

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R152-08

July 28, 2008

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

AUTHORITY: §§1-22 and 36-68, NRS 445A.855 and 445A.860; §§23-35, NRS 445A.860 and 445A.863; §§69 and 70, NRS 445A.855, 445A.860 and 445A.863.

A REGULATION relating to environmental control; clarifying the authority of the State Environmental Commission and the Division of Environmental Protection of the State Department of Conservation and Natural Resources to regulate safe drinking water programs and public water systems; and providing other matters properly relating thereto.

Section 1. NAC 278.020 is hereby amended to read as follows:

278.020 “Bureau” means the Bureau of ~~[Health Protection Services]~~ *Water Pollution Control* of the ~~[Health]~~ Division *of Environmental Protection* or its successor.

Sec. 2. NAC 278.090 is hereby amended to read as follows:

278.090 “Local agency” means a district board of health, county or city, which is authorized to act for the ~~[Health]~~ Division *of Environmental Protection* pursuant to NRS 278.335.

Sec. 3. NAC 278.260 is hereby amended to read as follows:

278.260 A developer shall submit all the following items of information to the ~~[Health]~~ Division *of Environmental Protection* or local agency for its review of a tentative map:

1. A map showing the topographic features of the subdivision, including contours at intervals of 2 feet for slopes of 10 percent or less and intervals of 5 feet for slopes of over 10 percent.

2. Two copies of the map showing the tentative design of the subdivision, including the arrangement of lots, the alignment of roads and easements.
3. If a system for subsurface disposal of sewage will be used in the subdivision, a report on the soil, including the types of soil, a table showing seasonal high water levels and the rate of percolation at the depth of any proposed system for absorption by soil.
4. A statement of the type of water system to be used and the water source, for example, private wells or a public water system.
5. Unless water for the subdivision is to be supplied from an existing public water system, a report of the analyses of four 1-gallon samples taken in or adjacent to the subdivision from different wells. The analyses must show that the water meets the standards prescribed in NAC 445A.450 to 445A.492, inclusive.
6. A map of the 100-year floodplain for the applicable area. The map must have been prepared by recognized methods or by an appropriate governmental agency for those areas subject to flooding.
7. A description of the subdivision in terms of 40-acre parts of a designated section, township and range, or any other description which provides a positive identification of the location of the subdivision.
8. A map of the vicinity of the subdivision, showing the location of the proposed subdivision relative to the nearest city or major highway.
9. The names and addresses of the owners and developers of the subdivision.
10. A master plan showing the future development and intended use of all land under the ownership or control of the developer in the vicinity of the proposed subdivision.

Sec. 4. NAC 278.270 is hereby amended to read as follows:

278.270 1. An application for review of a tentative map is not complete until all the required items of information have been submitted by the local government. The period allowed the ~~[Health]~~ Division *of Environmental Protection* or local agency for its review begins on the date when the application is complete.

2. If an incomplete application for review is received by the ~~[Health]~~ Division *of Environmental Protection* or local agency, it shall give the local government written notice of that fact. The notice must include a list of the specific items which are missing.

Sec. 5. NAC 278.310 is hereby amended to read as follows:

278.310 In preparing the certificate required by subsection 1 of NRS 278.377, the ~~[Health]~~ Division *of Environmental Protection* or a local agency acting for the ~~[Health]~~ Division *of Environmental Protection* shall include the following statement:

This final map is approved by the ~~[(Health)]~~ (Division ~~[;]~~ *of Environmental Protection*, health district, county or city for the ~~[(Health Division) of the Department of Health and Human Services.]~~ *Division of Environmental Protection*). This approval concerns sewage disposal, water pollution, water quality and water supply facilities and is predicated upon plans for a (public, private) water supply and (a community, individual systems) for disposal of sewage.

.....

~~[(Health Division;)]~~ (*Division of Environmental Protection;* Health Date

District, County, City)

Sec. 6. NAC 278.320 is hereby amended to read as follows:

278.320 A local agency which certifies to the ~~[Health Division,]~~ *Division of Environmental Protection*, pursuant to subsection 3 of NRS 278.335, that the water quality and quantity, sewage disposal and control of water pollution for a subdivision meet all the requirements of law must also certify that the requirements of this chapter are met, if the agency so finds.

