other activity approved by the Division for a brownfield site.

Sec. 4. *“Site assessment” means the collection and evaluation of data adequate to determine the presence or potential presence of a hazardous substance, pollutant or contaminant at a property.*

Sec. 5. 1. *The Division will provide financial assistance to eligible entities for funded activities on brownfield sites in accordance with NRS 459.880 and the terms and conditions of any federal grant received to capitalize the Fund.*

2. An eligible entity may apply for financial assistance through the Fund before a property is acquired to support and conduct any activities necessary to determine the feasibility and benefit of a qualified brownfield site for the proposed plan of redevelopment and to gain due diligence liability protections. Funded activities permitted before such an acquisition include, without limitation, community involvement, planning, research, site assessment and training.

Sec. 6. NAC 459.9991 is hereby amended to read as follows:

459.9991 As used in NAC 459.9991 to 459.99939, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 459.99911 to 459.99923, inclusive, *and sections 2, 3 and 4* have the meanings ascribed to them in those sections.

Sec. 7. NAC 459.99916 is hereby amended to read as follows:

459.99916 “Eligible entity” has the meaning ascribed to it in 42 U.S.C. § 9604(k)(1), except that the term:

1. Includes a nonprofit organization; and

2. Does not include:

(a) ~~A government entity created by a state legislature;~~

~~(b)~~ An Alaska Native Regional Corporation or an Alaska Native Village Corporation, as defined in the Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1601 et seq., or the Metlakatla Indian Community; ~~for~~

~~(c)~~ (b) Any person who is otherwise ineligible to receive a loan from the Fund pursuant to NAC 459.99924 ~~for~~; or

(c) Any organization exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engages in any lobbying activity, as defined in 2 U.S.C. § 1602.

Sec. 8. NAC 459.99925 is hereby amended to read as follows:

459.99925 1. Except as otherwise provided in this section, for an applicant to be eligible for a loan from the Fund with respect to a property, the property must contain the site of a release of a hazardous substance, pollutant or ~~petroleum product~~ *contaminant* and qualify as a brownfield site.

2. An applicant may be eligible for a loan from the Fund with respect to a disposal site only if the Division determines that:

(a) The disposal site poses a threat to human health or the environment because of the presence of a hazardous substance and presents a danger to human health beyond any physical hazards that may be present at the disposal site;

(b) The disposal site was closed before the enactment of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; and

(c) Corrective action is not required by the Division pursuant to NAC 444.7481 to 444.7499, inclusive.

3. An applicant is not eligible for a loan from the Fund with respect to a property which is eligible for funding pursuant to NAC 445C.200 to 445C.320, inclusive, or is otherwise subject to NAC 459.9921 to 459.999, inclusive, unless:

(a) The loan will be used for corrective action on the property exclusively to address a hazardous substance which is distinct from, and not commingled with, petroleum contamination that is eligible for reimbursement pursuant to NAC 445C.200 to 445C.320, inclusive;

(b) The Division determines that the applicant is not eligible for funding pursuant to NAC 445C.200 to 445C.320, inclusive, for petroleum contamination on the property and:

(1) The applicant did not cause or contribute to the release of petroleum products; and
(2) The cleanup of the petroleum contamination would protect human health and the environment and result in the redevelopment of the site; or

(c) The loan will be used to continue the remediation of a hazardous substance commingled with petroleum contamination after the issues relating to the petroleum contamination have been mitigated.

4. As used in this section, “disposal site” has the meaning ascribed to it in NRS 444.460.

Sec. 9. NAC 459.99929 is hereby amended to read as follows:

459.99929 1. ~~{The Division may use not more than 40 percent of the money in the Fund to make subgrants to eligible entities.}~~ In determining whether to make a subgrant, the Division shall consider the benefit of promoting the long-term availability of money from the Fund for remediation at brownfield sites.

2. An applicant may be eligible for a subgrant from the Fund with respect to a property if ~~+~~
~~—(a) The property is owned or held in trust by the applicant; and~~

~~—(b) The~~ *the* property is of a type described in NAC 459.99925 with respect to which an applicant may be eligible for a loan from the Fund.

Sec. 10. NAC 459.99931 is hereby amended to read as follows:

459.99931 Upon completion of ~~{the cleanup of a brownfield site}~~ *all funded activities* with respect to which a subgrant has been made, the eligible entity that received the subgrant shall close out the account for the subgrant in the manner required by the Division. The eligible entity shall promptly remit to the Division for deposit in the Fund all money from the subgrant which has not been expended or committed for expenditure for ~~{the cleanup of the brownfield site}~~ *funded activities* as of the date established by the Division for closing the account.

Sec. 11. NAC 459.99932 is hereby amended to read as follows:

459.99932 1. As soon as an agreement for financial assistance between the Division and a recipient is signed and the money is available, the entire amount of the financial assistance will be paid to the recipient.

2. Conditions for the payment and any repayment of financial assistance from the Fund:

(a) Must be set forth in the agreement for financial assistance between the Division and the recipient; and

(b) Are subject to any requirements and limitations that may be imposed by the United States Environmental Protection Agency.

3. ~~{As}~~ *Except as otherwise provided in subsection 4, as* a condition of receiving financial assistance from the Fund, a recipient must agree to ~~{provide matching money}~~ *cost sharing* equal to at least 20 percent of the amount received as financial assistance from the Fund. *The cost sharing may be in the form of a contribution of money, labor, material or services from a non-*

federal source. The recipient must demonstrate through its project accounting that the requirement concerning ~~{matching money}~~ *cost sharing* is being met.

4. A recipient of financial assistance from the Fund may request an exemption from the requirements of subsection 3 on the basis of hardship. Any such request must include, without limitation, an explanation of the reason that the hardship makes the exemption necessary. The Division may grant such an exemption if the Division finds that a hardship exists that makes the exemption necessary.

Sec. 12. NAC 459.99933 is hereby amended to read as follows:

459.99933 1. A recipient may not use money received as financial assistance for the payment of:

- (a) The application fee for the program for voluntary cleanup;
- (b) The recovery by the Division of costs incurred by the Division under the program for voluntary cleanup;
- (c) ~~{Costs for precleanup environmental response activities, such as site assessment, identification and characterization;~~
- ~~—(d)} Costs for activities related to site development and construction that are not ~~{corrective actions;~~~~
- ~~—(e)} *funded activities;*~~
- (d)* Costs for monitoring and data collection that are necessary to apply for, or comply with, environmental permits required by other state or federal laws unless such a permit is a required component of the ~~{corrective action;}~~ *funded activities;* or
- ~~{(f)}~~ *(e)* A penalty or fine.

2. ~~{A recipient may use money received as financial assistance for the preparation of a plan for corrective action pursuant to NAC 445A.2271 or 445A.2273 or a remedial agreement pursuant to NRS 459.636 if the characterization data needed to support such a plan or agreement was developed without the use of the financial assistance.}~~

~~—3.}~~ A recipient shall not use money received as financial assistance to pay any of its administrative costs related to the management of the financial assistance. An administrative cost for an activity that is determined by the Division to be an allowable cost may be used to meet the requirement of ~~{matching money}~~ *cost sharing* set forth in subsection 3 NAC 459.99932. The Division shall determine an administrative cost to be an allowable cost if the administrative cost directly involves the design and monitoring of performance of a corrective action.

~~{4.}~~ 3. A recipient of a subgrant shall not use money from the subgrant to purchase any equipment which costs more than \$5,000. Any such equipment which is necessary to conduct ~~{corrective actions}~~ *funded activities* at the property must be rented or leased by the recipient for the period necessary to complete the ~~{corrective actions.}~~ *funded activities.*

Sec. 13. NAC 459.99936 is hereby amended to read as follows:

459.99936 1. Before a contract for financial assistance is transmitted to a recipient for signature, the recipient must certify that it has complied and will continue to comply with all requirements of federal law that apply to the operation of the Fund.

2. A recipient shall:

(a) Establish an official file that contains an adequate record of all significant actions relating to the ~~{brownfield site.}~~ *funded activities;*

(b) Establish accounts that accurately and adequately show all amounts of money:

(1) Received as financial assistance from the Fund;

- (2) Spent on the brownfield site; and
- (3) Used to comply with requirements concerning ~~{matching money;}~~ *cost sharing;*
- (c) Establish a system of accounting which ensures that the final total costs relating to the ~~{cleanup of the brownfield site;}~~ *funded activities*, including all direct and indirect costs, are recorded accurately;
- (d) Establish and maintain such other accounts and records as are required by the Division to comply with requirements for reporting established by the Federal Government; and
- (e) Retain all records relating to the brownfield site for:
 - (1) At least 3 years after the final repayment of financial assistance or the date on which the account for the subgrant is closed out by the Division, as appropriate; or
 - (2) Such longer period as required by the Division.
- 3. All records of a recipient relating to the brownfield site must be made available at any reasonable time for inspection or copying by any authorized representative of the Division.
- 4. If an audit is required by federal law or by an agency of the Federal Government, or if the Division determines that an audit is necessary to ensure the integrity of the Fund, the Division may require an audit of the financial records of a recipient relating to a brownfield site. Such an audit must be performed at the expense of the recipient by a certified public accountant who is independent of the recipient. A report of the audit must be prepared by the auditor in the form prescribed by the Division.

Sec. 14. NAC 459.99937 is hereby amended to read as follows:

459.99937 Before a recipient may contract for ~~{remedial}~~ services relating to a ~~{brownfield site}~~ *funded activity* which involves money from the Fund, the recipient must submit to the Division, in the form prescribed by the Division, a request for approval of the contract. The

Division may approve the contract only if the contract is being awarded to the lowest responsive, responsible bidder. The Division shall review the request for approval to ensure that the recipient, its consultants and its contractors have complied with the requirements set forth in NAC 459.99938 relating to disadvantaged businesses. The Division shall not participate in the resolution of any dispute concerning bidding relating to the contract . ~~{for remedial services.}~~ The resolution of any such dispute is the sole responsibility of the recipient. The Division shall not approve a request for the approval of a contract ~~{for remedial services}~~ until all such disputes have been resolved.

