

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R177-99

Effective July 24, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-34, NRS 439.200 and 444.335.

Section 1. Chapter 444 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 33, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 33, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Charter school” has the meaning ascribed to it in NRS 385.007.*

Sec. 4. *“Health authority” has the meaning ascribed to it in NRS 439.005.*

Sec. 5. *“Private school” has the meaning ascribed to it in NRS 394.103.*

Sec. 6. *“Public nuisance” has the meaning ascribed to it in NRS 202.450.*

Sec. 7. *“Public school” has the meaning ascribed to it in NRS 385.007.*

Sec. 8. *“School” means a charter school, private school or public school.*

Sec. 9. *If any provision set forth in sections 2 to 33, inclusive, of this regulation, or any application thereof to any person, thing or circumstance is held invalid, it is intended that the invalidity not affect the remaining provisions or applications to the extent that those provisions and applications can be given effect without the invalid provision or application.*

Sec. 10. *The state board of health hereby adopts by reference:*

1. The guidelines for playground safety set forth in the “Handbook for Public Playground Safety,” as those guidelines existed on the effective date of this regulation. A copy of the publication may be obtained, free of charge, from the United States Consumer Product Safety Commission Office of Information and Public Affairs, Washington D.C. 20207, or from the United States Consumer Product Safety Commission, at the Internet address

<<http://www.cpsc.gov/cpscpub/pubs/playpubs.html>>.

2. The standards for the construction, installation, maintenance, inspection and testing of a device to prevent backflow or back siphonage that is installed on a water supply system set forth in the Uniform Plumbing Code, 1997 edition. A copy of the standards may be obtained from the International Association of Plumbing and Mechanical Officials, 20001 East Walnut Drive South, Walnut, California 91789-2825, for the price of \$51.60 for members of the International Association of Plumbing and Mechanical Officials, or \$56.80 for nonmembers.

3. The standards for minimum plumbing facilities set forth in the Uniform Plumbing Code, 1997 edition. A copy of the standards may be obtained from the International Association of Plumbing and Mechanical Officials, 20001 East Walnut Drive South, Walnut, California 91789-2825, for the price of \$51.60 for members of the International Association of Plumbing and Mechanical Officials, or \$56.80 for nonmembers.

4. The standards of the American National Standards Institute set forth in the American National Standard for Emergency Eyewash and Shower Equipment, ANSI

Z358.1, 1998 edition. A copy of the standards may be obtained from Global Engineering Documents, Customer Service Department, 15 Inverness Way East, Englewood, Colorado 80112, for the price of \$48.

Sec. 11. A school that is constructed before the effective date of this regulation shall be deemed to be in compliance with sections 2 to 33, inclusive, of this regulation if the use of the space in the school is not changed or any deficiency in the school does not constitute a substantial or an immediate threat to the health or safety of the general public.

Sec. 12. 1. If the superintendent or principal of a school or the designee of the superintendent or the principal determines that a substantial health or safety hazard exists at the school, the superintendent, the principal or the designee of the superintendent or the principal shall notify the health authority of:

(a) The hazard; and

(b) Any remedial action that has been taken to correct the hazard,

within 24 hours after the determination is made.

2. As used in this section:

(a) "Public water system" has the meaning ascribed to it in NRS 445A.235.

(b) "Substantial health or safety hazard" means any violation of the provisions of sections 2 to 33, inclusive, of this regulation that may endanger the health or safety of the general public. The term includes, without limitation:

(1) A loss of electrical power or any other utility in the school that causes the failure of a system which is required for the operation of the school, including, without limitation, a system for lighting, heating or cooling;

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(2) A supply of potable water for the school that has not been approved by the health authority or does not comply with the provisions relating to sampling and notification of the general public set forth in chapter 445A of NRS and the regulations adopted pursuant thereto;

(3) The existence of a defect or condition in the public water system that supplies potable water to the school which may result in the contamination of the water;

(4) Sewage or liquid waste in the school that:

(I) Is disposed of in a manner which has not been approved by the health authority; or

(II) Has contaminated any part of the school to which the general public has access;