Sec. 7. NAC 278.330 is hereby amended to read as follows:

278.330 1. The ~~[Health]~~ Division *of Environmental Protection* or local agency shall review and either approve or disapprove the plans for improvements shown on the final map and related plans within 30 days after receipt of the map and plans.

2. The ~~[Health]~~ Division *of Environmental Protection* or local agency shall give written notice of its approval or disapproval to the developer. If the ~~[Health]~~ Division *of Environmental Protection* or local agency disapproves the map or plans, its notice must include the reasons for its action.

3. If the developer fails to record an approved final map within the time allowed by NRS 278.360, he must resubmit a tentative map through the governing body to the ~~[Health]~~ Division *of Environmental Protection* or local agency for its review and approval.

Sec. 8. NAC 278.340 is hereby amended to read as follows:

278.340 The developer shall not perform any construction on the site of a subdivision, except that necessary to evaluate the subdivision, until the ~~[Health]~~ Division *of Environmental Protection* or local agency approves the final map.

Sec. 9. NAC 278.350 is hereby amended to read as follows:

278.350 An approval by the ~~[Health]~~ Division *of Environmental Protection* or local agency of a tentative map constitutes an approval of the concept of the proposed methods of providing

for disposal of sewage, controlling water pollution, ensuring the quality of water and providing facilities for water supply.

Sec. 10. NAC 278.360 is hereby amended to read as follows:

278.360 Development of a subdivision must be carried on in a manner which will:

1. Minimize water pollution; and
2. Be in conformance with the applicable plans and specifications approved by the ~~Health~~

Division *of Environmental Protection* or local agency.

Sec. 11. NAC 278.370 is hereby amended to read as follows:

278.370 1. If the ~~Health~~ Division *of Environmental Protection* has not authorized the county or city to conduct inspections of the construction of the system for water supply and sewerage in a subdivision, the developer must have the design engineer or a third person conduct those inspections.

2. The inspector shall, at intervals of construction specified by the ~~Health~~ Division *of Environmental Protection* or local agency, certify in writing that the improvements are being installed in accordance with the approved plans and recognized practices of the trade.

3. The developer must bear the cost of the inspections.

4. The developer may select a third-person inspector but the selection must be approved by the ~~Health~~ Division *of Environmental Protection* or local agency. A third-person inspector must be a disinterested person who is not an employee of the developer.

Sec. 12. NAC 278.400 is hereby amended to read as follows:

278.400 1. Except as otherwise provided in subsection 3, if a public water system is to be used for the subdivision, the system must have:

FIRST
PARALLEL
SECTION

(a) Necessary facilities to treat water to meet the standards provided in NAC 445A.450 to 445A.492, inclusive.

(b) The capacity to meet the demands upon the system.

2. Except as otherwise provided in subsection 3, the ~~[Health]~~ Division *of Environmental Protection* or local agency shall not approve a subdivision with respect to water quality if the subdivision is in an area where:

(a) The water is to be supplied from individual wells and the water does not meet the standards established by the ~~[State Board of Health]~~ *Commission* in NAC 445A.450 to 445A.492, inclusive; or

(b) There is a community water supply and the water is treated by the use of individual units in single-family dwellings.

3. Water furnished in a subdivision from a public water system or from individual wells is not required to comply with the maximum contaminant level for arsenic.

4. Upon the approval of the final map of a subdivision whose water system or water supply exceeds the maximum contaminant level for arsenic, the subdivider shall cause to be published a notice that the water system or water supply exceeds that level. The notice must be:

(a) Published in a newspaper of general circulation in the area served by the water system or water supply not more than 20 days after receipt of the approval;

(b) Published in that manner annually thereafter if the maximum contaminant level continues to be exceeded; and

(c) Provided in writing to any prospective purchaser of real property within the subdivision before any such sale is consummated.

5. As used in this section, “maximum contaminant level for arsenic” means the maximum contaminant level for that element established by 40 C.F.R. § 141.11, as adopted by reference in NAC 445A.4525.

Sec. 13. NAC 278.400 is hereby amended to read as follows:

278.400 1. If a public water system is to be used for the subdivision, the system must have:

(a) Necessary facilities to treat water to meet the standards provided in NAC 445A.450 to 445A.492, inclusive.

(b) The capacity to meet the demands upon the system.

