



## SMALL BUSINESS IMPACT STATEMENT

The Southern Nevada Health District (SNHD) staff will present before the District Board of Health a petition to adopt new Aquatic Facility regulations to replace the current *Regulations Governing Public Bathing Places Public Spas*, Nevada Administrative Code Chapter 444, sections 010 through 546, as adopted by the State Board of Health on January 16, 1996. This Small Business Impact Statement serves as an analysis to determine the impact the proposed regulations will have on small businesses, as defined in Nevada Revised Statute (NRS) 233B.0382:

**NRS 233B.0382 “Small business” defined.** “Small business” means a business conducted for profit which employs fewer than 150 full-time or part-time employees.

As required by NRS 233B.0609, this statement sets forth the following information:

1. The manner in which comment was solicited from affected small businesses:
  - a. Public Workshops regarding the Adoption of new Aquatic Facility Regulations will be held on September 27<sup>th</sup> and 29<sup>th</sup>, 2016 at the Southern Nevada Health District (SNHD) Public Health Center. The public notice for the proposed revision was duly advertised on the SNHD website and in the Las Vegas Review - Journal, which provided the date and time of the Public Hearing and Public Workshops. Along with the public notice posting on the SNHD website, a link to a SurveyMonkey survey was posted for small business representatives to complete. A transcript of the public workshops will also be made available following the workshops.
2. The manner in which the analysis was conducted:
  - a. Every section of the proposed regulation was analyzed by SNHD staff members who are knowledgeable about the subject matter of the regulations. Any sections of the regulation which would impose a direct and significant economic burden upon small business, or which would directly restrict the formation, operation or expansion of a small business was included in the analysis. Any input received from small businesses from the survey was reviewed and considered in the methods to reduce impact on small businesses.

3. The Estimated Economic Effect of the proposed regulations on the small businesses which it is to regulate, including, without limitation: both adverse and beneficial effects and both direct and indirect effects

Adverse Effects:

- All pedestrian doors around the INDOOR AQUATIC FACILITY perimeter shall be equipped with an automatic door closer capable of closing the door completely without human assistance against the specified difference in air pressure between the INDOOR AQUATIC FACILITY and other INTERIOR SPACES
- Depth markers shall also be located on the POOL coping or DECK within 18 inches of the POOL structural wall or perimeter gutter. Existing AQUATIC VENUES must meet this requirement within two (2) years from the adoption of these Regulations
- Depth markers shall be marked in units of feet and inches
- For POOL water depths five (5) feet (1.5 m) or less, all required DECK depth markers shall be provided with "NO DIVING" warning signs along with the universal international symbol for "NO DIVING." Existing AQUATIC VENUES must meet this requirement within two (2) years from the implementation of these Regulations
- "NO DIVING" warning signs and symbols shall be spaced at no more than 25 foot intervals around the POOL perimeter edge
- Artificial lighting shall be provided at all AQUATIC VENUES
- Suction and supply POOL piping shall be subjected to a static hydraulic water pressure test for the duration specified by an engineer and/or the HEALTH AUTHORITY
- All pumps, except those for vacuum filter installations, shall have a strainer/screen device on the suction side to protect the filtration and pumping equipment and a spare strainer basket must be present for each pump
- All gauges shall be equipped with valves to allow for servicing under operating conditions
- A flow meter accurate to within +/- 5 percent of the actual design flow shall be provided for each filtration system. When a VFD is in use a flow meter must be accurate to within +/- 2 percent
- All pumps shall be installed with a manual adjustable discharge valve to provide a backup means of flow control as well as for system isolation
- The system flow rate shall not be reduced more than 50 percent lower than the minimum design requirements and only reduced when the AQUATIC VENUE is closed

