

SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NRS 233B

ADOPTED REGULATION: R167-18

NEVADA DIVISION OF STATE LANDS

Note: A small business is defined as a “business conducted for profit which employs fewer than 150 full-time employees” (NRS233B.0382)

- 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.**

During the rule making process, agency staff reviewed and analyzed all legal entities within our database that would be impacted by the proposed regulations. The majority of the agency’s permittees throughout the state are private property owners or large commercial businesses along navigational waterways. The analysis revealed there are 18 commercial permit holders. Of these, the agency is aware of two small business concessionaires that operate in Lake Tahoe. Therefore, small business represents a very limited population potentially impacted by the adopted regulation.

From October 2017 to September 2018, NDSL conducted a robust outreach effort to solicit public comment, including from small businesses. NDSL hosted five public workshops and a public hearing. Two public workshops were held in southern Nevada and three in northern Nevada. NDSL individually notified permittees by U.S. mail, mailed notices for posting at libraries in all of Nevada’s 17 counties and five public buildings, and posted notice of public workshops online on NDSL’s website, the Legislative Counsel Bureau’s site, and the State of Nevada’s official site. NDSL advertised the most recent workshop held in September 2018 in newspapers with regional circulation. Through these methods, small businesses were encouraged to provide feedback on the proposed fee schedule.

NDSL received a written comment from one of the two concessionaires who operates marinas around Lake Tahoe. The State Land Registrar met with this business owner about how the updated fee schedule might affect him. The outcome of meeting with the business owner was that the impact of the updated fee schedule would be minimal; business owners have the capacity to adjust their operations to offset the proposed increase. With the high demand of boat mooring rental space around Lake Tahoe and waiting lists that expand one to two years out, the proposed increase would not be significant enough to impact their businesses.

In addition, the business owner noted that in order to have a successful business, you must know what expenses to expect. The State Land Registrar incorporated this comment into regulation by establishing a set fee for each permitted structure type. In addition, to minimize any economic effect, the State Land Registrar also reduced commercial use fees from the initial proposed regulation, phased-in the fee increase over a three-year period, and delayed the implementation

of the new schedule until July 1, 2019. Therefore, the changes to the adopted regulation further mitigate any economic effect to the limited number of small business owners.

Minutes of each public workshop and the public hearing capture the discussions held regarding the adopted regulation. These may be obtained from the Nevada Division of State Lands at 901 S. Stewart Street, Suite 5003, Carson City, Nevada 89701, or by contacting Brenda Swart, State Land Agent at (775) 684-2735, or email bswart@lands.nv.gov.

2. The manner in which the analysis was conducted:

As noted above, during the rule making process, agency staff reviewed and analyzed all legal entities within our database that would be impacted by the proposed regulations. The analysis revealed there are 18 commercial permit holders. Of these, the agency is aware of two small business concessionaires that operate in Lake Tahoe. Therefore, small business represents a very limited population potentially impacted by the adopted regulation.

Through the outreach effort to solicit public comment described above, NDSL received a written comment from one of the two concessionaires who operates marinas around Lake Tahoe. The State Land Registrar also met with this business owner about how the updated fee schedule might affect him.

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 effects:

NDSL recognizes there will be some economic effect to businesses who have piers, buoys and other structures that occupy public lands. The main reason for the effect is that the fee schedule had not been adjusted in twenty-five years and so was under-valued. The State Land Registrar consulted with business owners, such as marina owners, concessionaires and consultants, about how the updated fee schedule might affect them. As noted previously, the outcome was that the impact would be minimal; owners have the capacity to adjust their operations to offset the proposed increase. With the high demand of boat mooring rental space around the lake and waiting lists that expand one to two years out, the business owners felt that the proposed increase would not be significant enough to impact their businesses.

SB 512 mandates the additional funds collected from fees which exceed \$65,000 in any fiscal year be accounted for separately and used by the State Land Registrar to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin. This additional funding will support existing programs that provide substantial public benefits as well as benefits to businesses and littoral property owners that rely on and benefit from Lake Tahoe.

b) Direct and indirect effects:

Although small businesses will pay increased fees for piers, buoys and other structures that occupy public lands, they have the capacity to adjust their operations to offset the proposed increase. In addition, fees will be phased in over a three-year period and the implementation of the new fee schedule is delayed until July 1, 2019.

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 those methods:

In response to comments received from small business owners, the State Land Registrar considered methods to minimize the economic effect associated with the proposed fee schedule. The State Land Registrar reduced commercial use fees from the initial proposed regulation, phased-in the fee increase over a three-year period, and delayed the implementation of the new fee schedule until July 1, 2019. Therefore, the changes to the adopted regulation further mitigate any economic effect to the limited number of small business owners.

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

With the adopted regulation, NDSL does not expect to incur any additional enforcement costs.

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.

NRS 322.100 grants the State Land Registrar the authority to charge a fee for the issuance of a permit and other land use and occupancy authorizations. NRS 322.120 established the fees for the use of sovereign land. SB 512, Chapter 366, 79th Session 2017, authorized the review and establishment of a new fee schedule, recognizing fees are undervalued and require modification. A fee schedule was established for the use of sovereign land in 1993, and had not been adjusted in 25 years. On September 21, 2018, the State Land Registrar adopted an updated fee schedule after extensive research, in-house market evaluation, public input and an independent appraisal.

SB 512 requires that funds collected in excess of \$65,000 in any fiscal year must be accounted for separately and used by the State Land Registrar to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin. The State Land Registrar will stair step the adopted fee schedule over a period of 3 years. NDSL anticipates collecting \$425,950 during the third year of the fee increase. These funds will be used to carry out environmental improvement programs that will provide substantial benefits to businesses and the public that rely on and benefit from Lake Tahoe.

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.

This regulation addresses the occupancy and use of sovereign lands under navigable waters and the fees that are associated with that use. The proposed regulation does not overlap or duplicate any regulation of other state, local or federal governmental agencies.

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

The analysis determined that there would be no significant economic impacts to small businesses as a result of the adopted regulation. After an analysis of permittees in the agency's database, the agency is aware of two small business concessionaires that operate in Lake Tahoe, the Agency is unaware of any in Southern Nevada. Therefore, small business represents a very limited population potentially impacted by the adopted regulation. In addition, the outcome of meetings with business owners was that the impact of the updated fee schedule would be minimal; business owners have the capacity to adjust their operations to offset the proposed increase. Finally, the State Land Registrar reduced commercial use fees from the initial proposed regulation, phased-in the fee increase over a three-year period, and delayed the implementation of the new fee schedule until July 1, 2019. Therefore, these changes to the adopted regulation further mitigate any economic effect to the limited number of potentially affected small business owners.

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.



Charles Donohue
Administrator and State Land Registrar
Nevada Division of State Lands



Date