(5) The presence of insects, rodents or other vermin in the school that constitutes a significant threat to the health or safety of the general public, as determined by the health authority;

(6) The presence of any toxic material in a school that is labeled, stored or used improperly;

(7) Toxic or noxious gases, vapors, fumes, mist or particulates that are present in the school in concentrations which are immediately dangerous to the life or health of a person present in the school or in concentrations which are sufficient to cause a public nuisance;

(8) Any condition or equipment used in the school that constitutes an unreasonable risk of crushing a person, puncturing or pinching the skin of a person or

otherwise injuring a person by causing the person to fall, trip or sustain any physical injury;

(9) A classroom or any other room in the school that is occupied by pupils or members of the staff of the school and has ambient temperatures which constitute a significant threat to the health or safety of the pupils or members of the staff, as determined by the health authority; or

(10) A school in which toilets and facilities for washing hands are not provided or are not accessible.

Sec. 13. 1. *A person may not begin the construction of a school until the plans and specifications for the school are submitted to and approved by the health authority. The plans and specifications must include, without limitation:*

(a) The layout, arrangement and construction materials for all rooms and grounds, including, without limitation, classrooms, utility rooms, janitors' closets and playgrounds; and

(b) The location, size and type of:

(1) Equipment that will be used at the school, including fixed equipment; and

(2) Facilities that will be included in the construction, including, without limitation, lavatories and kitchens.

2. *The health authority shall review the plans and return a written decision of approval or denial to the person submitting the plans within 30 days after receipt of the plans. If the decision is to deny the plans, the written decision must include a detailed statement of the reasons for the denial.*

3. *As used in this section, “construction” means any construction of, remodeling of, additions made to, or other substantial alterations made to a school.*

Sec. 14. 1. *The floors, walls and ceilings in a school must be:*

(a) *Constructed of durable materials that are easy to clean and appropriate for their intended use; and*

(b) *Maintained in good repair.*

2. *Benches, mats or any other equipment that is intended for use by more than one person must be:*

(a) *Constructed of nonabsorbent materials; and*

(b) *Clean, sanitary and in good repair.*

Sec. 15. *Artificial sources of light that are permanently fixed in a school must be installed to provide at a distance of 30 inches from the floor:*

1. *At least 50 foot-candles of light in an area used to provide general instruction to pupils, including, without limitation, a laboratory, a classroom used for teaching home economics and an area used for teaching vocational education;*

2. *At least 30 foot-candles of light in a gymnasium, locker room or lavatory; and*

3. *At least 20 foot-candles of light in any other area of the school.*

Sec. 16. *The temperature in a classroom that is occupied by pupils or members of the staff of the school, other than an area used for teaching vocational education or for physical activities, including, without limitation, weight lifting, must be maintained at a level which is not less than 65 degrees Fahrenheit and not more than 85 degrees Fahrenheit. Every effort must be made to maintain a comfortable temperature after considering the humidity in each room.*

Sec. 17. 1. *Pets may be kept only in the designated areas of a school.*

2. An enclosure used for pets must be clean and sanitary to prevent odors and the accumulation of excrement.

3. A pet that is on the premises of a school may be handled by a pupil only under the supervision of an adult. A pupil or member of the staff of the school shall wash his hands after handling a pet.

4. A pet that is not housebroken or trained to use a litter box may not be allowed on the absorbent surfaces in the school.

5. The provisions of this section do not apply to:

(a) A person with a visual, aural or other physical disability who is accompanied by a guide dog, hearing dog, helping dog or other service animal;

(b) A person who is accompanied by an animal described in paragraph (a) if he is training the animal; or

(c) A peace officer who is performing his duties as a peace officer and is accompanied by a police dog.

6. As used in this section:

(a) "Guide dog" has the meaning ascribed to it in NRS 426.075.

(b) "Hearing dog" has the meaning ascribed to it in NRS 426.081.

(c) "Helping dog" has the meaning ascribed to it in NRS 426.083.

(d) "Police dog" has the meaning ascribed to it in NRS 651.075.