2. The ~~Health~~ Division *of Environmental Protection* or local agency shall not approve a subdivision with respect to water quality if the subdivision is in an area where:

(a) The water is to be supplied from individual wells and the water does not meet the standards established by the ~~State Board of Health~~ *Commission* in NAC 445A.450 to 445A.492, inclusive; or

(b) Where there is a community water supply and the water is treated by the use of individual units in single-family dwellings.

Sec. 14. NAC 278.420 is hereby amended to read as follows:

278.420 ~~When~~ *The Division of Environmental Protection, or a local agency when* the written approval of the Division of Environmental Protection is obtained, ~~the Health Division or local agency~~ may approve any of the following methods for disposing of sewage:

1. Connection to an existing system of community sewerage if the system:

(a) Will not be brought to overcapacity by the connection; and

(b) Will be expanded to provide for the additional demand.

SECOND
PARALLEL
SECTION

2. Connection to a newly constructed system of community sewerage.
3. Connection to a system for subsurface disposal of sewage.

Sec. 15. NAC 278.430 is hereby amended to read as follows:

278.430 To obtain approval for connection to an existing system of community sewerage, the developer must submit to the ~~[Health]~~ Division *of Environmental Protection* or local agency a written statement from the local authority responsible for sewage disposal stating that service from the existing system will be extended to the subdivision and:

1. The community facility for treatment will not be caused to exceed its capacity and the discharge permit requirements by this added service; or
2. The facility will be expanded to provide for the added service.

Sec. 16. NAC 278.440 is hereby amended to read as follows:

278.440 To obtain the ~~[Health Division's or local agency's]~~ approval *of the Division of Environmental Protection or a local agency* for connection to a new system of community sewerage, the developer must first submit complete engineering plans and specifications to and have them approved by the Division of Environmental Protection.

Sec. 17. NAC 278.450 is hereby amended to read as follows:

278.450 1. Before the ~~[Health]~~ Division *of Environmental Protection* or local agency may approve the use in a subdivision of a system for subsurface disposal of sewage or private systems for disposal of sewage, the developer must comply with the conditions set forth in this section.

2. Percolation tests of soil must be made at the rate of four tests per 10 acres or fraction thereof and one additional test for each additional 10 acres or fraction thereof. For example, 10 such tests are required for a 67-acre subdivision. In a subdivision covering an area of more than 1

square mile, at least 16 percolation tests per square mile are required for the initial submission of data. Complete results of these tests must be submitted to the Division of Environmental Protection and to the ~~[Health Division or]~~ local agency for review.

3. In any subdivision where the characteristics of soil percolation are questionable, the developer may be required to make additional tests. The location of test holes must be shown on the plan.

4. If the percolation tests show that the times for seepage exceed 60 minutes per inch, the method of absorption by soil must not be used for disposal.

Sec. 18. NAC 278.470 is hereby amended to read as follows:

278.470 1. As a further condition of the ~~[Health Division's or local agency's]~~ approval of a subsurface system or private systems for sewage disposal, the developer must have all the following items prepared and submitted to the Division of Environmental Protection and the ~~[Health Division or]~~ local agency:

(a) For a tentative map, a report containing a comprehensive log of the soil conditions existing throughout the area of the subdivision to a depth of at least 5 feet below the bottom of the proposed system for subsurface disposal. This report must be prepared by a professional engineer or other person who is qualified by training and experience to make such a report. For absorption by soil to be approved as a method of disposal, the soil cover throughout the area must be adequate to ensure that at least 4 feet of suitable soil lie between bedrock (or any other impervious formation) and the bottom of the trenches used to allow absorption in soil of the effluent from the septic tank.

(b) For a tentative map, a statement of the present and maximum elevation of ground water throughout the area of the subdivision. This statement must be prepared by a professional

engineer or other person who is qualified by training and experience to prepare such a statement.
A subsurface system for disposal of sewage must not be approved if there is evidence that ground water rises to within 5 feet of the bottom of the trenches.

(c) For a final map, a report presenting information in sufficient detail to demonstrate that the soil characteristics of all parcels of land within the subdivision will be suitable for a subsurface system for disposal of sewage. The report must be prepared by a professional engineer or other person authorized under state law to prepare such a report.