Sec. 15. NAC 459.99938 is hereby amended to read as follows:

459.99938 1. A recipient shall comply with all applicable provisions of the Davis-Bacon Act, 40 U.S.C. §§ 3141 et seq., and NRS 338.010 to 338.090, inclusive. The Division shall review the final contract documents to verify that the proper determinations of wages pursuant to federal and state law have been included. The recipient is responsible for ensuring compliance with all applicable labor laws.

2. An applicant for and recipient of financial assistance shall comply with the requirements of federal law concerning the participation of disadvantaged businesses.

3. A recipient of financial assistance shall attempt to comply with the fair share percentages established annually for disadvantaged businesses by the Division and the United States Environmental Protection Agency. Any recipient who does not meet these goals shall submit evidence of compliance with the affirmative steps set forth in subsection 5.

4. A recipient of financial assistance shall submit with his or her request for approval of a contract for ~~{remedial}~~ services *to perform funded activities* a report, in the form prescribed by the Division, of participation by disadvantaged businesses. If the low bidder on ~~{a}~~ *the* contract

~~{for remedial services}~~ does not meet the fair share requirements for disadvantaged businesses, the recipient shall submit to the Division evidence of compliance by the bidder with the affirmative steps set forth in subsection 5.

5. If the recipient awards a contract for ~~{remedial}~~ services ~~{,}~~ *to perform funded activities*, the recipient shall take affirmative steps to ensure that disadvantaged businesses are used to the extent possible as sources of supplies, equipment, materials and services. These affirmative steps must include, without limitation:

- (a) Including such businesses on solicitation lists;
- (b) Ensuring that such businesses are solicited if they are potential sources; and
- (c) Dividing total requirements, if economically feasible, into small tasks or quantities to permit maximum participation by disadvantaged businesses.

6. During the implementation of ~~{corrective actions or the monitoring of the corrective actions}~~ *funded activities or* after they have been completed, the recipient shall permit any authorized representative of the Division to enter onto the site of the project at any reasonable time.

7. A copy of each executed change order relating to a contract for ~~{remedial services}~~ *funded activities* must be submitted to the Division.

8. A recipient shall comply with the requirements of NAC 459.970 to 459.97295, inclusive.

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission Permanent No: R126-24P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

Revisions to Nevada Administrative Code 459.9991 - 459.99939 are being proposed to align the current use of the Fund for Brownfield Projects (Fund) with the terms and conditions that have been entered into with U.S. Environmental Protection Agency on administration and eligible uses of the funding.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

The Division held a hybrid (in-person and virtual) public workshop for R126-24P on May 15, 2024. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada, as well as at the NDEP offices at 375 East Warm Springs Road in Las Vegas, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Thirty-four members of the public and regulated industry attended the workshop either in person or virtually. The proposed regulations were also distributed to the Bureau of Corrective Actions' email distribution list.

The Legislative Counsel Bureau published its draft, R126-24P, in the Nevada Register on August 1, 2024. The Division accepted written comments on R126-24I and R126-24P for 30 days ending on May 22, 2024. The Division did not receive any verbal questions concerning R126-24I and/or R126-24P during the public workshop or the official comment period. The Division did receive one written comment outside of the designated comment period. This comment related to the exclusion of air concentration Regional Screening Levels from the regulations. A copy of this comment and the agency's response is included. A summary of the workshop, including public comment and bureau response, is also included on the NDEP website as well as the SEC website.

The SEC held a hybrid regulatory hearing on March 19, 2025, to consider possible action on R126-24P. The SEC posted its public notice, which included a link¹ and instructions to access R126-24P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

3. The number of persons who attended the SEC Regulatory Hearing:

(a) Attended March 19, 2025, hearing: 38 (approximately)

(b) Testified on this Petition at the hearing: 2

1. Jeff Collins, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9381
jcollins@ndep.nv.gov
2. Dave Friedman, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9385
dfriedman@ndep.nv.gov

(c) Submitted to the agency written comments: None

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through one public workshop and at the March 19, 2025, SEC hearing as noted in number 2 above.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

¹ <https://sec.nv.gov/meetings/sec-meeting-march-19-2025>

The Commissioners unanimously adopted R126-24P without change because the public and the SEC were satisfied with the proposed regulation.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry: These regulations have no direct effect on the regulation of business. The goal of the Fund is to spur revitalization and redevelopment of Brownfield properties for the purpose of mitigating hazardous materials potentially detrimental to public health and removing blight.

Beneficial effects include community redevelopment and revitalization, as well as reduction of potential sources of environmental contamination.

Immediate and long-term effects are the same in terms of removing blight and redeveloping unused or under-used properties in a community.

Public: The proposed amendments will have a positive economic effect on the public through the enhancement of community appearance, redevelopment of vacant and dilapidated properties, and an increase in jobs through new business development.

No adverse economic effect on the public is expected. Beneficial economic effects include enhancement of community appearance, redevelopment of vacant and dilapidated properties, and an increase in jobs through new business development.

Immediate and long-term effects are the same in terms of removing blight, reducing potential risk from environmental exposure of hazardous materials and subsequent positive health outcomes, and redeveloping unused or under used properties in a community.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Enforcing Agency. The regulations provide the framework under which NDEP has implemented and administers the Fund for Brownfield Projects and do not impose functions on the agency that it does not already perform. These regulations also include no enforcement provision and therefore there is no estimated cost to the agency.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulations do not overlap or duplicate other state or federal regulations.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

Not applicable.

10. If the 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.

R126-24P does not provide for any new fees or increases to existing fees.

Form #4

Small Business Impact Disclosure and Statement

Approved 5-2-2014



NEVADA
STATE ENVIRONMENTAL
COMMISSION

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the State Environmental Commission (SEC) and to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

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

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No. The proposed regulatory changes apply to the Fund for Brownfields Projects (Fund) as created under NRS 459.860 - 459.898. The Fund has been capitalized through a sole grant received from USEPA, and in accordance with NRS 459.878, receives no revenue from the collection of fees. NRS 459.888 does allow NDEP to establish a fee under regulation to defray administrative costs incurred by the program, but no such fee has yet been established or proposed in these revisions. Further, only municipalities, 501(c)(3) non-profit organizations, and tribes are eligible to apply for and receive financial assistance through the Fund per NAC 459.99916.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No. No fees or regulatory requirements are imposed on the public under these regulations.

If **Yes** to either of question 1 & 2, a SBIS must be noticed and available at the public workshop.

FORM 4: SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)
(Provide attachments as needed)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.)*

Based on the assessment for the Small Business Impact Disclosure, NDEP did not include a SBIS with the public workshop for the proposed regulation language change. General comments on the proposed regulation language changes were solicited during a workshop held in Carson City, video conferenced to Las Vegas, and offered via virtual connection (Teams) on May 15, 2024. Notices of the workshop and an invitation for comments were posted at the Nevada Division of Environmental Protection (NDEP) buildings in Carson City and Las Vegas, the NDEP website, the Legislative Counsel Bureau's website, and the official State website. The workshop notice was also emailed to an extensive distribution list of certified environmental managers (CEMs) maintained by NDEP's Bureau of Corrective Actions. Nevada CEMs are the small business professionals likely to be directly involved in brownfield projects financed through the Fund, which is the subject of these proposed regulatory changes. NDEP received no comments at the public workshop held on May 15, 2024 or during the 7-day post-workshop comment period ending on May 22, 2024. A summary of the workshop will be posted on the SEC website at <http://sec.nv.gov/meetings> once the petition has been added to a meeting agenda.

2. The manner in which the analysis was conducted (if an impact was determined).

NDEP has determined there will be no impact to small business due to adoption of the proposed regulations.

3. The estimated economic effect of the proposed regulation on small businesses:

The proposed revisions will broaden the scope of brownfield projects eligible for financial assistance through the Fund. As such, it is reasonable to expect the number of projects addressed, and the tasks completed may create new business opportunities.

a. Both adverse and beneficial effects:

No adverse effects identified. Beneficial effects include potential increase of projects financed through the Fund, and in accordance with NAC 459.99938(1-8), an applicant for and recipient of financial assistance shall comply with the requirements of federal law concerning the participation of disadvantaged businesses.

b. Both direct and indirect effects:

NDEP has determined no direct effects on small businesses by the proposed regulation changes. Indirect effects include greater business opportunity due to more work financed by the Fund and requirement of recipients to provide fair share opportunity to disadvantaged businesses.

4. 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 the methods. (Include a discussion of any considerations of the methods listed below.)

NDEP has determined there are no negative impacts to small businesses due to the proposed regulatory changes.

A. Simplification of the proposed regulation:

Not applicable.

B. Establishment of different standards of compliance for a small business:

Not applicable.

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine:

Not applicable.

5. The estimated cost to the agency for enforcement of the proposed regulation. (Include a discussion of the methods used to estimate those costs.)

Not applicable.

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

Not applicable.

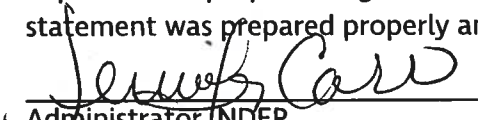
7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why such duplicative or more stringent provisions are necessary.

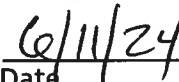
NDEP has determined there are no duplicative or overlapping regulations to the proposed revisions.

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

The proposed revisions apply to regulations under NAC 459.9991- 459.99939 creating the regulatory framework to administer the Fund for Brownfield Projects. It is funded through a federal grant obligated by USEPA and at present has no other funding source including fees and appropriations. There are no compliance mandates imposed upon the public under these regulations and all financial obligations are voluntary and acquired by those who apply for and receive financial assistance from the Fund. As such, NDEP concludes the regulatory revisions have no impact on small business. Further, eligible entities receiving financial assistance from the Fund are obligated to consider contracting services from disadvantaged businesses, which may include small businesses.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and the information contained in this statement was prepared properly and is accurate.