(e) "Service animal" has the meaning ascribed to it in NRS 426.097.

Sec. 18. 1. *A unit for washing eyes in an emergency, in combination with or in addition to an accessible shower used in an emergency, must be provided in each*

classroom in which acid, caustic substances, flammable materials or other hazardous materials are handled. The unit for washing eyes and the shower for use in an emergency must comply with the requirements set forth in ANSI Z358.1, as adopted by reference in section 10 of this regulation.

2. Countertops that are resistant to chemicals must be used in each classroom which is used as a chemistry laboratory.

3. A classroom that is used as a science laboratory must have a sink for washing hands which is conveniently located and equipped with:

- (a) Hot and cold water that is tempered by a mixing valve or combination faucet;*
- (b) Hot water that is delivered at a maximum temperature of 110 degrees Fahrenheit;*
- (c) A supply of soap or detergent for washing hands; and*
- (d) A supply of disposable towels designed for a single use or a device that provides*

heated air for drying hands.

4. A classroom in which volatile chemicals are used or two or more chemicals are mixed and the reaction of those chemicals is likely to produce toxic or noxious gases, vapors, fumes or suspended particulates must be equipped with a fume hood. Any activity that produces toxic or noxious gases, vapors, fumes or suspended particulates must be conducted under the fume hood.

5. An aspirator or suction bulb must be used for drawing a liquid into a pipette.

6. Each chemical or biological reagent must be stored according to the instructions of the manufacturer. The area in which a chemical or biological reagent is stored must be:

- (a) Secure and accessible only to authorized members of the staff of the school;*

- (b) Cool and dry;*
- (c) Ventilated and free of objectionable odors; and*
- (d) Clean and organized.*

7. A reagent or other similar material that is stored in its original container must bear a legible label of the manufacturer. If a reagent or other similar material has been repackaged, it must be labeled to identify its contents and manner of use.

8. Eating, drinking or any other activity that involves contact between the hands and mouth of a person is prohibited in a classroom which is used as a science laboratory.

Sec. 19. 1. *Machinery, tools or any other equipment that is used in an area of the school for teaching vocational education may be operated or used by a pupil only under the supervision of an adult.*

2. An area that is used for teaching vocational education must be clean and organized.

3. Machinery, tools, material stock, hardware or any other equipment must be stored in a manner that prevents health and safety hazards.

4. Stationary equipment must be secured in place and arranged to provide for a work area which is of a sufficient size and which is free of hazards which may cause a person to fall, trip, slip or sustain any physical injury.

5. Instructions relating to safety and the operation of machinery, tools or other equipment must be posted conspicuously in the area in which the machinery, tools or other equipment is operated or used.

6. Cylinders of compressed gas must be secured in a manner that prevents the cylinders from tipping or falling.

7. An area used for teaching vocational education must have a sink for washing hands that is conveniently located and equipped with:

- (a) Hot and cold water that is tempered by a mixing valve or combination faucet;*
- (b) Hot water that is delivered at a maximum temperature of 110 degrees Fahrenheit;*
- (c) A supply of soap or detergent for washing hands; and*
- (d) A supply of disposable towels designed for a single use or a device that provides*

heated air for drying hands.

Sec. 20. 1. *Any area in a classroom that is used for home economics in which food is prepared or eaten must be maintained in a clean and sanitary condition.*

2. Food must be stored and handled in a manner that prevents the rapid growth of pathogenic organisms, contamination and spoilage and prevents the harborage and feeding of insects and other vermin.

3. A classroom used for home economics must have a sink for washing hands that is conveniently located and equipped with:

- (a) Hot and cold water tempered by a mixing valve or combination faucet;*
- (b) Hot water that is delivered at a maximum temperature of 110 degrees Fahrenheit;*
- (c) A supply of soap or detergent for washing hands; and*
- (d) A supply of disposable towels designed for a single use or a device that provides*

heated air for drying hands.

