

FORM #4

NEVADA STATE ENVIRONMENTAL COMMISSION
SMALL BUSINESS IMPACT DISCLOSURE PROCESS
PURSUANT TO 233B "Nevada Administrative Procedures Act"

RE: P2016-07. Amendments to NAC 459.9921 to NAC 459.999 inclusive, through adoption by reference of the provisions of 40 CFR 280.10 to 280.116 and 280.240 to 280.252, inclusive as they existed on July 15, 2015

By: Nevada Division of Environmental Protection (NDEP), Bureau of Corrective Actions

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 State Environmental Commission.

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

Part 1

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 and simply referred to; and if yes reference the small business impact statement as attached)*

ANSWER: No. There will be no added economic impacts to small businesses due to the NDEP's update to NAC 459.9921 through NAC 459.999 which reflect the update to the federal rules that were codified on July 15, 2015. 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 by NDEP. In fact, industry prefers that NDEP implement the federal rules; the NDEP has an active working relationship with industry and will implement the federal regulations in as effective and efficient manner as possible.

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 and simply referred to; and if yes reference the small business impact statement as attached)*

ANSWER: No. Nationally, small businesses and the rest of the affected industry have been subject to the standards of the 40CFR280 Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST) for over 30 years. The NDEP has experienced an increase in new service stations coming on line in both the urban and rural markets in recent years due to new and expanded business activity. While UST compliance standards require consideration in a business model, the NDEP strives to work with industry to encourage economic growth while meeting federally mandated standards.

3. If Yes to either of questions 1 & 2, the following action must be taken:

A. Was a small business impact statement prepared and was it available at the public workshop. *(yes or no, attach a copy of the statement or if a statement was not completed please explain)*

ANSWER: Yes. Although it was determined that the proposed regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business, a Small Business Impact Statement was prepared. It was made available in a series of public workshops conducted in Elko, Reno and Las Vegas, Nevada.

B. Attach the Small Business Impact Statement as part of Form #4 upon submission of the proposed regulation to the State Environmental Commission when Form #1 (petition to the Commission) is submitted.

ANSWER: Please see the attached document.

FORM #4
SMALL BUSINESS IMPACT STATEMENT
(NRS 233B.0609)
Part 2

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 small businesses.)*

Answer: Comment's were solicited and obtained by NDEP through three stake-holder meetings in Elko, Reno and Las Vegas on May 25, May 27 and June 1, respectively. Notices of the stakeholder meetings and an invitation for comments were posted in all county public libraries, the NDEP buildings in Carson City and Las Vegas, and to the NDEP website. Comments were also invited via e-mail and telephone. In general, comments received during these workshops focused on when the federal rules were going to go into effect, if and when inspectors needed to be on site for testing the containment systems and what would need to happen to waste water that was generated during containment system checks. The minutes will be posted under Program Administration under the title: Stakeholder Meeting Transcript - Notice to Solicit Comments on Proposed Underground Storage Tank and Certification Program Regulations Potential Small Business Impact: http://ndep.nv.gov/bca/ust_home.htm

2. The manner in which the analysis was conducted (if an impact was determined).

Answer: The agency determined that small businesses would not be impacted (*see* Part 1, #s 1 and 2); therefore, an analysis was not conducted. Notably, regardless of whether the NDEP adopts federal rules by reference into the state regulation, the regulated companies must abide by the federal standards. Because the agency determined that small businesses would not be impacted, questions 2-4 are not applicable (NRS 233B.0608).

3. The estimated economic effect of the proposed regulation on small businesses:
a. Both adverse and beneficial effects
b. Both direct and indirect effects

Answer: Not applicable (see Part 2, #2 above).

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses. *(Include a discussion of any considerations of the methods listed below.)*

- A. Simplification of the proposed regulation
- B. Establishment of different standards of compliance for a small business
- C. Modification of fees or other monetary interests that a small business is authorized to pay a lower fee.

Answer: Not applicable (see Part 2, #2 above).

5. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

Answer: There will be an incremental cost to the agency to implement the required federal

regulations, but this cost is built into the current grant funding provided by the USEPA to the Bureau of Corrective Actions to maintain the UST Compliance Program. No additional staff will be required to perform inspections, but the inspection time could last longer for current staff to determine if the new compliance requirements are being met at each gas station. The Bureau of Corrective Actions, UST Compliance Program currently inspects rural gas stations every two years, which is within the three year federal and state requirement. The Washoe County Health District is delegated responsibility by the State to inspect gas stations in Washoe County and the Southern Nevada Health District is delegated authority by the State to inspect gas stations in Clark County. The Washoe County Health District inspects their gas stations every two years and the Southern Nevada Health District inspects their gas stations annually. They both report to the State so the compliance status information can be consolidated for the entire State.

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.

Answer: The regulations do not address or require 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 the proposed regulation is duplicative or more stringent and why it is necessary.

Answer: The regulations are not duplicative of or more stringent than federal, state or local standards regulating the same activity.

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

Answer: The regulations update NAC 459.9921 to NAC 459.999 inclusive, to adopt applicable federal rules promulgated since the State regulation was last updated as of October 31, 2005. The update includes rulemakings under Title 40 of the Code of Federal Regulations Part 280, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)", related to the UST technical regulation in 40 CFR part 280 by:

- Adding secondary containment requirements for new and replaced tanks and piping
- Adding operator training requirements for UST system owners and operators
- Adding periodic operation and maintenance requirements for UST systems
- Removing certain deferrals
- Adding new release prevention and detection technologies
- Updating codes of practice
- Making editorial and technical corrections

The State of Nevada is approved through State Program Approval (SPA) to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 et seq. The state's program, as administered by the Nevada Division of Environmental Protection was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Nevada program on December 24, 1992 and it was effective March 30, 1993. The Final rule was codified on July 17, 1998. The proposed amendments update the State's "adoption by

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 an initial \$100 filing fee and a subsequent, bi-yearly renewal fee of \$100. The agency expects to collect an initial \$100 from approximately 15 training programs (\$1500) and \$1500 every-other-year thereafter. The monies will be deposited into the Certification Program budget account and used for staff support.


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 regulation is not duplicative of or more stringent than federal, state or local standards regulating the same activity.

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

The \$100 fee to apply to be certified as a provider of an approved UST training program and to be renewed every two years is voluntary and is only required if the business or individual wants to do this type of work in Nevada. The \$100 fee to become and remain eligible to provide an approved UST training program for underground storage tank operators in Nevada is considered a nominal fee to provide these services for a fee.

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 that the information contained in this statement is accurate *and was prepared properly.* DE



Administrator, NDEP

7/7/16
Date

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>