2. The developer must inform the ~~Health~~ Division *of Environmental Protection* or local agency when test holes have been excavated, so that a representative of the Division *of Environmental Protection* or *the local* agency may inspect the holes.

Sec. 19. NAC 278.490 is hereby amended to read as follows:

278.490 The following fees are prescribed for services performed by the ~~Health~~ Division ~~of~~ *Environmental Protection*:

| | |
|---|-------|
| For reviewing a tentative map | \$400 |
| Plus \$3 for each building lot shown on the map. | |
| For reviewing a final map | 400 |
| Plus \$3 for each building lot shown on the final map. | |
| For a preliminary evaluation of a plant for water treatment for a subdivision, an additional fee of | 50 |
| For requesting and considering information which the subdivider has failed to submit in accordance with NAC 278.260 to 278.370, inclusive, each request | 100 |

Sec. 20. NAC 278.500 is hereby amended to read as follows:

278.500 1. Any developer who has reason to believe that an action taken by the ~~[Health]~~ Division *of Environmental Protection* pursuant to this chapter was incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not lead to a resolution of the developer's problem, he may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the Bureau for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the developer and the Bureau, except that the informal conference must be held no later than 60 days after the date on which the Bureau received the written request.

3. The determination of the Bureau resulting from the informal conference cannot be appealed and is the final remedy available to the developer.

4. The Bureau may waive the informal procedures by giving written notice to the developer.

5. Local agencies shall adopt a parallel procedure for handling similar situations.

Sec. 21. NAC 278.510 is hereby amended to read as follows:

278.510 1. Before the developer begins construction of any improvements based on the final map, he must be able to show proof that the map includes a certificate of approval issued by the ~~[Health]~~ Division *of Environmental Protection* or local agency pursuant to NRS 278.377 and NAC 278.310. The proof must be available at the jobsite.

2. If the proof is not available at the jobsite, the health authority or other enforcing officer shall issue an order to the developer to cease and desist until such time as proper proof is available.

3. If the developer fails to comply with the order to cease and desist, the enforcing officer shall seek injunctive relief through a court of competent jurisdiction.

Sec. 22. NAC 278.520 is hereby amended to read as follows:

278.520 Each certificate which the ~~[Health]~~ Division *of Environmental Protection* or local agency issues to approve construction must include a declaration that:

1. The appropriate inspections were performed; and
2. The construction and installations at the subdivision meet the requirements of this chapter.

Sec. 23. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 24 to 27, inclusive, of this regulation.

Sec. 24. *“Commission” means the State Environmental Commission.*

Sec. 25. *“Commission” means the State Environmental Commission.*

Sec. 26. *“Division of Environmental Protection” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

Sec. 27. *“Division of Environmental Protection” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

Sec. 28. NAC 445A.542 is hereby amended to read as follows:

445A.542 As used in NAC 445A.542 to 445A.54296, inclusive, *and sections 24 and 26 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC

445A.5421 to 445A.5425, inclusive, *and sections 24 and 26 of this regulation* have the meanings ascribed to them in those sections.

Sec. 29. NAC 445A.5422 is hereby amended to read as follows:

445A.5422 “Bureau” means the Bureau of ~~[Licensure and Certification of the Health]~~
Water Pollution Control of the Division of ~~[the Department of Health and Human Services.]~~
Environmental Protection.

Sec. 30. NAC 445A.54252 is hereby amended to read as follows:

445A.54252 The ~~[Board]~~ *Commission* hereby adopts by reference the *National Environmental Laboratory Accreditation Conference-Constitution, Bylaws and Standards*, EPA 600/R-98/151, in the form most recently published by the Environmental Protection Agency, unless the ~~[Board]~~ *Commission* gives notice pursuant to the provisions of NAC 445A.5426 that the most recent publication is not suitable for this State. The publication is available, free of charge, from the United States Environmental Protection Agency, Office of Research and Development, 401 M Street, S.W., Washington, D.C. 20460, or from the Environmental Protection Agency at the Internet address <http://www.epa.gov>.