Administrator, NDEP


Date

Supporting Documents



Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R130-24

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

AUTHORITY: §§ 1 and 2, NRS 445A.425 and 445A.465; § 3, NRS 445A.425, 445A.465 and 445A.520.

A REGULATION relating to water pollution; revising the methodology used in determining the level of concentration of hazardous substances, hazardous wastes or regulated substances in soil or groundwater for which corrective action may be required; revising the methodology for determining the maximum concentration levels of certain contaminants for the purposes of underground injection control; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits any person from allowing a pollutant discharged from a point source or fluids injected through a well to remain in a place where the pollutant or fluids could be carried into the waters of the State by any means. (NRS 445A.465) Existing law also authorizes the State Environmental Commission to adopt regulations relating to the control of water pollution. (NRS 445A.425) Existing regulations establish the methodology for the Division of Environmental Protection of the State Department of Conservation and Natural Resources to determine the level of concentration of hazardous substances, hazardous wastes or regulated substances in soil or groundwater for which corrective action may be required. (NAC 445A.227, 445A.2272, 445A.22725, 445A.22735) For the purposes of determining the action level for soil, **section 1** of this regulation replaces the Integrated Risk Information System adopted by the United States Environmental Protection Agency with the Regional Screening Levels for Chemical Contaminants at Superfund Sites adopted by the United States Environmental Protection Agency. (NAC 445A.2272) For the purposes of determining the action level for groundwater, **section 2** of this regulation: (1) updates references to regulations adopted by the United States Environmental Protection Agency under the Safe Drinking Water Act; and (2) replaces the Integrated Risk Information System adopted by the United States Environmental Protection Agency with the Regional Screening Levels for Chemical Contaminants at Superfund Sites adopted by the United States Environmental Protection Agency. (NAC 445A.22735)

Existing regulations establish the methodology for the Division to determine the maximum concentration level for contaminants for the purposes of controlling underground injections of certain fluids. (NAC 445A.8585) For the purposes of determining that maximum concentration level, **section 3** of this regulation replaces the Integrated Risk Information System adopted by the United States Environmental Protection Agency with the Regional Screening

Levels for Chemical Contaminants at Superfund Sites adopted by the United States Environmental Protection Agency.

Section 1. NAC 445A.2272 is hereby amended to read as follows:

445A.2272 1. For the purposes of NAC 445A.22695 to 445A.2271, inclusive, the action level for soil must be established at the following levels:

(a) The background concentration or volume of a hazardous substance, hazardous waste or a regulated substance set forth in:

- (1) The permit issued to the owner or operator by the Division; or
- (2) A study approved by the Division.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in the soil at an appropriate level of concentration that is based on the protection of the waters of the State, public health and safety for all identified routes of exposure and the environment. The appropriate level of concentration must be determined by the Division using the ~~Integrated Risk Information System, adopted by the Environmental Protection Agency, as it existed on October 3, 1996,~~ *Regional Screening Levels for Chemical Contaminants at Superfund Sites adopted by reference in subsection 3* or any other equivalent method or peer-reviewed source of information chosen by the Division.

2. Except as otherwise provided in this subsection, if more than one action level for soil may be established using the criteria set forth in paragraph (b) of subsection 1, the most restrictive action level must be used. In no case may the action level be more restrictive than the background concentration of the hazardous substance, hazardous waste or regulated substance.

3. The State Environmental Commission hereby adopts by reference the ~~Integrated Risk Information System, adopted by the Environmental Protection Agency, as it existed on October~~

~~3, 1996. A copy of the system is available on-line through the Internet and may be obtained from an Integrated Risk Information System Representative at (301) 496-6531, free of charge.]~~

Regional Screening Levels for Chemical Contaminants at Superfund Sites, including all tables therein and the associated User's Guide, adopted by the United States Environmental Protection Agency, as it existed on the date on which the Legislative Counsel files this regulation with the Secretary of State pursuant to NRS 233B.070. A copy of this material is available, free of charge, at the Internet address <https://www.epa.gov/risk/regional-screening-levels-rsls>.

Sec. 2. NAC 445A.22735 is hereby amended to read as follows:

445A.22735 1. For the purposes of NAC 445A.22725, 445A.2273 and 445A.2274, the action level for groundwater must be established at the following levels:

(a) The presence of 1/2 inch or more of a petroleum substance that is free-floating on the surface of the water of an aquifer, using a measurement accuracy of .01 feet.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in groundwater at a level of concentration equal to the maximum contaminant level for that substance or waste established pursuant to the ~~[Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and]~~ *“National Primary Drinking Water Regulations,”* 40 C.F.R. Part 141, as ~~[those sections existed on October 3, 1996.]~~ *adopted by reference in subsection 4.*

(c) A level of concentration equal to the background concentration of a hazardous substance, hazardous waste or a regulated substance, if that level of concentration is greater than the maximum contaminant level established pursuant to paragraph (b).

(d) If a maximum contaminant level has not been established for a hazardous substance, hazardous waste or a regulated substance, a level of concentration equal to:

(1) The background concentration of the waste or substance; or

(2) An appropriate level of concentration that is based on the protection of public health and safety and the environment. The appropriate level of concentration must be determined by the Division using the ~~Integrated Risk Information System,~~ *Regional Screening Levels for Chemical Contaminants at Superfund Sites* adopted by reference in NAC 445A.2272, or an equivalent method approved by the Division.

2. In establishing an action level pursuant to subsection 1, the Division may consider:

(a) The presence of more than one hazardous substance, hazardous waste or regulated substance in the groundwater;

(b) Any potential threat the contamination may pose to sensitive areas of the environment; and

(c) Any other threat or potential threat to groundwater that is specifically related to the site.

3. If more than one action level for groundwater may be established using the criteria set forth in subsection 1, the most restrictive action level must be used.

4. The ~~Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and 40 C.F.R. Part 141, as those sections existed on October 3, 1996, are hereby adopted by reference. A copy of those sections may be obtained by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at a cost of \$30.~~ *State Environmental Commission hereby adopts by reference the “National Primary Drinking Water Regulations” adopted by the United States Environmental Protection Agency, 40 C.F.R. Part 141, as they existed on the date on which the Legislative Counsel files this regulation with the Secretary of State pursuant to NRS 233B.070. A copy of this material is available, free of charge, at the Internet address*

<https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations> or may be obtained by mail from the Environmental Protection Agency, Office of Ground Water and Drinking Water, 1200 Pennsylvania Ave, N.W. (Mail Code 4606M), Washington, DC 20460.

Sec. 3. NAC 445A.8585 is hereby amended to read as follows:

445A.8585 If a maximum contaminant level has not been established for a contaminant, a concentration level for the contaminant may be established by using:

1. The naturally occurring background concentration of the contaminant; or
2. An appropriate level of concentration based on the protection of public health and safety and the environment. The appropriate level of concentration of a contaminant must be determined by the Division using the ~~Integrated Risk Information System~~ *Regional Screening Levels for Chemical Contaminants at Superfund Sites* adopted by reference ~~pursuant to~~ *in* NAC 445A.2272, or an equivalent method approved by the Division.

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission Permanent No: R130-24P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

On January 12, 2023, Governor Lombardo issued Executive Order 2023-003, requiring state agencies to review their regulations for potential amendment or rescission. During a subsequent public comment period, it was noted that Nevada Administrative Code (NAC) 445A.2272 and 445A.22735 reference outdated adopted federal guidance. Specifically, NAC 445A.2272(3) adopts, by reference "the Integrated Risk Information System, adopted by the U.S. Environmental Protection Agency (EPA), as it existed on October 3, 1996." NAC 445A.22735(4) adopts, by reference "the Safe Drinking Water Act, 42 U.S.C 300f et seq. and 40 C.F.R. Part 141, as those sections existed on October 3, 1996." In practice, the Nevada Division of Environmental Protection (NDEP, Division) and environmental consultants regularly reference current EPA Regional Screening Levels and associated risk assessment guidance for managing soil corrective action cases. NDEP and consultants regularly reference current EPA Maximum Contaminant Levels for managing groundwater corrective action cases. The proposed language change to existing regulations adds clarity and consistency to current practice, and allows for soil and groundwater action levels to be updated concurrently with federal standards, without further revisions to state regulations.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

The Division held a hybrid (in-person and virtual) public workshop for R130-24P on August 20, 2024. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada, as well as at the NDEP offices at 375 East Warm Springs Road in Las Vegas, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Twenty-five members of the public and regulated industry attended the workshop either in person or virtually. The proposed regulations were also distributed to the Bureau of Corrective Actions' email distribution list.

The Legislative Counsel Bureau published its draft, R130-24P, in the Nevada Register on August 2, 2024. The Division accepted written comments on R130-24I and R130-24P for 30 days ending on August 27, 2024. The Division did not receive any verbal questions concerning R130-24I and/or R130-24P during the public workshop. A summary of the workshop, including any public comment and bureau response, is included on the NDEP website as well as the SEC website.

The SEC held a hybrid regulatory hearing on March 19, 2025, to consider possible action on R130-24P. The SEC posted its public notice, which included a link¹ and instructions to access R130-24P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

3. The number of persons who attended the SEC Regulatory Hearing:

(a) Attended March 19, 2025, hearing: 38 (approximately)

(b) Testified on this Petition at the hearing: 2

1. Jeff Collins, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9381
jcollins@ndep.nv.gov
2. Ben Moan, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9396
bmoan@ndep.nv.gov

(c) Submitted to the agency written comments: one

1. Dale Walsh, President, Walsh Certified Consultants, Inc.
(702) 468-4782
dwalsh@walshcih.com

¹ <https://sec.nv.gov/meetings/sec-meeting-march-19-2025>

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through one public workshop and at the March 19, 2025, SEC hearing as noted in number 2 above. One written comment was received (outside the public comment period). The commenter requested that language be added to the proposed regulations specifically excluding air concentration Regional Screening Levels. During the SEC meeting on March 19, 2025, the Bureau of Corrective Actions explained that they do not regulate air and that the action levels in the amendments reference soil, ground water, and surface water, not air, so no changes were made to the proposed amendments.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Commissioners unanimously adopted R130-24P without change because the public and the SEC were satisfied with the proposed regulation.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry: No significant effect is expected. The language change removes references to outdated federal regulations and replaces the language with references to current regulations and existing practice.