- One complete set of spare cartridges shall be maintained on site in a clean and dry condition
- A physical BARRIER shall be installed between chemical feed pumps supplying acid or liquid hypochlorite solution and other POOL components to shield staff and equipment from chemical sprays and leaking connections
- The new construction or SUBSTANTIAL ALTERATION of the following INCREASED RISK AQUATIC VENUES shall be required to use a SECONDARY DISINFECTION SYSTEM after adoption of these Regulations
- Where provided, permanently installed chairs/stands, where LIFEGUARDS can be exposed to UV radiation, shall include protection from such UV radiation exposure
- EQUIPMENT ROOMS or areas shall be lighted to provide 30 FOOT CANDLES (323 lux) of illumination at floor level
- A water-resistant, easily read, wall-mounted piping diagram shall be furnished and installed inside the EQUIPMENT ROOM
- Combustion equipment, air-handling equipment, and electrical equipment shall not be exposed to air contaminated with corrosive chemical vapors
- Doors between an EQUIPMENT ROOM and an INDOOR AQUATIC FACILITY shall be equipped with an automatic closer. The door, frame, and automatic closer shall be installed and maintained to ensure that the door closes completely, latches, and locks without human assistance
- Equipment may be installed in an outdoor ENCLOSURE provided the following conditions are met:
  - (a) Equipment must be securely installed on level concrete pads.
  - (b) Exposed plumbing must be protected from UV.
  - (c) Overhead UV protection must be provided.
  - (d) Unpaved areas within the ENCLOSURE shall be graded to allow for proper drainage with suitable ground cover to prevent the generation of mud in areas between equipment
- Equipment installed below grade shall be equipped with stairs and an associated handrail that meets applicable building code standards
- At least one space dedicated to CHEMICAL STORAGE SPACE shall be provided to allow safe STORAGE of the chemicals present
- Exterior CHEMICAL STORAGE SPACES shall be equipped with overhead UV protection
- CLEANSING SHOWERS (when required) shall be supplied with soap and a soap dispenser adjacent to the SHOWER
- A minimum of four (4) showerheads per 50 feet of beach entry AQUATIC VENUES shall be provided as a RINSE SHOWER located not more than 30 feet from the AQUATIC VENUE or queuing area

- A minimum of one RINSE SHOWER shall be provided at each entrance to a LAZY RIVER AQUATIC VENUE
- A minimum of one RINSE SHOWER shall be provided at each entrance to a WATERSLIDE queue line
- In female HYGIENE FACILITIES, covered receptacles adjacent to each toilet shall be provided for disposal of used feminine hygiene products
- Wastewater from an AQUATIC VENUE, including filter backwash water, shall be discharged indirectly, via a sump pit through an air-gap, to a sanitary sewer system having sufficient capacity to collect and treat wastewater
- (Party Pool) A QUALIFIED OPERATOR must be present during all hours of operation
- Water samples (for a natural bathing place) shall be submitted to a state-licensed laboratory each week. Such samples must meet the following criteria: E. coli at a geometric of 126 CFU per 100 mL and an STV (single test value) of 410 CFU per 100 mL measured using EPA Method 1603, or any other equivalent method that measures E. coli
- Signage must be posted in the immediate vicinity (of a deluge shower) declaring that the SHOWER utilizes re-circulated water
- A written comprehensive preventive maintenance plan for each AQUATIC VENUE shall be available at the AQUATIC FACILITY
- A comprehensive inventory of all mechanical equipment associated with each AQUATIC VENUE shall be available at the AQUATIC FACILITY.
- All components of the filtration and RECIRCULATION SYSTEMS shall be kept in continuous operation 24 hours per day.
- Cyanuric Acid (CYA) or stabilized CHLORINE products shall not be used at the following for all new construction, SUBSTANTIAL ALTERATION, or DISINFECTION equipment replacements after the effective date of these Regulations:
  - SPAS; and
  - THERAPY POOLS.
- Stabilized CHLORINE products shall be prohibited from use on all AQUATIC VENUES five years after the effective date of these Regulations
- An AUTOMATED CONTROLLER shall be required within one year from time of adoption of these Regulations for INCREASED RISK AQUATIC VENUES, within three years for SPAS, and within five years for all other AQUATIC VENUES
- FAC or bromine, and PH shall be tested at all AQUATIC VENUES prior to opening each day or at least once every 24 hours at evenly spaced intervals when the AQUATIC VENUE remains open 24 hours a day.
- For all AQUATIC VENUES not associated with residential living units, the