Sec. 31. NAC 445A.54254 is hereby amended to read as follows:

445A.54254 The ~~[Board]~~ *Commission* hereby adopts by reference the following publications in the forms most recently published, unless the ~~[Board]~~ *Commission* gives notice pursuant to the provisions of NAC 445A.5426 that the most recent publication is not suitable for this State. The publications are available, unless otherwise specified in this section, by mail from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (800) 553-6847. The publications may also be obtained from the National Technical Information Service at the Internet address <http://www.ntis.gov>. The publications are:

1. *Consensus Method for Determining Groundwaters under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)*, EPA 910/9-92-029, Order Number PB93-180818, for the price of ~~[\$31.50.]~~ **\$33.**
2. *DBP/ICR Analytical Methods Manual*, EPA 814-B-96-002, Order Number PB96-157516, for the price of ~~[\$45.]~~ **\$60.**
3. *ICR Microbial Laboratory Manual*, April 1996, EPA 600/R-95/178, Order Number PB96-157557, for the price of ~~[\$63.]~~ **\$73.**
4. *ICR Sampling Manual*, April 1996, EPA 814-B-96-001, Order Number PB96-157508, for the price of ~~[\$45.]~~ **\$60.**
5. *Interim Radiochemical Methodology for Drinking Water*, EPA/600/4-75-008, Order Number PB253258, for the price of ~~[\$31.50.]~~ **\$33.**
6. *Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures, Quality Assurance*, 3rd edition, EPA 815-B-97-001, Order Number PB90-220500, for the price of ~~[\$36.50.]~~ **\$60.**
7. *Method 100.1 - Analytical Method for Determination of Asbestos Fibers in Water*, September 1983, EPA 600/4-83-043, Order Number PB83-260471, for the price of ~~[\$67.50.]~~ **\$73.**
8. *Method 100.2 - Determination of Asbestos Structures over 10 Micrometers in Length in Drinking Water*, June 1994, EPA/600/R-94/134, Order Number PB94-201902, for the price of ~~[\$28.50.]~~ **\$33.**
9. *Method 1613: Tetra-Through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS, Revision B*, October 1994, EPA 821-B-94-005, Order Number PB95-104774, for the price of ~~[\$34.]~~ **\$48.**

10. *Methods for Chemical Analysis of Water and Wastes*, EPA 600/4-79-020, Order Number PB84-128677, for the price of ~~[\$101.]~~ **\$111.**
11. *Methods for the Determination of Inorganic Substances in Environmental Samples*, August 1993, EPA/600/R-93-100, Order Number PB94-120821, for the price of \$45.
12. *Methods for the Determination of Metals in Environmental Samples*, EPA/600-4-91/010, Order Number PB91-231498, for the price of ~~[\$70.]~~ **\$86.**
13. *Methods for the Determination of Metals in Environmental Samples, Supplement I*, EPA/600/R-94/111, Order Number PB95-125472, for the price of ~~[\$63.]~~ **\$73.**
14. *Methods for the Determination of Nonconventional Pesticides in Municipal and Industrial Wastewater, Volume I, Revision 1*, August 1993, EPA-821-R-93-010-A, Order Number PB94-121654, for the price of ~~[\$133.]~~ **\$150.**
15. *Methods for the Determination of Organic Compounds in Drinking Water*, Revised July 1991, EPA/600/4-88/039, Order Number PB91-231480, for the price of ~~[\$77.50.]~~ **\$86.**
16. *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 1*, EPA/600/4-90/020, Order Number PB91-146027, for the price of ~~[\$58.50.]~~ **\$73.**
17. *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 2*, EPA/600/R-92/129, Order Number PB92-207703, for the price of ~~[\$63.]~~ **\$73.**
18. *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 3*, EPA/600/R-95/131, Order Number PB95-261616, for the price of ~~[\$101.]~~ **\$124.**
19. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 4th edition, EPA/600/4-90/027F, Order Number PB94-114733, for the price of ~~[\$70.]~~ **\$86.**