The effects are expected to be largely neutral. Approximately 875 contaminants are listed in the current EPA Regional Screening Level tables and approximately 100 contaminants have drinking water Maximum Contaminant Levels. EPA periodically updates these lists and concentrations based on new health risk data. Some contaminants may have current action levels that are lower or higher than the action levels established on October 3, 1996. The proposed language still allows for NDEP to consider action levels determined through site specific risk studies, following the guidance associated with the Regional Screening Level tables.

The immediate effect is to clarify that NDEP adopts current federal regulations and guidelines. The long-term effect is that NDEP adopts the dynamic lists, allowing for the current action and screening levels to be used with each EPA update.

Public: No adverse economic effects on the public are expected. Beneficial effects are that if EPA adjusts contaminant action levels based on new toxicology data, the new action levels would be immediately adopted by NDEP, protecting human health.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Enforcing Agency. The proposed regulatory language clarifies existing authority and practice and is not expected to significantly impact agency workload or incur additional cost.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulatory language is to existing regulations required for NDEP's compliance with federal regulations, the Clean Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation and Liability Act. The authority to administer these federal regulations has been delegated to Nevada by EPA. The language change would adopt current and future federal regulations.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The proposed amendments in R130-24P do not include provisions which are more stringent than federal regulations, and in fact, clarify that current federal regulations are adopted.

10. If the 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.

R130-24P does not provide for any new fees or increases to existing fees.

Form #4

Small Business Impact Disclosure and Statement

Approved 5-2-2014



NEVADA
**STATE ENVIRONMENTAL
COMMISSION**

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the State Environmental Commission (SEC) and to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

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

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No, a determination was made that the proposed regulation language change will not impose a direct and significant economic burden upon a small business. The language proposed for removal references outdated and complicated methods for establishing action levels at sites where soil and/or groundwater has been contaminated. The replacement language clarifies that current United States Environmental Protection Agency (EPA) standards and guidelines should be used.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No, there is nothing in the proposed language change that restricts the formation, operation, or expansion of a small business.

If **Yes** to either of question 1 & 2, a SBIS must be noticed and available at the public workshop.

FORM 4: SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)
(Provide attachments as needed)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.)*

Based on the assessment for the Small Business Impact Disclosure, NDEP did not include a SBIS with the public workshop for the proposed regulation language change. General comments on the proposed regulation language changes were solicited during a workshop held in Carson City, video conferenced to Las Vegas, and offered via virtual connection (Teams) on May 15, 2024. Notices of the workshop and an invitation for comments were posted the Nevada Division of Environmental Protection (NDEP) buildings in Carson City and Las Vegas, the NDEP website, the Legislative Council Bureau's website, and the official State website. The workshop notice was also emailed to an extensive distribution list of certified environmental managers maintained by NDEP's Bureau of Corrective Actions. A summary of the workshop will be posted on the SEC website at <http://sec.nv.gov/meetings> once the petition has been added to a meeting agenda. During the presentation, NDEP noted that no "direct and significant economic burden" was identified. The workshop included time for public comments, and gave contact information for submitting comments through May 22, 2024 at 5:00 PM PDT. No comments were received during or following the workshop.

2. The manner in which the analysis was conducted (if an impact was determined).

The agency determined that small business would not be impacted (see Small Business Impact Disclosure #1 and #2).

3. The estimated economic effect of the proposed regulation on small businesses:

Not applicable (see Small Business Impact Statement #1).

a. Both adverse and beneficial effects:

Not applicable (see Small Business Impact Statement #1).

b. Both direct and indirect effects:

Not applicable (see Small Business Impact Statement #1).

4. 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 the methods. (Include a discussion of any considerations of the methods listed below.)

Not applicable (see Small Business Impact Statement #1).

A. Simplification of the proposed regulation:

Not applicable (see Small Business Impact Statement #1).

B. Establishment of different standards of compliance for a small business:

Not applicable (see Small Business Impact Statement #1).

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine:

Not applicable (see Small Business Impact Statement #1).

5. The estimated cost to the agency for enforcement of the proposed regulation. (Include a discussion of the methods used to estimate those costs.)

The proposed regulation language clarifies existing authority and practice and is not expected to significantly impact agency workload or incur additional cost.

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

There is no fee associated with the existing regulation nor the proposed language change.

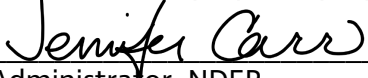
7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why such duplicative or more stringent provisions are necessary.

The proposed language change is to existing regulations and will maintain compliance and consistency with federal regulations. Where federal authority is delegated to the state, NDEP may not adopt criteria less stringent than federal criteria.

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

The proposed language change does not include any new provisions or impose fees, licensing requirements, or new reporting and assessment procedures. It simply removes references to outdated regulations and guidance and clarifies that NDEP adopts current EPA regulations and guidance for establishing action levels at sites with soil and/or groundwater contamination. NDEP did not identify any quantifiable or significant economic impact on small businesses.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and the information contained in this statement was prepared properly and is accurate.



Administrator, NDEP

6/14/2024

Date

Supporting Documents



Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R156-24

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

AUTHORITY: § 1, NRS 679B.130, 694C.170 and 694C.240.

A REGULATION relating to insurance; revising provisions relating to information submitted with an application for licensure of captive insurers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a captive insurer applying for or renewing a license to transact insurance in this State to include its business plan with its application and to file a copy of an updated business plan with the Commissioner of Insurance when changes are made to the plan. (NRS 694C.240) Existing regulations prohibit a captive insurer from making any material change in the nature of its business plan from that stated in its plan filed with the Commissioner without prior approval of the Commissioner. (NAC 694C.270) Existing regulations also require that any change in information filed with an application for or renewal of a license of a captive insurer, other than a change to its business plan, be submitted to the Commissioner as soon as practicable. (NAC 694C.270) This regulation: (1) revises what constitutes a material change for a captive insurer other than a state-chartered risk retention group; and (2) maintains what constitutes a material change for a captive insurer who is a state-chartered risk retention group. This regulation also requires any change in information filed with an application for or renewal of a license of a captive insurer, other than a change to its business plan, to be submitted to the Commissioner within 60 days after the change rather than as soon as practicable.

Section 1. NAC 694C.270 is hereby amended to read as follows:

694C.270 1. A captive insurer shall not, without the prior approval of the Commissioner, make any material change in the nature of its business from that stated in its plan of operation filed with the Commissioner.

2. *For a captive insurer, other than a state-chartered risk retention group, a material change is any change in the nature of its business that increases the actuarially determined premium by 15 percent or more.*

3. *For a state-chartered risk retention group a material change includes, without limitation:*

- (a) The entry into any agreement to cede reinsurance;*
- (b) The entry into any agreement to assume reinsurance;*
- (c) The termination of an existing reinsurance treaty, except at its natural expiration as stated within the contract of reinsurance;*
- (d) The writing of a new line of business;*
- (e) The exit from an existing line of business;*
- (f) Any change to limits of coverage written; or*
- (g) The expansion into a new state of a state-chartered risk retention group.*

4. Any change in any other information filed with the application must be filed with the Commissioner ~~as soon as practicable,~~ *within 60 days after the change*, but does not require the prior approval of the Commissioner to make the change.

- ~~{3. As used in this section, “material change” includes, without limitation:~~
- ~~—(a) The entry into any agreement to cede reinsurance;~~
 - ~~—(b) The entry into any agreement to assume reinsurance;~~
 - ~~—(c) The termination of an existing reinsurance treaty, except at its natural expiration as stated within the contract of reinsurance;~~
 - ~~—(d) The writing of a new line of business;~~
 - ~~—(e) The exit from an existing line of business;~~

- ~~—(f) Any change to limits of coverage written by the captive insurer; or~~
- ~~—(g) The expansion into a new state of a state-chartered risk retention group.]~~

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066

LCB FILE NO. R156-24 – Captive Materiality

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter(s) 694C.

1. A clear and concise explanation of the need for the adopted regulation.

NAC 694C.270 currently requires prior approval of material changes in a captive insurer’s business plan. The current definition of “material change” in the code defines most business plan changes as material, while most changes made by Nevada domiciled captives have an immaterial impact on the captive’s financial position.

Most Nevada captives make changes to their coverages, deductibles and pooling arrangements each year. The vast majority of Nevada captives have December 31st year ends, which causes the Division of Insurance (“DOI”) (“Division”) to often receive over 50 business plan change requests during the last two weeks of December, with January 1st effective dates.

This regulation change will allow for carriers to move forward with changes that minimally impact the premiums of their policies, while still being required to submit their proposed business plan changes to the DOI within 60 days of the effective date of the change. This regulation allows the Division to still review and determine the appropriateness of all business plan changes, while providing a more user-friendly timeline for Nevada’s domiciled captives.

Further, the Division only has one staff position serving as a captive analyst, and this change allows for a much more efficient and realistic use of DOI staff time. This regulation change will also allow the DOI to regulate captive insurance in a similar fashion to the majority of other states that regulate captive insurers.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

- (a) A description of how public comment was solicited:

The Division’s Captive Insurance Section staff discussed the regulation and the possible impacts it could have on Nevada small businesses. The Division also sent out the proposed regulation and discussed the proposed regulation with the board of directors of the Nevada Captive Insurance Council (“NCIC”) during a meeting held on May 24, 2024. The board is made up of captive managers, actuaries, CPAs, third-party administrators and captive owners. The Division’s captive staff and the board members of the NCIC could not determine any impact this regulation would have on Nevada small business owners.

