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Nevada Legislature Enhances Notice-and-Comment Requirements Under the Nevada Administrative Procedure Act

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Key Takeaways:

- Starting October 1, 2025, Nevada businesses will have expanded opportunities to receive advance notice of proposed regulations that could affect their operations.
- AB 444 requires state agencies to proactively notify chambers of commerce, trade associations, and business owners before adopting new rules—giving companies more opportunity to participate in the regulatory process and avoid compliance surprises.
- If your business operates in a regulated industry, you'll have more notice in advance of regulatory changes and opportunities to provide input on proposed regulations that could be costly or disruptive.

Legislature Revises Agency Rulemaking Procedures

On June 3rd, the Nevada Legislature adjourned the 83rd Legislative Session sine die, having sent more than six hundred measures to the Governor's desk. Although the Governor rejected 87 bills, surpassing his 2023 veto record, the vast majority of legislation that passed both chambers during the 120-day session was ultimately approved and signed into law.

One of the session's more notable reforms to regulatory procedure is AB 444, sponsored by Assemblyman Greg Hafen (R) and Senator Dina Neal (D). Among other changes, AB 444 revised notification requirements for proposed regulations under the Nevada Administrative Procedure Act (APA) (NRS Chapter 233B). The APA generally imposes notice-and-comment rules before new regulations take effect, but the proliferation of regulations and changes to the Nevada Administrative Code can nonetheless be confusing and overly burdensome. This issue has been a topic of interest for the Legislature, as well as Governor Joe Lombardo's administration since he took office in 2023.

Effective October 1, 2025, AB 444 will enact changes to the APA intended to help make the agency rulemaking process more responsive to the concerns of regulated parties.

The APA's Notice-and-Comment Requirements

With some exceptions, the APA requires regulators to notify and solicit comments from interested parties regarding a proposed regulation, and requires at least one public workshop to allow "all interested persons…a reasonable opportunity to submit data, views or arguments upon a proposed regulation." (NRS 233B.061(1)). The APA also requires state agencies to determine whether a proposed regulation is "likely to impose a direct and significant economic burden upon a small business," or "directly restrict the formation, operation or expansion of a small business." (NRS 233B.0608(1)(a)-(b)).

If the agency determines that a new regulation will adversely affect small business (with fewer than 150 employees under NRS 233B.0382) the agency must prepare a small business impact statement, consult with the affected entity, and analyze both the regulation's adverse impacts and methods to mitigate them.

These are critical procedural guardrails because "[w]hen administrative regulations are mandated by the Legislature and adopted in accordance with statutory procedures…they have the force and effect of law." Kassebaum v. Dept. of Corrections, 139 Nev. Adv. Op. 34, 535 P.3d 651, 656 (2023). Given an administrative regulation's potentially significant impacts on regulated entities, the APA "sets forth minimum procedural requirements, such as notice and a hearing, when agencies engage in rulemaking activity" and the APA's "notice and hearing requirements…are essential to the adoption of valid rules and regulations." So. Nev. Operating Engineers Contract Compliance Tr. v. Johnson, 121 Nev. 523, 531, 119 P.3d 720, 726 (2005).

Unfocused and Unresponsive Regulations: Governor Lombardo's Regulatory Freeze

Despite the APA's notice-and-comment rules, agency rulemaking and regulatory changes often present considerable obstacles for regulated parties.

Almost immediately upon taking office, Governor Joe Lombardo (R) issued Executive Order 2023-003, implementing a "freeze" on the "issuance of new regulations and requiring a review of existing regulations by all executive branch agencies, departments, boards, and commissions." (Exec. Order 2023-003, Jan. 12, 2023). The Order acknowledged, among other things, that "state regulations can become outdated, result in unintended consequences, create conflicts or impose an unnecessary burden on citizens, business or government entities."

The Order also noted that "Nevada's current regulatory structure is too often unfocused and inefficient, contains regulations that are obsolete and includes regulations that are unnecessarily onerous, thereby limiting the [State's] economic potential." The Governor's directive underscores the significance of administrative regulations, which are proposed, promulgated, and enforced by executive branch officials, rather than elected legislators.

State agencies are engaged in the regulatory and rulemaking process on a

near-constant basis, proposing and adopting new regulations with considerable frequency. After the 2023 Order was lifted, regulators proposed more than 200 new regulations in 2024. Often, new regulations are adopted so quickly that it may take months before the regulation is formally codified as a part of the Nevada Administrative Code. This can make it difficult to locate and review adopted regulations, and create confusion regarding applicability, scope, and effective dates for new rules.

AB 444 Broadens the Scope of Required Notices to Affected Parties

AB 444 imposes additional notice requirements on state agencies where a proposed regulation is likely to adversely affect small businesses. The bill requires that, "insofar as practicable," the agency must "notify chambers of commerce and trade associations whose members are owners or officers of small businesses that are likely to be affected by the proposed regulation." (AB 444, § 1). The bill also requires the agency's small business impact statement to include "a list of the chambers of commerce and trade associations notified of the proposed regulation." (AB 444, § 2).

Additionally, AB 444 imposes an independent notification requirement on state agencies, regardless of whether a proposed regulation will adversely affect small businesses. The bill expands a state agency's notice obligations under NRS 233B.061, to require that before an agency adopts a regulation at a public hearing, the agency must notify "chambers of commerce, trade associations, or owners and officers of businesses which are likely to be affected by the proposed regulation." (AB 444, § 2.5).

AB 444's enhanced notice requirements should help ensure that state agencies and regulators are meaningfully engaged with interested entities that are likely to be affected by proposed regulations and changes to the Nevada Administrative Code. These regulatory changes can—and often do—implicate significant economic and operational considerations for regulated businesses.

Leveraging AB 444's APA Reforms

The pace and volume with which regulators adopt new rules makes notification to interested parties especially critical. With the passage of AB 444, the Legislature took an important step to ensure that Nevada's regulatory process is more responsive, transparent, and accountable. By mandating a more expansive and deliberate effort to inform potentially affected businesses and industry sectors of regulatory changes, AB 444 helps to reduce the type of "unfocused, inefficient" and "unnecessarily onerous" regulations that can have significant adverse effects.

Businesses required to comply with rules and regulations under the administrative code can take advantage of AB 444's enhanced notification provisions in a number of ways. For example, a regulated business that is not already involved with a chamber of commerce, industry trade association, or similar advocacy organization, may consider membership or other involvement to stay informed regarding new regulations. A regulated entity that is already involved with such an organization should confirm the organization is aware of AB 444's changes, and that future notifications and announcements of agency rules will be shared with

affected members.

Regulated entities may also consider outreach to regulators and staff regarding AB 444's notice rules, to ensure that future notices, workshop agendas, and related announcements are compliant with the legislation's rulemaking reforms. Proposed agency regulations are typically announced via the Nevada Legislature's website which can serve as an additional resource.

These and other strategies leveraging AB 444's changes to APA may help to reduce confusion and surprise regarding regulatory changes, and give regulated entities a more meaningful opportunity to engage and participate in the regulatory process.

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