20. *Prescribed Procedures for Measurement of Radioactivity in Drinking Water*, EPA 600/4-80-032, Order Number PB80-224744, for the price of ~~[\$41.]~~ **\$60.**
21. *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms*, 3rd edition, EPA/600/4-91/002, Order Number PB96-141452, for the price of ~~[\$60.]~~ **\$86.**
22. *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms*, 2nd edition, EPA/600/4-91-003, Order Number PB96-141445, for the price of ~~[\$77.]~~ **\$99.**
23. *Technical Notes on Drinking Water Methods*, EPA 600/R-94-173, Order Number PB95-104766, for the price of \$31.50.
24. *Test Methods for “Escherichia Coli” in Drinking Water: EC Medium with Mug Tube Procedure, Nutrient Agar with Mug Membrane Filter Procedure*, EPA/600/4-91/016, Order Number PB91-234591, for the price of ~~[\$15.]~~ **\$33.**
25. *US EPA Contract Laboratory Program - Statement of Work for Organics Analysis - Multi-Media, Multi-Concentration, OLM01.0 (Includes Revisions OLM01.1 through OLM01.8)*, Order Number PB95-963508, for the price of ~~[\$86.50.]~~ **\$99.** The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <http://www.epa.gov>.
26. *US EPA Contract Laboratory Program - Statement of Work for Inorganics Analysis - Multi-Media, Multi-Concentration, ILM02.1*, Order Number PB95-963514, for the price of \$70. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <http://www.epa.gov>.

Sec. 32. NAC 445A.54256 is hereby amended to read as follows:

445A.54256 The ~~[Board]~~ *Commission* hereby adopts by reference the following publications in the forms most recently published, unless the ~~[Board]~~ *Commission* gives notice pursuant to the provisions of NAC 445A.5426 that the most recent publication is not suitable for this State. The publications are available, unless otherwise specified in this section, by mail from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, or by telephone at (202) 512-1800. The publications are:

1. *Method 1600-Membrane Filter Test Method for Enterococci in Water*, May 1997, EPA-821-R-97-004, which is available, free of charge, from the United States Environmental Protection Agency, National Center for Environmental Publications and Information, ~~[11029 Kenwood Road, Building 5,]~~ *P.O. Box 42419*, Cincinnati, Ohio ~~[45242.]~~ *45242-0419*.

2. *Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry*, February 1999, EPA-821-R-98-002. The publication is available, free of charge, from the Environmental Protection Agency at the Internet address <http://www.epa.gov>.

3. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846*, 3rd edition, and Updates I, II, IIA, IIB, III and IIIA, Publication Number 955-001-00000-1, for the price of \$367. The publication is also available, free of charge, from the United States Government Printing Office at the Internet address <http://www.epa.gov/epaoswer/hazwaste/test/main.htm>.

Sec. 33. NAC 445A.54258 is hereby amended to read as follows:

445A.54258 The ~~[Board]~~ *Commission* hereby adopts by reference the following publications in the forms most recently published unless the Environmental Protection Agency

fails to publish notice of its approval of the publication in the Federal Register or the ~~[Board]~~ *Commission* gives notice pursuant to the provisions of NAC 445A.5426 that the most recent publication is not suitable for this State:

1. *Annual Book of ASTM Standards, Section 5, Petroleum Products, Lubricants, and Fossil Fuels*, which is available from the American Society For Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, for the price of \$657.
2. *Annual Book of ASTM Standards, Section 11, Water and Environmental Technology*, which is available from the American Society For Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, for the price of ~~[\$686.]~~ *\$1,109.*
3. *ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories*, 1990, which is available from *IHS* Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, for the price of ~~[\$76.]~~ *\$40.*
4. *Standard Methods for the Examination of Water and Wastewater*, Order Number 10079, which is available from the American Water Works Association, Customer Service, 6666 West Quincy Avenue, Denver, Colorado 80235, for the price of ~~[\$155]~~ *\$185* for members and ~~[\$200]~~ *\$250* for nonmembers.

Sec. 34. NAC 445A.5426 is hereby amended to read as follows:

445A.5426 If any publication adopted by reference pursuant to the provisions of NAC 445A.542 to 445A.54296, inclusive, is revised, the ~~[Board]~~ *Commission* may review the revision to determine its suitability for this State. If the ~~[Board]~~ *Commission* determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the ~~[Board]~~ *Commission* does not revise its determination, the ~~[Board]~~ *Commission*

will give notice that the revision is not suitable for this State within 30 days after the hearing. If the ~~[Board]~~ *Commission* does not give the notice, the revision becomes part of the publication adopted by reference pursuant to the provisions of NAC 445A.542 to 445A.54296, inclusive.