FAC (or bromine) and PH shall be tested prior to opening and every four (4) hours while accessible to BATHERS

- Total Alkalinity (TA) and combined available chlorine shall be tested weekly at all AQUATIC VENUES.
- CYA shall be tested monthly at all AQUATIC VENUES utilizing CYA.
- If AQUATIC VENUES utilize stabilized CHLORINE as its primary disinfectant, the operator shall test CYA every week.
- Where provided, permanently installed chairs/stands, where LIFEGUARDS can be exposed to ultraviolet radiation, shall include protection from such ultraviolet radiation exposure.
- Water quality and water clarity must be tested poolside at least once every hour when open for use (party pools)
- Water samples shall be submitted to a state-licensed laboratory each week. Such samples must meet the following criteria: E. coli at a geometric of 126 CFU per 100 mL and an STV (single test value) of 410 CFU per 100 mL measured using EPA Method 1603, or any other equivalent method that measures E. coli (natural bathing places)
- All QUALIFIED OPERATORS currently registered with the HEALTH AUTHORITY shall obtain proof of national certification from a recognized testing entity at the time of their registration renewal within three years from the adoption of these Regulations. Registrations will expire in conjunction with the national certification date and must be renewed prior to expiration.
- QUALIFIED OPERATORS SHALL MONITOR THE POOL WEEKLY during the off season, a minimum of three (3) times per week during the peak season, or more as necessary to maintain compliance with these Regulations.
- All AQUATIC FACILITIES without a full time on-site QUALIFIED OPERATOR shall have a designated on-site RESPONSIBLE PERSON.
- Any POOL ENCLOSURE with a cumulative unsupervised POOL surface area of 4000 square feet or more (lifeguard requirements)
- All AQUATIC FACILITIES shall create and implement a SAFETY PLAN to include, but not be limited to the following elements:
  - Staffing Plan,
  - EMERGENCY ACTION PLAN,
  - Biohazard action plan,
  - Pre-Service Training Plan, and
  - In-service Training Plan
- AQUATIC FACILITIES that are required to have two or more LIFEGUARDS per the Lifeguard Staffing Plan's zone of BATHER surveillance responsibility in Section 4-303.2 shall have at least one PERSON located at the AQUATIC FACILITY during operation designated as the LIFEGUARD SUPERVISOR who meets the requirement of Section 4-202

- AQUATIC FACILITIES with required LIFEGUARD staff shall create and maintain an operating procedure manual containing information on the emergency response and communications plan including an EAP, Facility Evacuation Plan, and Inclement Weather Plan
- A written Facility Evacuation Plan shall be developed and maintained for the AQUATIC FACILITY
- Each AQUATIC FACILITY shall develop an operations manual to keep at the AQUATIC FACILITY in either a printed or electronic format that is readily available for review during inspection
- AQUATIC FACILITIES shall keep records pertaining to the operation, maintenance, and management of the AQUATIC FACILITY.
- The QUALIFIED OPERATOR or RESPONSIBLE PERSON shall ensure a daily AQUATIC FACILITY preventive maintenance inspection is done before opening
- A Body Fluid Contamination Response Log shall be maintained to document each occurrence of contamination of the water or its immediately adjacent areas by formed or diarrheal fecal material, whole stomach discharge of vomit, and blood
- All AQUATIC FACILITIES shall have a CONTAMINATION RESPONSE PLAN within the EAP for responding to formed-stool contamination, diarrheal-stool contamination, vomit contamination, and contamination involving blood
- In the event of a fecal, vomit, or blood contamination incident, the AQUATIC FACILITY shall follow the most recent response guidelines from the CDC, *Healthy Swimming Fecal Incident Response Recommendations for Aquatic Staff*.
  - AQUATIC VENUE water that contains CYA or stabilized CHLORINE at concentrations greater than 15 PPM cannot be effectively treated to properly eliminate pathogen introduction from a diarrheal release in an AQUATIC VENUE.
  - The CYA or stabilized CHLORINE must first be lowered to 15 PPM or less before the AQUATIC VENUE can be treated with hyperchlorination.
  - An AQUATIC VENUE that is unable to lower the concentration of CYA or stabilized CHLORINE must be drained and the recirculation flushed following a diarrheal release
- Party Pools and Spas
  - Certified Emergency Medical Technicians (EMTs) must be onsite at all times during events at Party Pools and Spas.
  - Onsite security by one or more persons with a physical presence must be provided at each AQUATIC VENUE during an event.
  - Increased LIFEGUARD coverage is required at each AQUATIC VENUE during POOL party operations.