Public comment was also solicited by emailing the proposed regulation, notice of workshop, notice of intent to act upon the regulation, and small business impact statement to persons on the Division’s mailing list requesting notification of proposed regulations. The documents were also made available on the website of the Division,

<http://doi.nv.gov/>, the website of the Nevada Legislature, <http://www.leg.state.nv.us>, and the Nevada Public Notice website, <http://www.notice.nv.gov>. The documents were also emailed, or mailed where no email address was available, to the main library for each county in Nevada.

Public comment was also solicited at the workshop held on January 17, 2025, and at the hearing held on January 31, 2025. The public workshop and hearing took place virtually via Webex and in person at the Division's offices located at 1818 E. College Pkwy, Carson City, Nevada 89706 and 3300 W. Sahara Ave., Las Vegas, Nevada 89102.

(b) A summary of the public response:

There were no written public comments provided to the Division regarding R156-24. During the Workshop held on January 17, 2025, Renae Louis, CEO of Sotera Global Management, provided public comment on the proposed regulation and was supportive of it as written. No further public comments were provided at the Workshop or Hearing.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 2(b) above reflects the public comments and testimony that transpired with regard to regulation R156-24. A copy of said summary may be obtained by contacting regs@doi.nv.gov.

3. The number of persons who:

- (a) Attended the hearing: 14
- (b) Testified at the hearing: 1
- (c) Submitted to the agency written statements: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in part 3(b) and (c), as provided to the agency:

Testified at the hearing:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Nick Stosic	Nevada Division of Insurance	1818 E. College Pkwy., Ste. 103, Carson City, NV 89706	(775) 687-0758	nstosic@doi.nv.gov

5. A description of how comments were solicited from affected businesses, a summary of their responses, and an explanation of how other interested persons may obtain a copy of the summary.

(a) A description of how comments were solicited from affected businesses:

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description provided above in response to part 2(a).

- (b) A summary of the responses from affected businesses:

No written comments were received, and one favorable public comment was provided at the January 17, 2025 Workshop.

- (c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 5(b) above reflects the public comments and testimony that transpired with regard to regulation R156-24. A copy of said summary may be obtained by email request to regs@doi.nv.gov.

6. If after consideration of public comments, the regulation was adopted without changing any part of the proposed regulation, provide a summary of the reasons for adopting the regulation without change.

As there were no public comments received by the Division in opposition, no changes to the regulation were made or necessary.

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:

- (1) Both adverse and beneficial effects:

- i. Beneficial: This will allow captive insurers to spread out the reporting of changes in the nature of their business, which may help limit payroll and actuarial analysis costs.
- ii. Adverse: None

- (2) Both immediate and long-term effects:

- i. Immediate: This will allow captive insurers to spread out the reporting of changes in the nature of their business, which may help limit payroll and actuarial analysis costs.
- ii. Long-Term: This will allow captive insurers to spread out the reporting of changes in the nature of their business, which may help limit payroll and actuarial analysis costs.

- (b) The estimated economic effect of the adopted regulation on the public:

- (1) Both adverse and beneficial effects:

- i. Beneficial: None, as captive insurers are private insurers created to insure risks of the parent company. No impact on the public.
- ii. Adverse: None, as captive insurers are private insurers created to insure risks of the parent company. No impact on the public.

- (2) Both immediate and long-term effects:

- i. Immediate: None, as captive insurers are private insurers created to insure risks of the parent company. No impact on the public.
- ii. Long-Term: None, as captive insurers are private insurers created to insure risks of the parent company. No impact on the public.

8. The estimated cost to the agency for enforcement of the adopted regulation.

This regulation will reduce the cost for enforcement, as there will be a longer period for staff to review business plan changes.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This regulation will not overlap or duplicate regulations of any other state or government agencies

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

N/A

11. If the regulation establishes 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.

This regulation will not establish a new fee or increase an existing fee.

**STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE**

**Determination of Necessity of Small Business Impact Statement
NRS 233B.0608(1)**

Material Change in Captive Business Plan
LCB File No. R156-24

EFFECTIVE DATE OF REGULATION:
Upon filing with the Nevada Secretary of State

1. BACKGROUND.

NAC 694C.270 currently requires prior approval of material changes in a captive insurer's business plan. The current definition of "material change" defines most business plan changes as material, while the vast majority of changes proposed by Nevada domiciled captives have an immaterial impact on their financial position.

Most Nevada captives make changes to their coverages, deductibles and pooling arrangements each year. The majority of Nevada captives have December 31st year ends, which causes the Division of Insurance ("DOI") ("Division") to often receive over 50 business plan change requests during the last two weeks of December, seeking January 1st effective dates.

This proposed regulation will allow carriers to move forward with business plan changes that minimally impact their policy premiums, while still requiring captive insurers to submit their proposed changes to the DOI within 60 days of the effective date of the change. This regulation allows the Division to still review and determine the appropriateness of all business plan changes, while providing a more user-friendly timeline for Nevada's domiciled captives.

2. DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT. NRS 233B.0608(1).

The Division's Captive Insurance section staff discussed the regulation and the possible impacts it could have on Nevada small businesses. The Division also sent out the proposed regulation and discussed the proposed regulation with the board of directors of the Nevada Captive Insurance Council ("NCIC") during a meeting held on May 24, 2024. The board is made up of captive managers, actuaries, CPAs, third-party administrators and captive owners. The Division's captive staff and the board members of the NCIC could not determine any impact this regulation would have on Nevada small business owners.

3. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? NRS 233B.0608(1).

☒ NO

☐ YES

4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

The proposed regulation only impacts captive insurance companies that are domiciled in Nevada, by creating a standard of materiality where business plan changes can be made without first obtaining pre-approval from the Commissioner of Insurance. Captive insurers strictly cover the risks of their parent and affiliated companies and they do not sell insurance to the public. This proposed regulation would not impact Nevada insurance consumers or small businesses.

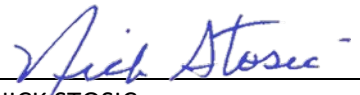
I, SCOTT J. KIPPER, Commissioner of Insurance for the State of Nevada, hereby certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate. (NRS 233B.0608(3))

SCOTT J. KIPPER
Commissioner of Insurance

12/26/24

(DATE)

By:



NICK STOSIC
Deputy Commissioner

STATE OF NEVADA

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

SCOTT J. KIPPER
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

MEMORANDUM

DATE: December 23, 2024

TO: Nick Stosic – Deputy Commissioner

FROM: Scott J. Kipper – Insurance Commissioner

SUBJECT: Delegation of Authority in the Commissioner's Absence

I hereby issue a Delegation of Authority for you to act on my behalf while I am out of the office from December 23rd to December 27th. You are empowered to exercise all authority necessary to handle matters coming before the Division of Insurance, unless otherwise delegated. This delegation can be superseded by an appointment of a new Commissioner or appointment of an acting Commissioner by Director of the Department of Business and Industry, Dr. Kristopher Sanchez.

A handwritten signature in blue ink, appearing to read "Scott J. Kipper", is written over a horizontal line.

SCOTT J. KIPPER
Commissioner of Insurance

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R157-24

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

AUTHORITY: § 1, NRS 679B.130 and 692A.090; § 2, NRS 679B.130, 692A.090, 692A.100 and 692A.103.

A REGULATION relating to title insurance; eliminating certain obsolete definitions; eliminating the requirement that an application to obtain a license as a title agent or escrow officer must include certain evidence of residency; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Commissioner of Insurance to provide by regulation for the licensing of title agents and escrow officers. (NRS 692A.100) **Section 2** of this regulation removes the requirement that an applicant for such a license submit evidence of bona fide residency in this State or residency not more than 50 miles from the border of this State. (NAC 692A.030) **Section 1** of this regulation makes a conforming change to remove the definition of “bona fide resident” for the purposes of this requirement and to remove certain obsolete definitions.

Section 1. NAC 692A.010 is hereby amended to read as follows:

692A.010 As used in this chapter, unless the context otherwise requires:

1. The words and terms defined in NRS 692A.015 to 692A.080, inclusive, have the meanings ascribed to them in those sections.
2. ~~“Bona fide resident” means a:~~
 - ~~—(a) Person who actually resides in this State with the intent that it be his or her domicile; or~~
 - ~~—(b) Firm or corporation which maintains its principal place of business in this State and whose articles of incorporation or partnership agreement authorizes it to do business in this State.~~
- ~~—3.~~ “Commissioner” means the Commissioner of Insurance.

~~{4.}~~ 3. “Division” means the Division of Insurance of the Department of Business and Industry.

~~{5. “Mortgage banker” has the meaning ascribed to it in NRS 645E.100.~~

~~—6. “Mortgage broker” has the meaning ascribed to it in NRS 645B.0127.}~~

Sec. 2. NAC 692A.030 is hereby amended to read as follows:

692A.030 1. A written application for a title agent’s or escrow officer’s license must be filed with the Commissioner by the person applying for the license, accompanied by all applicable fees. The application must include the following:

(a) The name of the person applying for a license.

(b) ~~{Evidence that he or she is a bona fide resident of this State or resides not more than 50 miles from the border of this State.~~

~~—(c)}~~ The name and address of each of his or her employers for at least 2 years immediately preceding the application.

~~{(d)}~~ (c) A description of his or her experience relating to title insurance or escrow and evidence of his or her knowledge of the laws of this State pertaining to insurance.

~~{(e)}~~ (d) A statement whether:

(1) The person is or was previously licensed to transact the business of insurance or to handle escrows, settlements or closings and, if so, where he or she was licensed and whether that license was ever suspended or revoked or the renewal or continuance of it refused;

(2) The person has ever been denied such a license; and

(3) The person has ever had a contract as an agent or escrow officer cancelled and, if so, the reasons for that cancellation.

~~Ⓜ~~ (e) Any other information reasonably required by the Commissioner to determine the person's qualifications for the license.

2. The application must be verified by the person applying for the license.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS

INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066

LCB FILE NO. R157-24 – Title Residency

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 692A.