Sec. 21. 1. *Each school shall provide a health room with beds, couches, mats, cots or other furniture that may be used for resting. The beds, couches, mats, cots and other furniture must be covered with a nonabsorbent material that is maintained in good repair and is cleaned and sanitized before each use.*

2. *Any medications that are stored in a health room must be accessible only to authorized members of the staff of the school.*

3. *As used in this section, “health room” means a room or an area where an ill or injured pupil is temporarily isolated until such time as the pupil is released to the custody of his parent or guardian.*

Sec. 22. *Electrical panels, janitors’ closets, boiler rooms, storage rooms, including, without limitation, storage rooms for supplies and equipment, and rooms containing a transformer that are located in a school, must be locked and accessible only to authorized members of the staff of the school.*

Sec. 23. *Playgrounds and playground equipment must be designed, constructed and maintained in the manner prescribed in the guidelines set forth in the “Handbook for Public Playground Safety” as adopted by reference in section 10 of this regulation.*

Sec. 24. *A program used by a school to serve food must comply with:*

1. *The provisions of chapter 446 of NRS and the regulations adopted pursuant thereto; and*

2. *Any ordinances, rules or regulations governing food establishments adopted by the appropriate district board of health, county board of health or board of county commissioners.*

Sec. 25. 1. *Potable water of a sufficient amount to meet the requirements of a school must be provided to the school from a supplier that is approved by the health authority and licensed by the health division.*

2. *Water that is under pressure and maintained at the required temperature must be provided to all fixtures and equipment of a school which use water. The system that*

provides hot water to the school must provide a sufficient amount of hot water to meet the requirements of the school during its hours of operation.

3. There must not be a cross connection between:

(a) The supply of potable water and any water that is nonpotable or may be nonpotable; or

(b) The supply of potable water and any source of pollution by which the potable water may become contaminated.

4. A system for supplying nonpotable water may be used only for air conditioning, cleaning, flushing toilets and fire protection, if the system is approved by the health authority and does not come into direct or indirect contact with the supply of potable water. The piping of a system for nonpotable water must be clearly and permanently identified so that it is readily distinguishable from piping which carries potable water.

5. The system for potable water must be installed to prevent backflow. Devices to prevent backflow and back siphonage must be installed on a fixture or equipment that does not have an air gap which is at least twice the diameter of the inlet for the water between the inlet and the flood level rim of the fixture. A hose may not be attached to a faucet unless a device to prevent backflow is installed.

6. A device to prevent backflow or back siphonage that is installed on a system for potable water must comply with the standards for the construction, installation, maintenance, inspection and testing for that specific application and type of device set forth in the Uniform Plumbing Code, as adopted by reference in section 10 of this regulation.

7. The use of lead solder on piping carrying potable water is prohibited.

Sec. 26. 1. *All sewage at a school, including liquid waste, must be disposed of in a manner that is approved by the health authority.*

2. Facilities for the disposal of sewage that do not use water, including chemical toilets, are prohibited unless authorized by the health authority for temporary use.

Sec. 27. 1. *A minimum number of toilets, lavatories and drinking fountains must be installed in a school as prescribed in the standards for plumbing facilities of the Uniform Plumbing Code, as adopted by reference in section 10 of this regulation.*

2. A toilet and lavatory must be located within 250 feet of each classroom and area used for teaching vocational education and be accessible for use at all times.

3. Toilets must be clean and in good repair. A supply of toilet tissue that is dispensed from a permanently affixed dispenser must be provided at each toilet at all times.

4. Each lavatory must provide hot and cold water that is tempered by a mixing valve or combination faucet. The hot water must be delivered at a maximum temperature of 110 degrees Fahrenheit. A faucet that closes automatically, closes slowly or is metered must provide a flow of water for not less than 20 seconds.

5. A supply of soap or detergent for washing hands must be available in each lavatory.

6. A supply of disposable towels designed for a single use or a device that provides heated air for drying hands must be conveniently located near each lavatory.

7. Lavatories must be clean and in good repair.

Sec. 28. 1. *Each drinking fountain in a school must be clean and in good repair.*

2. Potable drinking water must be provided and dispensed in a sanitary manner in gymnasiums and during outdoor events held at the school.

