FILED
SEP 18 2017
SECRETARY OF STATE

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING
OCTOBER 26, 2017 at 9:00 AM CT
State Office Building, Lower Level Conf. Room C
301 Centennial Mall South, Lincoln, NE

The Department of Health and Human Services (DHHS) Division of Public Health is holding this hearing to accept comments on proposed changes to regulations related to the Control of Radiation. These regulations are found in Title 180, Chapters 1, 3, 13, and 24 of the Nebraska Administrative Code (NAC). The U.S. Nuclear Regulatory Commission requires Nebraska's regulations to be compatible with their regulatory program as a condition of their continued relinquishment of regulatory authority for radioactive sources to the State of Nebraska. The majority of the proposed changes within the regulations reflect requirements by the U.S. Nuclear Regulatory Commission.

Authority for these regulations is found in Neb. Rev. Stat. 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively. A copy of the proposed changes is available online at http://www.sos.ne.gov, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8223. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, Room 1305, State Capitol, Lincoln, NE, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8223. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

PROPOSED REGULATION
POLICY PRE-REVIEW CHECKLIST

Date: January 20, 2017 (revised July 17, 2017)
Agency: DHHS – Division of Public Health
Title, Chapter of Regulation: Title 180 NAC 1, 3,13, 24
Subject: Control of Radiation
Prepared by: Julia Schmitt
Telephone: 402-471-0528

A. Policy Changes and Impacts

1. What does the regulation do and whom does it impact? Provide a brief description of the proposed rule or regulation and its impacts on state agencies, political subdivisions, and regulated persons or entities.

2. Describe changes being proposed to current policy and briefly provide rationale.

Items 1 & 2 described below:

NOTE: The majority of the changes below are because the U.S. Nuclear Regulatory Commission requires the changes to be compatible. By maintaining compatibility, Nebraska can continue to be an Agreement State with the NRC.

Chapter 1:

1. Chapter 1 provides general provisions and definitions. Changes to this chapter will affect licensees who:
   - Have licensed radioactive material – general or specific
   - Have rave radiation generating equipment
   - Have or wish to obtain reciprocal recognition of the U.S. Nuclear Regulatory Commission or Agreement State License.

   Changes are:
   - Additions to definitions
   - Editorial: removal of acronyms, etc. as directed by the Governor's Policy Research Office.
2. No current policy change
   Required for U.S. Nuclear Regulatory Commission compatibility.

Chapter 3:

3. Chapter 3 provides for the licensing of radioactive material, both general licenses and specific licenses, and reciprocal recognition of other state licenses. Changes to this chapter will affect licensees who:
   - Have licensed radioactive material – general or specific

- Have or wish to obtain reciprocal recognition of the U.S. Nuclear Regulatory Commission or Agreement State License.

Changes are:

- Editorial: removal of acronyms, etc. as directed by the Governor's Policy Research Office.

4. No current policy change
   Required for U.S. Nuclear Regulatory Commission compatibility.

Chapter 13:

1. Chapter 13 details requirements for the transportation of radioactive materials. Changes to this chapter will affection licensees who:
   - Deliver radioactive material to a carrier for transport
   - Transport radioactive material within the state of Nebraska

   Changes are:
   - Additions to definitions
   - Clarifications and additions as specified by changes to 10 CFR part 17
   - Quality Assurance Requirements updated to better reflect 10 CFR Part 17 AND Suggested State Regulations as put forth by the Conference of Radiation Control Program Directors, Inc.
   - Editorial: Removal of acronyms, etc. as directed by the Governor's Policy Research Office.
2. No current policy change.
   Required for U.S. Nuclear Regulatory Commission compatibility.

Chapter 24:

1. Chapter 24 provides for the physical protection of radioactive material and provides reasonable assurance of preventing theft, diversion or sabotage of category 1 and 2 quantities of radioactive material. Changes to this chapter will affect licensees who:
   - Possess aggregated Category 1 or 2 quantity of radioactive material above a certain amount.
   - That transport these materials using ground transportation, and
   - That transport small quantities of irradiated reactor fuel.

   Changes are:
   - Editorial: Ex: "must" to "shall", removal of acronyms, etc. as directed by the Governor's Policy Research Office.
   - Additional requirement of protection of information for State officials, State employees, etc. against unauthorized disclosure.
2. No current policy change
   Required for U.S. Nuclear Regulatory Commission compatibility.