1. A clear and concise explanation of the need for the adopted regulation.

The state law that currently bars nonresidents from obtaining a Nevada license was challenged by a resident of another state, and the Division’s research determined there are no required functions of a title agent or escrow officer that necessitates their being physically housed in this state.

In addition, an investigation of this law by Nevada Division of Insurance attorneys and the Nevada Attorney General’s office found that the residency requirement in NAC 692A.030 had no legal purpose and was an unnecessary barrier to licensure and was therefore unconstitutional. Therefore, the residency requirement needs to be repealed.

As for deleting the definitions of Mortgage banker and Mortgage broker, those terms are not used anywhere else in NAC chapter 692A and therefore the definitions serve no purpose remaining in the Nevada Administrative Code.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

- (a) A description of how public comment was solicited:

Public comment was solicited by emailing the proposed regulation, notice of workshop, notice of intent to act upon the regulation, and small business impact statement to persons on the Division’s mailing list requesting notification of proposed regulations. The documents were also made available on the website of the Division, <http://doi.nv.gov/>, the website of the Nevada Legislature, <http://www.leg.state.nv.us>, and the Nevada Public Notice website, <http://www.notices.nv.gov>. The documents were also emailed, or mailed where no email address was available, to the main library for each county in Nevada.

Public comment was also solicited at the workshop held on January 17, 2025, and at the hearing held on March 13, 2025. The public workshop and hearing took place virtually via Webex and in person at the Division’s offices located at 1818 E. College Pkwy, Carson City, Nevada 89706 and 3300 W. Sahara Ave., Las Vegas, Nevada 89102.

- (b) A summary of the public response:

Only one public comment was received. At the hearing on March 13, 2025, Sylvia Smith Turk from Core Title Group asked how the Division would regulate non-residents and if being a non-resident would need to be disclosed to the client. She also commented that she thinks passage of the regulation could be an unfair advantage for non-residents since they wouldn't have the

expense of a brick-and-mortar store in Nevada.

- (c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 2(b) above reflects the public comments and testimony that transpired with regard to regulation R157-24. A copy of said summary may be obtained by contacting regs@doi.nv.gov.

3. The number of persons who:

- (a) Attended the hearing: 9
(b) Testified at the hearing: 2
(c) Submitted to the agency written statements: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in part 3(b) and (c), as provided to the agency:

Testified at the hearing:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Jacob Roberts	Nevada Division of Insurance	1818 E. College Pkwy., Ste. 103, Carson City, NV 89706	(775) 687-0774	jroberts@doi.nv.gov
Sylvia Smith Turk	Core Title Group/ Nevada Title Assn	Reno, NV		

5. A description of how comments were solicited from affected businesses, a summary of their responses, and an explanation of how other interested persons may obtain a copy of the summary.

- (a) A description of how comments were solicited from affected businesses:

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description provided above in response to part 2(a).

- (b) A summary of the responses from affected businesses:

Only one response from an affected business was received. Please see the response to part 2(b) above.

- (c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 5(b) above reflects the public comments and testimony that transpired with regard to regulation R157-24. A copy of said summary may be obtained by email request to regs@doi.nv.gov.

6. If after consideration of public comments, the regulation was adopted without changing

any part of the proposed regulation, provide a summary of the reasons for adopting the regulation without change.

The Division considered each of the arguments provided by industry representatives who were opposed to various aspects of the proposed regulation. Ultimately, the Division chose to adopt the proposed regulation without any changes, for the reasons explained below.

(a) Response to the allegations regarding how the Division will regulate non-resident title agents and will residency need to be disclosed to the public: Regardless of residency, all licensed title agents and escrow officers are subject to the same laws and regulatory authority set forth in NRS 692A and NAC 692A.

Residency does not need to be disclosed to the public, but consumers can always verify the license status and residency of licensed title agents and escrow officers in Nevada by using the Division's "Verify a License" tool on the Division's website at: <https://di.nv.gov/ins/f?p=licensing:search>.

(b) Response to concerns regarding any unfair advantage for non-residents not having a brick-and-mortar location in Nevada: It is highly unlikely that a non-resident title agent or agency wouldn't want to have a physical location to work from in Nevada, neither can the Division favor resident licensees over non-resident licensees. Most importantly, given the current residency requirement has been found to be unconstitutional, there is no alternative but to allow non-residents to obtain a license if they qualify otherwise.

(c) Response regarding the justification for statutory authority: Some industry representatives have challenged the Division's statutory authority to issue this regulation. The Division holds that it has authority stemming from multiple statutes. The discussion below is not exhaustive, and other sources of statutory authority exist beyond those mentioned here:

When the residency requirement currently in NAC 692A.030(1) was challenged by a non-resident, an investigation of this law by Nevada Division of Insurance attorneys and the Nevada Attorney General's office found that the residency requirement in NAC 692A.030 had no legal purpose and was an unnecessary barrier to licensure and was therefore unconstitutional. This change in residency licensing requirements is supported by the April 10, 2008, decision of the 9th Circuit of the United States Court of Appeals in their decision in COUNCIL OF INSURANCE AGENTS & BROKERS and Rebecca Restrepo, Plaintiffs-Appellees, v. Alice A. MOLASKY-ARMAN, in her official capacity as Nevada Commissioner of Insurance, Defendant-Appellant.

See also NRS 679B.120 and NRS 692A.090.

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:

(1) Both adverse and beneficial effects:

i. Beneficial: Passage of these repeals would bring about no foreseen economic changes to the title industry in Nevada.

ii. Adverse: Passage of these repeals would bring about no foreseen economic changes to the title industry in Nevada.

(2) Both immediate and long-term effects:

i. Immediate: Negligible.

ii. Long-Term: Perhaps the Division will have a slight increase in applications for non-resident title agents/escrow officer licenses but being that this is a business that is more suited to a localized area, it is not anticipated that this will bring any substantial change to the industry.

(b) The estimated economic effect of the adopted regulation on the public:

(1) Both adverse and beneficial effects:

i. Beneficial: Perhaps having more non-resident title agents/escrow officers will allow for more price competition resulting in lower title insurance rates and fees.

ii. Adverse: No foreseeable adverse effects.

(2) Both immediate and long-term effects:

i. Immediate: Negligible.

ii. Long-Term: Perhaps a broader selection of title agencies for consumers to choose from.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no extra costs to enforce these changes.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

Escrow officers may be licensed through the Division of Insurance under NRS/NAC 692A as well as through the Division of Mortgage Lending under NRS/NAC 645A, however, NRS/NAC 645A have no requirements for an escrow officer to be a resident of Nevada. Repealing the residency requirement currently in NAC 692A.030 will bring the regulation in line with NRS/NAC 645A, creating more unity and consistency between the two agencies.

There is no overlap for title agents or any federal regulation.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

Does not apply – not more stringent than any federal regulation.

11. If the regulation establishes 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.

Does not apply – no new fees or increase in existing fees.

**STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE**

**Determination of Necessity of Small Business Impact Statement
NRS 233B.0608(1)**

REMOVING RESIDENCY REQUIREMENT FOR TITLE AGENTS AND ESCROW OFFICERS
LCB File No. R157-24

EFFECTIVE DATE OF REGULATION:
Upon filing with the Nevada Secretary of State

1. BACKGROUND.

The purpose in amending NAC 692A.010 and .030 is to remove the requirement for title agents and escrow officers to be a Nevada resident or to live within 50 miles of the state border. An investigation of this law by Nevada Division of Insurance attorneys and the Nevada Attorney General's office found that this requirement had no legal purpose and was an unnecessary barrier to licensure and was therefore unconstitutional. This change in residency licensing requirements is supported by the April 10, 2008, decision of the 9th Circuit of the United States Court of Appeals in their decision in COUNCIL OF INSURANCE AGENTS & BROKERS and Rebecca Restrepo, Plaintiffs-Appellees, v. Alice A. MOLASKY-ARMAN, in her official capacity as Nevada Commissioner of Insurance, Defendant-Appellant.

2. DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT. NRS 233B.0608(1).

This regulation was vetted by members of the Nevada Division of Insurance Licensing Section staff, and it was determined that removing the current residency requirement does not impact Nevada small businesses. The Division staff contacted both the Immediate Past President and the Government Affairs liaison of the Nevada Land Title Association about the proposed regulation language.

3. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? NRS 233B.0608(1).

☒ NO ☐ YES

4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

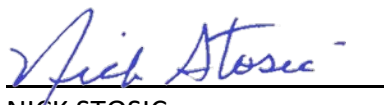
The repeal of the residency requirement does not impose more regulation on title agents and escrow officers, nor does it create or prevent an increase in the title business since title and

escrow needs are driven by the demand of the market, not the number of individuals licensed. Nevada small businesses will not be negatively impacted by this regulation as it does not create any new fees or taxes nor place an additional administrative burden on them.

I, SCOTT J. KIPPER, Commissioner of Insurance for the State of Nevada, hereby 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 this statement is accurate. (NRS 233B.0608(3))

SCOTT J. KIPPER
Commissioner of Insurance

12/26/2024
(DATE)

By: 
NICK STOSIC
Deputy Commissioner
With Delegation of Authority

STATE OF NEVADA

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

SCOTT J. KIPPER
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

MEMORANDUM

DATE: December 23, 2024

TO: Nick Stosic – Deputy Commissioner

FROM: Scott J. Kipper – Insurance Commissioner

SUBJECT: Delegation of Authority in the Commissioner's Absence

I hereby issue a Delegation of Authority for you to act on my behalf while I am out of the office from December 23rd to December 27th. You are empowered to exercise all authority necessary to handle matters coming before the Division of Insurance, unless otherwise delegated. This delegation can be superseded by an appointment of a new Commissioner or appointment of an acting Commissioner by Director of the Department of Business and Industry, Dr. Kristopher Sanchez.

A handwritten signature in blue ink, appearing to read "Scott J. Kipper", is written over a horizontal line.