Sec. 29. A shower that is provided in a school must have hot and cold water which is tempered by a mixing valve or combination fixture. The hot water must be delivered at a maximum temperature of 110 degrees Fahrenheit. Each shower and shower fixture must be clean and in good repair.

Sec. 30. 1. There must be a sufficient number of containers located in a school to hold all garbage and refuse that accumulates in the school. The containers must be conveniently located throughout the school.

2. Garbage and refuse must be:

(a) Deposited in containers that are closable, durable, nonabsorbent, protected against vermin and clean; and

(b) Stored in a manner that is not accessible to insects and rodents.

3. Storage areas or enclosures which are located outside a school must be clean and of sufficient size to store the containers of garbage and refuse.

4. Containers for garbage and refuse which are located outside a school must be:

(a) Stored on a smooth surface of concrete or asphalt;

(b) Clean and in good repair; and

(c) Maintained in a manner that does not cause a public nuisance.

5. If the health authority or public works department of the appropriate local government requires a school to install an interceptor for grease, the interceptor must be maintained in a manner that does not cause a public nuisance.

6. Garbage and refuse must be removed from the premises of the school at such times as is necessary to prevent the garbage and refuse from developing an odor, causing a public nuisance or attracting insects and rodents, but in any event the garbage and

refuse must be disposed of within intervals of 7 days, unless otherwise approved by the health authority.

Sec. 31. 1. *Measures must be taken to minimize the presence of rodents, flies, cockroaches or other vermin on the premises of a school, including regular inspections to detect the presence of those vermin. The premises of the school, including the contiguous land or property under the control of the school, must be maintained in a condition that prevents or eliminates the harboring or feeding of insects, rodents and other vermin.*

2. Insecticides, herbicides and rodenticides must be used in accordance with the directions on the label of the container and stored in a manner that is accessible only to authorized members of the staff of the school.

Sec. 32. 1. *The health authority shall prepare a written report of the findings of an inspection of a school required by NRS 444.335 while on the premises of the school and provide a copy of the report to the principal of the school or any other person designated by the principal to receive the report at that time.*

2. In addition to the copy of the report provided pursuant to subsection 1, the health authority may provide a copy of the report to:

(a) The board of trustees of the school district in which the school is located, if the school is a public school;

(b) The governing body of the charter school, if the school is a charter school; or

(c) The superintendent of public instruction, if the school is a private school.

3. Any report which is prepared by any other authority which conducts a health or safety inspection of a school must be maintained by the school for the period prescribed by that authority and be available for review by the health authority upon request.

Sec. 33. 1. Any deficiency indicated in a report of an inspection prepared pursuant to section 32 of this regulation must be corrected within 30 days after the inspection unless otherwise indicated in the report.

2. Except as otherwise provided in subsection 3, the principal of the school which was inspected or his designee shall prepare a written report of corrective action taken or planned and submit that report to the health authority within 30 days after the inspection of the school.

3. The provisions of subsection 2 do not apply if:

(a) Corrective action was taken at the time of the inspection and the health authority indicates in the report of the inspection that the deficiency indicated in the report was corrected; or

(b) The health authority inspects the school again before the period set forth in subsection 2 expires and the health authority indicates in the report of the inspection that the deficiency previously indicated in the report was corrected.

4. If a school is not in compliance with the provisions of sections 2 to 33, inclusive, of this regulation, the health authority may advise the following persons or entities of the noncompliance:

(a) The department of education;

(b) The board of trustees of the school district in which the school is located, if the school is a public school;

(c) The board of trustees of the school district that is the sponsor of the charter school, if the school is a charter school; or

(d) The superintendent of public instruction, if the school is a private school.

Sec. 34. NAC 444.0005 is hereby amended to read as follows:

444.0005 As used in ~~[NAC 444.0005 to 444.980, inclusive,]~~ *this chapter*, unless the context otherwise requires, “health division” means the health division of the department of human resources.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R177-99**

The Health Division of the Department of Human Resources adopted regulations assigned LCB File No. R177-99 which pertain to chapter chapter 444 of the Nevada Administrative Code on June 14, 2002.

