

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

September 20, 2019
1:00 p.m. Central Time
Gold's Building – Room 534
1033 O Street, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed REPEAL of Title 180, Chapter 17 of the Nebraska Administrative Code (NAC)-*Enforcement of Radiation Control Act and Rights to Hearing Procedures for Licensees and Registrants; Penalties*. These regulations govern contested hearings applicants or licensees of certification to use radiation sources issued under the Radiation Control Act. The regulations are proposed for REPEAL in their entirety as these regulations are duplicative of statutory language contained in the Radiation Control Act and the Administrative Procedures Act and are unnecessary.

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) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. 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.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 180	Prepared by: Julia Schmitt
Chapter: 17	Date prepared: 5/7/2019
Subject: Enforcement of the Radiation Control Act and Rights to Hearing Procedures for Licensees and Registrants; Penalties.	Telephone: 402/471-0528

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

PROPOSED REGULATION QUESTIONNAIRE

Title 180 NAC 17

1) Is the regulation essential to the health, safety, or welfare of Nebraskans?

No. 180 NAC 17 contains items that are addressed in the Radiation Control Act and the Administrative Procedures Act.

2) Do the costs of the regulation outweigh the benefits? Provide specific data and reasoning.

N/A. The proposal is to repeal Chapter 17.

3) Does a process exist to measure the effectiveness of the regulation? If so, explain.

N/A. The proposal is to repeal Chapter 17.

4) Has a less restrictive alternative been considered?

Yes. The proposal is to repeal Chapter 17.

5) Was the regulation solely promulgated due a state statutory requirement? If so, provide citations.

N/A. 180 NAC 17 contains items that are addressed in the Radiation Control Act and the Administrative Procedures Act.

6) Was the regulation promulgated as the result of a federal mandate? If so, include copies of the applicable federal statutes and regulations.

No.

PROPOSED REGULATION POLICY PRE-REVIEW CHECKLIST

Agency: DHHS – Division of Public Health

Title, Chapter of Regulation: Title 180 NAC 17

Subject: Enforcement of Radiation Control Act and Rights to Hearing Procedures for Licensees and Registrants; Penalties

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.

Chapter 17 is proposed to be repealed because it covers items that are in the Radiation Control Act and the Administrative Procedures Act.

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

There are no changes to current policy.

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

Chapter 17 is not necessary. It is proposed to be deleted because it covers items that are in the Radiation Control Act and the Administrative Procedures Act.

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

N/A. Repeal of Chapter.

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. What happens if these rules are not adopted?

If this chapter is not repealed Title 180 NAC 17 unnecessary and repetitive regulations would remain in effect.

D. Policy Checklist

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.
3. Is the policy proposed in the regulation a state mandate on local government? Yes Is it funded? Yes
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:

No fiscal impact.

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

1. Have initial contacts been made with citizens or organizations that may be impacted by the proposed regulation? **We will solicit public comment on the repeal of the regulation before a public hearing.**
2. Does the proposed regulation impact another agency? **No** Explain the impact.
3. 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 change in spending.

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.

No known problems or issues.

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 known supporters or opponents.

DHHS will solicit public comment on the proposed regulations before the public hearing.

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.

Bo Botelho
Interim Director, Division of Public Health
Department of Health and Human Services

Date

TITLE 180 - CONTROL OF RADIATION

CHAPTER 17 - (Repealed)