SCOTT J. KIPPER
Commissioner of Insurance

**ADOPTED REGULATION OF THE
HUMAN RESOURCES COMMISSION**

LCB File No. R172-24

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

AUTHORITY: § 1, NRS 284.065; § 2, NRS 284.065 and 284.155.

A REGULATION relating to human resources; making an employee of the Executive Department of the State Government who is receiving benefits for a temporary total disability ineligible to take paid family leave; clarifying that a seasonal layoff does not constitute a break in continuous service if an employee is reemployed in a seasonal or permanent position within a prescribed time period; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Human Resources Commission in the Division of Human Resource Management of the Department of Administration to adopt regulations to carry out the provisions relating to the State Human Resources System. (NRS 284.065) Existing law provides that certain employees of the Executive Department of the State Government are entitled to take paid family leave for certain purposes. (NRS 284.356) **Section 1** of this regulation makes an employee who is receiving benefits for a temporary total disability ineligible to take paid family leave.

Existing law requires the Human Resources Commission to adopt a code of regulations for the classified service. (NRS 284.155) Existing regulations make the receipt of certain benefits by an employee contingent upon the amount of continuous service completed by an employee. (NAC 284.446, 284.5395, 284.5405, 284.541) Existing regulations define “continuous service” to mean service which is not broken by a separation. (NAC 284.0525) Existing regulations provide that a seasonal layoff does not constitute a break in continuous service if the employee is reemployed within 1 year after the end of the previous seasonal appointment. (NAC 284.598) **Section 2** of this regulation clarifies that, for a seasonal layoff to not constitute a break in continuous service, an employee must be reemployed in a seasonal or permanent position within 1 year after the end of the previous seasonal appointment.

Section 1. NAC 284.5775 is hereby amended to read as follows:

284.5775 1. An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS *is not eligible for paid family leave pursuant to NRS 284.356. Such an employee* may:

(a) Elect to receive payment for all or part of the difference between his or her normal pay and the benefits received by:

- (1) Using his or her accrued sick leave as provided in subsection 1 or 3 of NRS 281.390;
- (2) Using his or her accrued compensatory time;
- (3) Using his or her accrued annual leave if he or she:

(I) Is on family and medical leave for a serious health condition that prevents him or her from performing one or more of the essential functions of his or her position; or

(II) Elected to use his or her accrued sick leave pursuant to NRS 281.390 and has exhausted all of his or her accrued sick leave; or

(4) Using catastrophic leave if he or she has exhausted all of his or her accrued annual leave, sick leave and compensatory time and his or her request for catastrophic leave has been approved pursuant to NAC 284.576; or

(b) Elect to be placed on leave of absence without pay in accordance with subsection 5 of NRS 281.390.

2. An employee who does not have enough paid leave to make up the difference between his or her normal pay and the benefits for a temporary total disability pursuant to paragraph (a) of subsection 1 must be placed on leave of absence without pay for the time he or she is receiving such benefits and the balance of time not covered by paid leave.

Sec. 2. NAC 284.598 is hereby amended to read as follows:

284.598 The following are not breaks in continuous service:

1. Military leave for active service if the person returns from leave within 90 calendar days after an honorable discharge from military service.
2. A layoff if the employee is reemployed within 1 year after the date he or she was laid off.
3. A seasonal layoff if the employee is reemployed *in a seasonal or permanent position* within 1 year after the end of the previous seasonal appointment.
4. A separation as a result of a permanent disability arising from a work-related injury or occupational disease, if the employee is reemployed within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R172-24

1. A clear and concise explanation of the need for the adopted regulation.

The amendments included in this LCB File are necessary because:

Sec. 1 (NAC 284.5775) – Paid family leave provides an employee with 50% of their regular wages and workers’ compensation temporary total disability benefits provide 66 2/3rd percent of an employee’s wages. If an employee was allowed to utilize both benefits at the same time, they would receive 116 2/3rd percent of their regular wage.

Sec. 2 (NAC 284.598) – It will prevent a seasonal employee from having a break in continuous service if they accept a permanent State position within one year after the end of their previous seasonal appointment. Current language penalizes employees moving from a seasonal to a permanent appointment as their continuous service date, leave progression date and pay progression date are reset. They also typically lose accrued sick leave and have their annual leave paid out.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

On November 8, 2024, copies of the proposed regulation amendments were sent by email to persons who were known to have an interest in the subject of proposed human resources regulation changes as well as any person who had specifically requested such notice via Listserv. These documents were also made available on the Division of Human Resource Management’s website, the Nevada Public Notice website, the Legislative Counsel Bureau’s website, and mailed to all county libraries in Nevada, and posted at the following locations:

Blasdel Building
209 E. Musser Street
Carson City, NV

Legislative Counsel Bureau
401 S. Carson Street
Carson City, NV

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

Nevada State Capitol Building
101 N. Carson Street
Carson City, NV

EICON Building
515 E. Musser Street
Carson City, NV

Eureka Building
7251 Amigo Street
Las Vegas, NV

A regulation workshop was conducted by the Division of Human Resource Management on June 14, 2024, and a public hearing was held by the Nevada Human Resource Commission on December 13, 2024.

There was discussion regarding the changes included in the LCB Draft of Proposed

Regulation R172-24 at the workshop.

At the public hearing, staff provided information regarding the intent and need for the regulation. No comments were received at the public hearing regarding the changes included in the LCB Draft of Proposed Regulation R172-24.

Written minutes and comments from the regulation workshop and public hearing can be obtained from the Division of Human Resource Management by contacting Michelle Garton at mgarton@admin.nv.gov.

3. **The number of persons who:**
 - (a) **Attended each hearing:** 29
 - (b) **Testified at each hearing:** 1
 - (c) **Submitted written comments:** 0
4. **Following is a list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3(b):**

Carrie Hughes, Supervisory Human Resources Analyst
State of Nevada
Department of Administration
Division of Human Resource Management
515 E. Musser Street, Suite 101
Carson City, NV 89701
(775) 684-0111
cphughes@admin.nv.gov

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were not solicited from businesses, as the regulation does not affect businesses. Comments were solicited from affected parties including employees and employee associations. Written minutes and comments from the workshop and public hearing can be obtained as instructed in the response to question #2.

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

There was no opposition to the regulation at the Human Resources Commission hearing.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**
 - (a) **Both adverse and beneficial effects; and**
 - (b) **Both immediate and long-term effects.**

There are no adverse or beneficial effects on regulated business and the public. There are no immediate or long-term effects on business and the public.

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

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

9. A description of any regulations of other State or governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This regulation does not overlap or duplicate any State or federal regulations.

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The regulation does not include any provisions that are covered by any federal regulations.

11. If the 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.

No fees are associated with this regulation.

Joe Lombardo
Governor



Joy Grimmer
Director

Bob Ragar
Deputy Director

Bachera Washington
Administrator

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
515 E. Musser Street, Suite 101 | Carson City, Nevada 89701
Phone: (775) 684-0150 | <http://hr.nv.gov> | Fax: (775) 687-9085

Regulation Small Business Impact Statement

Section 15 of Article 15 of the Nevada Constitution requires the Legislature to provide for a State merit system governing the employment of employees in the Executive Branch of State government and in 1969 the Legislature provided for such in NRS 284. Additionally, NRS 284.013 provides limitations to which employees of the Executive Branch are covered by NRS 284. NRS 284.065 authorizes the Human Resources Commission to adopt regulations to carry out the provisions of this chapter.

Due to the limitations of the Nevada State Constitution and NRS 284, the Division of Human Resource Management staff has determined that the adoption of this proposed regulation does not affect small businesses, impose a significant economic burden on small businesses, nor will it restrict the formation, operation or expansion of small business. This regulation only impacts employees moving into the nonclassified, classified, or unclassified service of the Executive Branch.

A concerted effort was made to determine any economic burden. The Department has relied on the expert knowledge of Department staff. The regulation solely addresses pay for government employees so the impact is solely on government employees and agencies and no small business will be affected.

I 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 business and that the information contained in this statement was prepared properly and is accurate.

Bachera Washington
Bachera Washington, Administrator

November 8, 2024

Date

**ADOPTED REGULATION OF THE
STATE CONSERVATION COMMISSION**

LCB File No. R176-24

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

AUTHORITY: §§ 1-6, NRS 548.160 and 548.178.

A REGULATION relating to conservation; requiring the State Conservation Commission in the State Department of Conservation and Natural Resources to administer a competitive grant program for projects that enhance, protect or conserve renewable natural resources; providing requirements for applications to receive a grant and the review of such applications; authorizing the Commission to appoint a technical committee; creating requirements for the distribution and expenditure of grant money; making certain reporting requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Conservation Commission in the State Department of Conservation and Natural Resources to: (1) establish a competitive grant program from money appropriated by the Legislature for conservation districts; and (2) distribute money to conservation districts unequally if certain conditions are satisfied. (NRS 548.178) **Section 2** of this regulation requires the Commission to administer a competitive grant program to award grants in unequal amounts to conservation districts for projects that enhance, protect or conserve renewable natural resources. **Section 2** additionally provides the requirements a conservation district must satisfy to apply for a grant. **Section 3** of this regulation sets forth the requirements for an application to receive a grant. **Section 4** of this regulation: (1) provides the procedures used by the Commission to review an application for a grant; and (2) authorizes the Commission to appoint a technical committee to review applications for grants and advise the Commission on the application. **Section 5** of this regulation sets forth the requirements for the distribution and expenditure of grants of money. **Section 6** of this regulation requires the recipient of a grant to: (1) submit a report to the Conservation Districts Program in the Department that satisfies certain requirements; and (2) enter into a grant award agreement with the Program to receive the grant of money.

Section 1. Chapter 548 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. 1. In accordance with the provisions of sections 2 to 6, inclusive, of this regulation, the Commission will administer the Renewable Natural Resource Competitive Grant Program for the purpose of awarding grants of money to qualifying conservation districts for projects that enhance, protect or conserve renewable natural resources in the conservation districts. Grants of money may be awarded to qualifying conservation districts in unequal amounts.