Notice date: May 15, 2002
Hearing date: June 14, 2002

Date of adoption by agency: 6/14/2002
Filing date: 7/24/2002

INFORMATIONAL STATEMENT

- 1. Provide a description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Solicitation of Public Comment:

Copies of the proposed NAC 444 regulation were made available at workshops and upon request from the public. Public workshops were held in the following locations:

March 26, 2002 - Clark County Health District, Clemens Room, 625 Shadow Lane, Las Vegas, Nevada.

March 28, 2002 - State Library and Archives, Board Room, 100 North Stewart Street, Carson City, Nevada.

April 2, 2002 - State Office Building, Room 20, 850 Elm Street, Elko, Nevada.

Copies of the draft regulation were also mailed to all Nevada Superintendents and all known interested persons. Copies of the draft regulation were also available at all main offices of the Bureau of Health Protection Services, the State Library and Archives, and all main public libraries in each county.

Notices of the workshops were sent to the Nevada School Superintendent and all County School District Superintendents as well as interested individuals and notice of the workshops were published in the Nevada Appeal, the Reno Gazette Journal, and the Elko Daily Free Press on February 27, 2002.

Legal notices for the hearing to amend the regulation was published in the Las Vegas Review Journal, the Nevada Appeal, the Reno Gazette Journal, and the Elko Daily Free Press on May 15, 2002 and posted at all Bureau of Health Protection Offices, State Library and Archives, and all main public county libraries. Public comment was solicited in the notices for the hearing. The public hearing was held before the State Board of Health on June 14, 2002 at the Washoe County District

Health Office, South Auditorium, 1001 East 9th Street, Reno, Nevada. 33 people from the public were in attendance at the hearing. No testimony was presented oral or written.

Summary of Public Response:

A total of seven (7) persons attended the public workshops. Three individuals were in attendance at the Las Vegas workshop, not including the presenter, Kinley Goodman. Four individuals were in attendance at the Carson City workshop, not including the presenter, Kinley Goodman. No individuals from the public attended the workshop in Elko. Various comments were made concerning items of interest within the draft wording of the regulation. The comments are: There was a concern that physical activity areas such as those used for weight lifting would need temperatures cooler than 68 deg F. to keep athletes from over heating during workouts. The temperature range was expanded in to the final draft to allow for cooler temperatures within certain areas. There was concern that the specific temperature requirement of 68° F to 80° F was listed as part of the substantial health and safety hazards section and that older schools that did not have air conditioning systems would not be able to meet this requirement. It was suggested that the specific temperatures be changed to a broader range with consideration to humidity. The temperature change suggestion was incorporated into the final draft by adjusting the range from 68 deg F to 80 deg F to the range of 65 deg F to 85 deg F. with consideration to humidity and comfort. There was concern that the original draft regulation required that copies of inspection reports be sent routinely to the county school board and the state board of education. It was suggested that these boards only receive a copy of the inspection report if compliance with the regulations was not achieved in a timely manner. This suggestion was incorporated into the final draft. There was concern that the minimum requirement of 50 foot candles of light in areas of general instruction was difficult in new or modified buildings utilizing natural lighting to augment classroom illumination. This was addressed by changing the wording "at least" to the word "average" in the final draft. There was concern that the minimum requirement of 30 foot candles of light in gymnasiums, locker room, or lavatory was difficult in new or modified building utilizing natural lighting to augment classroom illumination. This was addressed by changing the wording "at least" to the word "average" in the final draft. There was concern of the requirement of the principal or his designee being required to submit a written report to the health authority of corrective action regarding deficiencies noted during an inspection. This was addressed in the final draft by adding the following; "The principal or his designee of the inspected school shall prepare a written report of corrective action taken or planned and submit that report to the health authority within 30 days after the inspection of the school, unless the corrective action was completed at the time of the inspection and subsequently noted on the inspection or if the corrective action was completed prior to 30 days and a re-inspection was conducted by the health authority and the corrective action was completed and subsequently noted on that inspection."

Representatives of the public in attendance at the Carson City workshop further commented on the issue of the placement of safety showers and eyewash stations.