- A specialized LIFEGUARD coverage and communication plan must be submitted and APPROVED prior to operation for all new PARTY POOL venues.
- Existing venues that conduct POOL parties shall have APPROVED plans in place prior to resuming operations for the next season of operation following the adoption of these regulations.
- If construction has not been initiated within one (1) calendar year from the date of plan APPROVAL or if construction halts for one (1) calendar year, the PERMIT may be deleted and require the resubmission of plans and PERMIT application with associated fees prior to resuming construction.
- Unless a QUALIFIED OPERATOR is available onsite all day, keys must be provided to allow access the POOL, pump room, restrooms, SHOWER, and any other related areas.

Beneficial Affects:

- Facilities associated with lodging units will only be required to provide rinse showers, instead of both rinse and cleansing showers. A rinse shower is not required to provide hot water or soap for the bathers, which eliminates the need for heating units for showers at many facilities.
  - The waiver process outlined in the proposed regulation may eliminate the need for applying for a variance if a permit holder wishes to deviate from the regulation.
  - The proposed regulation allows applicants to submit fewer copies - and electronic copies - of plans with new construction and substantial alteration applications, which will reduce the costs of application submittal.
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:
- a. If the requirement for installation of automated controllers is included in the regulation, the division has discussed modifying a fee set forth in the Environmental Health Fee Schedule by waiving the remodel fee for all facilities making this change.
  - b. The division has discussed establishing different standards of compliance by extending timeframes for specific requirements set forth in the proposed regulation, such as an extended timeframe for the installation of automated controllers and an extended timeframe for prohibiting use of

stabilized chlorine products, as described in section 3 of this statement.

5. The estimated cost to the agency for enforcement of the proposed regulation:
  - a. The estimated cost to the district is approximately \$8,000 of staff time, due to the division conducting industry training sessions with contractors and builders, facility managers, management companies, and pool operators.
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:
  - a. No new fees are set forth in the proposed regulation.
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:
  - a. Nevada Revised Statute (NRS) 439.200(1) states that "The State Board of Health may by affirmative vote of a majority of its members adopt, amend and enforce reasonable regulations consistent with law." NRS 439.200(2) states that:

"Except as otherwise provided in [NRS 444.650](#), those regulations have the effect of law and supersede all local ordinances and regulations inconsistent therewith, except those local ordinances and regulations which are more stringent than the regulations provided for in this section."

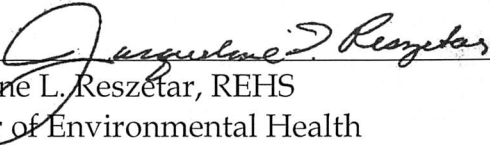
The proposed regulation, which replaces NAC 444.010-546, will be a local regulation and therefore will be more stringent than the regulation it supersedes.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses:
  - a. The proposed regulation was thoroughly examined, and any changes included in the regulation which would impose a direct and significant economic burden upon small business, or which would directly restrict the formation, operation or expansion of a small business was included in the analysis. The division solicited responses from small businesses through a survey posted alongside the public notice for the public workshops. The division also solicited industry feedback during the



regulation writing process in 2015 through industry workgroup meetings. Any feedback provided from industry was considered during the preparation of this impact statement.

I, Jacqueline L. Reszetar, certify that, to the best of my knowledge or belief, the information contained in the statement was prepared properly and is accurate:

  
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Jacqueline L. Reszetar, REHS  
Director of Environmental Health

9-12-16  
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Date