2. The Renewable Natural Resource Competitive Grant Program will be funded by money appropriated by the Legislature to the Grant Program and any additional money obtained from other sources which is specifically intended for projects that enhance, protect or conserve renewable natural resources in the conservation districts.

3. The Commission will provide advance notice of the availability of a grant from the Renewable Natural Resource Competitive Grant Program. The notice must specify the deadline for the submission of an application for a grant of money.

4. An application for a grant of money may be submitted only by a conservation district that:

(a) Is in good standing as set forth in NAC 548.110 and eligible to receive a grant of money pursuant to NAC 548.115;

(b) Has demonstrated past ability to complete similar projects in a reasonable manner; and

(c) Has adequate resources to track a grant project and administer the grant money.

5. The Commission has the final authority in all matters relating to the Renewable Natural Resource Competitive Grant Program set forth in sections 2 to 6, inclusive, of this regulation.

Sec. 3. 1. *An application for a grant of money from the Renewable Natural Resource Competitive Grant Program:*

(a) Must be submitted on a form prescribed by the Commission.

(b) Will only be accepted by the Commission within the application period. Any applications received after the deadline specified in the notice provided pursuant to section 2 of this regulation will not be considered.

(c) Must include, without limitation:

(1) A budget for the use of grant money;

(2) The goals for the project; and

(3) The proposed frequency and specificity of the monitoring reports required pursuant to section 6 of this regulation for the project.

2. The Commission will accept more than one application for a grant of money from an eligible applicant. If an applicant submits more than one application, the applications must be ranked by the applicant in order of importance at the time the applicant submits the applications.

3. There is no limit on the amount of grants of money that may be requested by each applicant, but the amount of money awarded to each applicant is solely within the discretion of the Commission.

Sec. 4. 1. *The Commission may appoint a technical committee of not less than two but not more than five experts in the field of renewable natural resources. If appointed, the technical committee serves at the pleasure of the Commission.*

2. In reviewing an application for a grant of money from the Renewable Natural Resource Competitive Grant Program, the Commission will:

(a) Rank each application received in order of priority for awarding grants. A matching contribution is not required to apply for a grant, but applications that include a matching contribution, including, without limitation, cash or in-kind matches, will receive a higher ranking by the Commission.

(b) Submit each application to the technical committee, if appointed pursuant to subsection 1, or to another entity with expertise in matters pertaining to renewable natural resources selected by the Commission to review the application and advise the Commission as to whether the project will enhance, protect or conserve natural resources in the conservation district.

(c) After considering any advice provided pursuant to paragraph (b), determine whether the project will enhance, protect or conserve natural resources in the conservation district.

(d) Consider only applications for projects that:

(1) Have been determined by the Commission pursuant to paragraph (c) to enhance, protect or conserve natural resources in the conservation district; and

(2) Can be implemented immediately upon approval by the Commission.

(e) Not consider an application for a grant that is determined by the Commission to be primarily for the purpose of acquiring equipment.

Sec. 5. 1. *Unless otherwise authorized by the Commission in an agreement to award a grant of money, grants of money will be disbursed as reimbursements. Grants of money may be disbursed in a lump sum or in installments at the discretion of the Commission.*

2. *A maximum of 15 percent of the total amount of the grant or grants of money awarded to a conservation district from the Renewable Natural Resource Competitive Grant Program in a fiscal year may be designated and used for administrative or indirect costs related to a*

project if the conservation district requested to use the grant of money for such costs in the budget included in the application for the grant of money.

3. A grant of money awarded by the Commission pursuant to sections 2 to 6, inclusive, of this regulation:

(a) Except as otherwise provided in paragraph (b), must be expended or obligated during the fiscal year in which it was awarded.

(b) If the Commission authorized the disbursement of the grant of money on a basis other than reimbursement, must be expended or obligated during the fiscal year in which it was disbursed.

(c) May not be committed for expenditure beyond the terms of the grant. Any amount of the grant of money which has not been committed for expenditure during the fiscal year or years for which the money was granted will be deducted from any grant awarded to the conservation district in a future year.

Sec. 6. *1. Unless otherwise required by the Commission, not later than 60 days after the completion of a project for which a grant of money has been approved pursuant to sections 2 to 6, inclusive, of this regulation, the conservation district that was awarded the grant shall submit a report to the Program. The report must be on a form prescribed by the Commission and must include, without limitation:*

(a) A complete accounting of all expenditures of the money received and of any matching money, payments in kind and donations, as applicable;

(b) An assessment of the accomplishments of the project based on the goals stated in the application for the grant of money; and

(c) Any other information that the Commission requires.

2. Failure to submit the report or assessment required pursuant to this section will be considered in future determinations conducted pursuant to NAC 548.115 of whether the conservation district is found in good standing and eligible to receive a grant of money from the Commission.

3. Each conservation district that is awarded a grant of money pursuant to sections 2 to 6, inclusive, of this regulation shall enter into an agreement with the Program for the award of the grant of money. The agreement must include, without limitation, a requirement that the conservation district submit regular monitoring reports regarding the project, as appropriate for the project. The frequency and specificity of the monitoring reports must be agreed upon by the Program and the conservation district before any grant of money will be distributed by the Commission to the conservation district.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066**

LCB File: R176-24

The following statement is submitted for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 548.

1. A clear and concise explanation of the need for the adopted regulation.

The regulation adds authority to the State Conservation Commission and Conservation District Program to award grants to eligible conservation districts in good standing for projects that enhance, protect, or conserve renewable natural resources within their boundaries.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

A public workshop was held in-person and virtually on June 25, 2024, to solicit public comment from interested parties. There were no participants during the public workshop.

A final adoption public hearing was held on January 21, 2025. Members of the public were invited to participate in-person and virtually in accordance with the Open Meeting Law. There was no public comment during the adoption hearing.

Additionally, copies of the proposed regulations, notice of workshop, and notice of intent to act upon regulations were posted to the Commission’s website, the Legislative Counsel Bureau website, and the public notice website. Notices and copies of the proposed regulations were also posted at public libraries, all locations where the Commission has an office, the Legislative Buildings, and the State Office Building in Las Vegas. The Commission also allowed the public to submit written comment, though no written comment was received.

3. The number of persons from the public who:

a. Attended each hearing:

7 people from the public attended the public hearing on January 21, 2025.

b. Testified at each hearing:

No one testified during the public hearing on January 21, 2025.

c. Submitted to the agency written comments:

No one submitted written comment.

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or

organization represented (if provided to the agency), for each person who testified at each hearing and submitted to the agency written statements.

The following is a list of names and contact information for all public persons who attended, testified or submitted written statements.

a. None

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

The State Conservation Commission and the Nevada Conservation Districts Program determined that there was no impact on small businesses, therefore comments were not solicited from small businesses.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Commission made changes in two places to the proposed regulation. The changes are not substantial changes to the subject matter and were changed to clarify the Commission's role in approving applications under this proposed language. The changes are noted below:

Change made to Section 4 (2) (b): word changed from "determine" to "advise"

(b) Submit each application to the technical committee, if appointed pursuant to subsection 1, or to another entity with expertise in matters pertaining to renewable natural resources selected by the Commission to review the application and ~~fdeterminef~~ advise whether the project will enhance, protect or conserve natural resources in the conservation district

Change made to Section 4 (2)(c) (1): word change from "pursuant to paragraph b" to "by the Commission"

(1) Have been determined ~~fpursuant to paragraph (b)f~~ by the Commission to enhance, protect or conserve natural resources in the conservation district; and

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulation and on the public. These must be stated separately, and each case must include:

- On business: The proposed regulation does not directly or indirectly impose an adverse effect on businesses. Beneficial direct or indirect business affects may include an increase in revenue for businesses which offer conservation services or products related to the enhancement and or conservation of renewable natural resources.
- On the public: The proposed regulation does not directly or indirectly impose an adverse effect on the public. The regulation benefits the public by creating opportunities for grant funding for local projects.

a. Both immediate and long-term effects.

- On business: The proposed regulation does not impose any long term adverse effects on businesses. Beneficial direct or indirect affects many include increased revenue for businesses which offer conservation services or products related to the enhancement and or conservation of renewable natural resource.
- On the public: The proposed regulation does not impose any long-term adverse effects on the public. The regulation benefits the public by creating grant funding and enhancement and or conservation of renewable natural resources.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no cost to the agency.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any existing regulation.

10. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

Not applicable.

11. If the 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.

Not applicable.



STATE OF NEVADA
STATE CONSERVATION COMMISSION



SMALL BUSINESS IMPACT STATEMENT AS
REQUIRED BY NRS 223B.0608

December 13, 2024

- 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.**

The Nevada Conservation District Program (NCDP) determined that the proposed language being considered does not impose a direct or significant economic burden upon a small business, or directly restrict the formation, operation, or expansion of a small business. Therefore, comments have not been solicited from small businesses, and no summary of their response is provided.

- 2. Describe the manner in which the analysis was conducted.**

NCDP did consider the potential impact of the regulation on small businesses. After careful examination, it was determined that this regulation would not affect small businesses in any significant way. As a result, NCDP logically concluded that no further analysis was necessary regarding the impact on small businesses.

- 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.**

The regulation does not impose an adverse or beneficial effect, or directly or indirectly affect small businesses.

- 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.**

NCDP concluded that the proposed regulation does not impact small businesses, therefore, there was no need for the agency to consider reducing the impact on small businesses.

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

There are not anticipated costs to NCDP.

- 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.**

The proposed regulation does not create a new fee or increase an existing fee.

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

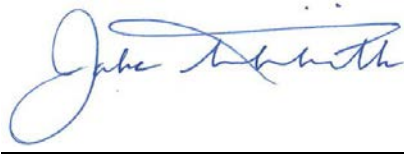
Not applicable.

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

NCDP concluded that there was no impact on small businesses with the adoption of these regulations.

I 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 within the statement was prepared properly and is accurate.

Respectfully,



Jake Tibbitts
State Conservation Commission Chairman
Nevada Department of Conservation and Natural Resources