This was addressed in the final draft by our adoption of the American National Standards Institute, ANSI Z358.1 standard.

Copies of Public Response Summary:

Copies of this information statement and summary are available by contacting Kinley Goodman, R.E.H.S. (Regulations Governing Schools) at (775) 687-3787, ext 261 or by writing (Regulations Governing Schools), Bureau of Health Protection Services, 1179 Fairview Dr., STE 104, Carson City, NV 89701-5405.

2. Workshop attendance:

Las Vegas - 3, Carson City - 4, and Elko 0 (No Attendance)

All attendees testified at each workshop.

Number of persons that submitted to the bureau written statements: 1

3. Provide a description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses (private schools) by writing each school principal, superintendent, or other person in charge a letter which included draft wording of the regulation. No response was obtained from the letters. Each private school was called to obtain comments. Two responses were obtained: 1. "the regulation is not out of line" and 2. the person in charge of the school stated there was "no effect to their school from the proposed regulation." Comments were solicited from affected businesses (public schools) by mailing copies of the draft regulation to all County School District Superintendents and the Nevada School Superintendent. A meeting was held to present and discuss the draft regulation at a regular County School District Superintendent's meeting. Comments regarding the acceptable temperature range for classrooms and the words "mats" and "equipment" were given. Superintendents requested that the word "mats" be clarified as "gym mats" and that "equipment" be clarified as "equipment used for physical activities." The word "mats" referred to sleeping mats, gym mats, etc. therefore the word was left as is in the final draft. The word "equipment" referred to all equipment that the students might contact such as lab equipment and physical activity equipment. Therefore the word "equipment" was left as is in the final draft. Comments regarding the acceptable temperature range suggested lowering the minimum temperature and increasing the maximum allowed temperature for classrooms. The minimum allowed temperature was lowered from 68 deg F. to 65 deg F. and the maximum allowed temperature was raised from 80 deg F. to 85 deg F. in the final draft regulation. Washoe County Health District requested that the wording change of "at least" to "average" regarding lighting should be reconsidered due to ambiguity and unenforceability. All attendees of the public workshops were contacted regarding the wording for lighting. All attendees supported returning the

wording to "at least" with the clarifier "area of a room" being added to the sentence. This change was presented by Alan Tinney, Chief, Bureau of Health Protection Services, at the Board of Health hearing along with minor wording changes regarding pets and absorbent/nonabsorbent surfaces and compressed cylinders of gas. The word "nonabsorbent" was changed to "absorbent" and the "phrase compressed cylinders of gas" was changed to "cylinders of compressed gas."

4. If regulations were adopted without changing any part of the proposed regulations, provide a summary of the reasons for adopting the regulations without change.

(See previously mentioned changes.)

5. Provide estimated economic effect of the regulations on businesses which are to be regulated and on the public. These must be stated separately, and in each case must include:

a) Both adverse and beneficial economic effects (schools):

- i) The regulation will not impose a direct or significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business in Nevada.
- ii) An estimated economic effect of the proposed regulation on the small business which it is to regulate was determined to be negligible due to the response to the telephone poll and to no response to the letter dated January 3, 2002 sent by BHPS to the potentially affected small businesses.

Both adverse and beneficial effects (students)

- i) No adverse economic effects
- ii) No direct beneficial economic effect.

b) Both immediate and long-term effects (schools):

- i) Immediate: Estimated immediate effect to schools will be clear requirements for design of schools and clear requirements resulting from inspections.
- ii) Long-term: Schools will be provided with clear requirements during inspections providing for better compliance with health regulations resulting in a safer school environment.

c) Both immediate and long-term economic effects (schools/students)

- i) Immediate: None

- ii) Long-term: Estimated long-term cost to schools for design, operation, and maintenance for schools is negligible.

6. Provide the estimated cost to the agency for enforcement of the proposed regulation.

None, the plan reviews and inspections are already being done.

7. Provide a description of any regulations of other state or other state or government agencies, which the proposed regulations overlap or duplicate and a statement explaining why the duplication or overlapping is necessary. If the regulations overlap or duplicate a federal regulation, name the regulating federal agency.