B. <u>Why is the rule necessary? Explain and provide an identification of authorizing statute(s) or legislative bill(s).</u>

1. Update of regulation (repeal of obsolete statutes, reflect current policy, editing or technical language changes, etc.)

   - The majority of the changes reflect requirements by U.S. Nuclear Regulatory Commission to be compatible with their program for regulation of radioactive material users. The U.S. Nuclear Regulatory Commission requires that our regulations be compatible with their regulatory program as a condition of their continued relinquishment of regulatory authority for radioactive sources to the State of Nebraska.

2. Annual changes – cost of living, hunting season schedules, etc.
   - No

3. Law was changed – federal ___ or state ___ [Cite authorizing statute(s) or legislative bill(s)]
   - N/A

4. Extension of established policy or program, new initiatives or changes in policy (within statutory authority)
   - No

5. Constituent initiated
   - No

6. Financial needs – increases/decreases in fees
   - No

7. Litigation requires changes in rules
   - No

8. Addresses legal or constitutional concerns of Attorney General's office
   - No

9. Implements federal or court mandate
   - No

10. Other (explain)

C. <u>What happens if these rules are not adopted?</u>

- Nebraska would no longer be compatible with U.S. Nuclear Regulatory Commission requirements resulting in loss of Agreement State status with the U.S. Nuclear Regulatory Commission.

D. <u>Policy Checklist</u>

1. Is this an update or editorial change reflecting essentially no change in policy?
- Yes

2. Does the policy in the proposed regulation reflect legislative intent?
   - Yes. Neb.Rev.Stat. 71-3505 (1)(c)... so as to reasonably protect occupational and public health and safety and the environment in a matter compatible with regulations programs of the federal government.

3. Is the policy proposed in the regulation a state mandate on local government? - No Is it funded? N/A

4. Is the policy proposed in the regulation a federal mandate on local government? No Is it funded? N/A

E. **Fiscal Impact. In addition to completing the required Fiscal Impact Statement (a copy must be attached to this document), the agency must address the following:**

1. Will the proposed regulation reduce, increase, or have no change in resources – funds, personnel or FTE?
   - No change

2. Have initial contacts been made with citizens or organizations that may be impacted by the proposed regulation?
   -

3. Does the proposed regulation impact another agency?
   - No
   - Explain the impact. N/A

4. Will the proposed regulation reduce, increase, or have no change on reporting requirements of businesses?
   - No change

5. What is the agency's best estimate of the additional or reduced spending? If there is none, please note. If receipt of federal funds is contingent upon approval of the proposed regulation, then indicate the amount and nature of the federal funds affected, and enclose laws or correspondence from federal officials substantiating the information.
   - No impact

6. Include a description of the impact that the proposed regulation will have on the number of state employees and how the agency intends to address proposed increases or decreases in FTE.
   - No impact

F. Unique problems or issues and recommendations.

- N/A

G. Who is expected to be affected, or to oppose or support the proposed regulation? Explain what initial informal contacts have been made with organizations or citizens who may be affected by the regulation prior to the public hearing.

- No opposing is anticipated due to nature of changes: editorial or necessary for compliance with Federal regulation.

H. Are these proposed rules a likely candidate for negotiated rulemaking? Explain. Has the process been completed? If so, explain how the issues were addressed.

- No

DHHS Division Director's Verification of Review

I have reviewed these proposals and verify that, at this stage of the regulation's development, these questions have been accurately addressed.

Thomas L. Williams, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

9-13-17
Date

FISCAL IMPACT STATEMENT

Agency: **Department of Health and Human Services**	
Title: 180 NAC	Prepared by: Julia Schmitt
Chapter: 1,3,13, 24	Date prepared: January 20, 2017, revised July 17, 2017
Subject: Control of Radiation	Telephone: 402-471-0528

Type of Fiscal Impact:

Please check all that apply

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(☒)	(☒)	(☒)
Increased Costs	(☐)	(☐)	(☐)
Decreased Costs	(☐)	(☐)	(☐)
Increased Revenue	(☐)	(☐)	(☐)
Decreased Revenue	(☐)	(☐)	(☐)
Indeterminable	(☐)	(☐)	(☐)

Provide an Estimated Cost & Description of Impact: N/A

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why: N/A