None

8. If the regulations include provisions, which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

None

9. If the regulations provide a new fee or increase an existing fee, provide the total annual amount the agency expects to collect and the manner in which the money will be used.

None

SMALL BUSINESS IMPACT STATEMENT

PROPOSED REGULATIONS GOVERNING SCHOOLS

The Bureau of Health Protection Services (BHPS) has determined that promulgation of the Regulations Governing Schools will not impose a direct or significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes (NRS) 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

Pursuant to NRS 233B.0608 2 (a), BHPS has consulted with owners and officers of all small businesses that are likely to be affected by the proposed regulation via telephone and written correspondence. From February 6-8, 2002 all potentially affected small businesses (pursuant to the above definition) were called to obtain the following information; for profit or not for profit status, number of employees, and whether food is prepared onsite. Each of the businesses/schools contacted via telephone was sent a copy of the draft regulation and a letter on January 3, 2002 which requested information concerning if the proposed regulations would have any economic impact on their business/school. Two responses were given during the telephone polling; one, which said "the amendment to the regulation is not out of line" and the other which said there, was "no effect to their school from the proposed regulation amendment."

Interested persons may obtain a written summary of responses to the January 3, 2002 letter and the February 6-8, 2002 telephone poll by contacting Kinley C. Goodman, BHPS, 1179 Fairview Dr., Ste 104, Carson City, NV 89701-5405 or by calling (775) 687-3787, ext 261.

An estimated economic effect of the proposed regulation on the small business which it is to regulate was determined to be negligible due to the response to the telephone poll and to no response to the letter dated January 3, 2002 sent by BHPS to the potentially affected small businesses.

The regulation will provide that inspections of the schools are uniform and in so doing the public health will be better protected.

The following methods were considered by BHPS to reduce the impact of the proposed regulation on small businesses:

1. No change in the regulation.
2. Apply regulations only to new schools.
3. Apply regulations only to businesses not meeting the NRS 233B definition of a "small business."

4. Apply regulations to all schools equally to those meeting the NRS 233B definition of a small business and those not meeting the definition.

To adequately protect the public health the BHPS decided to apply the regulations to all schools equally. Except that "grandfathering" of existing structures will be allowed pursuant to NAC Chapter 444 Sec. 7.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 2 (b) (1), the agency shall consider simplifying the proposed regulation.

Simplification of the regulations was made possible by allowing "grandfathering" of existing structures. The term "grandfathering" refers to NAC Chapter 444 Sec. 7 which states "a school that is constructed before the effective date of this regulation shall be deemed to be in compliance with sections 2 to 29, inclusive, of this regulation if the use of the space in the school is not changed or any deficiency in the school does not constitute a substantial or an immediate threat to the health or safety of the general public." Also, to eliminate or lessen an undue financial hardship, the State Board of Health may grant a variance to the regulation if it will not constitute a negative impact to the public health. NAC 439.200 1. states any person who, because of unique circumstances, is unduly burdened by a regulation of the state board of health and thereby suffers a hardship and the abridgment of a substantial property right may apply for a variance from the regulation.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 2 (b) (2), the agency shall consider establishing different standards of compliance for a small business.

Standards of compliance for small businesses were established by allowing "grandfathering" of existing structures. Also, to eliminate or lessen an undue financial hardship, the State Board of Health may grant a variance to the regulation if it will not constitute a negative impact to the public health.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 2 (b) (3), the agency shall consider modifying a fee or fine set forth in the regulation so that a small business is authorized to pay a lower fee or fine.

No fee or fine is set forth in the regulation.

The estimated cost to the agency for enforcement of the proposed regulation is limited to the cost of printing the regulation and inspectional forms.

BHPS expects to collect \$0.00 from fees associated with the regulation.

Any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary to provide that inspection of the schools are uniform and in so doing the public health will be better protected.

This Small Business Impact Statement was developed pursuant to Assembly Bill (AB) No. 486 which amended NRS 233B.0608 2 (c).