Sec. 35. NAC 445A.54294 is hereby amended to read as follows:

445A.54294 1. If the Bureau determines that any facility, equipment, operation or other condition of a certified laboratory requires immediate action to protect the health and safety of the members of the general public and the Bureau receives the approval of the Administrator of the ~~[Health]~~ Division of ~~[the Department of Health and Human Services,]~~ *of Environmental Protection*, the Bureau may, without notice or hearing, issue an emergency order:

- (a) Suspending the certification of the laboratory; and
- (b) Requiring the person to whom the Bureau issues the order to correct the condition for which the emergency order is issued.

2. An emergency order is effective upon issuance and is not subject to review unless, within 30 days after the date the order is served, the person to whom the Bureau issues the order petitions for a hearing before the ~~[Board,]~~ *Commission*.

3. The ~~[Board]~~ *Commission* shall continue, modify or revoke the emergency order within 30 days after it conducts the hearing required by the provisions of subsection 2.

Sec. 36. NAC 445A.591 is hereby amended to read as follows:

445A.591 As used in NAC 445A.591 to 445A.5926, inclusive, *and sections 25 and 27 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.5911 to 445A.592, inclusive, *and sections 25 and 27 of this regulation* have the meanings ascribed to them in those sections.

Sec. 37. NAC 445A.5911 is hereby amended to read as follows:

445A.5911 “Bureau” means the Bureau of ~~[Health Protection Services]~~ *Water Pollution Control* of the ~~[Health]~~ Division ~~[.]~~ *of Environmental Protection*.

Sec. 38. NAC 445A.5917 is hereby amended to read as follows:

445A.5917 “Plan” means the plan prepared by a supplier of water that is submitted to and approved by the ~~[Health]~~ Division *of Environmental Protection* in accordance with the provisions of NAC 445A.591 to 445A.5926, inclusive.

Sec. 39. NAC 445A.5921 is hereby amended to read as follows:

445A.5921 1. Each supplier of water who intends to begin operation of a community water system or nontransient water system on or after October 1, 1999, must, before beginning operation of the water system, submit a plan to the ~~[Health]~~ Division *of Environmental Protection* for its approval.

2. The ~~[Health]~~ Division *of Environmental Protection* shall not issue a permit to a supplier of water to operate a community water system or nontransient water system specified in subsection 1 unless it has approved a plan for the system pursuant to the provisions of NAC 445A.591 to 445A.5926, inclusive.

Sec. 40. NAC 445A.5922 is hereby amended to read as follows:

445A.5922 A plan submitted pursuant to the provisions of NAC 445A.5921 must include:

1. A description of the community water system or nontransient water system that includes, without limitation:

(a) A legal description of the proposed area of service for the system, including, without limitation, a map indicating the layout of the system and the township, range and section in which the system is located;

(b) The purpose of the system and a plan to resolve any problems that may arise concerning the operation of the system;

(c) A program for the control of cross-connections established in accordance with the provisions of NAC 445A.67185;

(d) A plan for the restoration of services of the system in an emergency established in accordance with the provisions of NAC 445A.66665;

(e) A manual of operations and maintenance prepared in accordance with the provisions of NAC 445A.66667;

(f) If applicable, the type of water treatment that will be used by the system pursuant to the provisions of NAC 445A.495 to 445A.540, inclusive; and

(g) Any unique characteristics of the area of service or the system;

2. An analysis of the managerial capability of the system, including, without limitation:

(a) The name, address and telephone number of each owner, manager or operator of the system;

(b) The name, address and telephone number of the person to notify in case of an emergency concerning the system;

(c) The classification of each operator of the system;

(d) The organization, bylaws and policies of the system;

(e) The manner in which the system will bill and correspond or otherwise communicate with its customers; and

(f) An evaluation of each position of employment required to manage, operate or maintain the system, including, without limitation, a description of:

(1) The responsibilities of each person who is employed in each of those positions; and

- (2) Each position of employment that is responsible for:
 - (I) Monitoring federal and state laws and regulations;
 - (II) Determining whether a federal or state law or regulation applies to the management, operation or maintenance of the system; and
 - (III) Determining the cost to the system to comply with a federal or state law or regulation that applies to the management, operation or maintenance of the system;
3. Information concerning planning for the system, including:
 - (a) The estimated population that will be served by the system;
 - (b) The number of service connections that will be included in the system;
 - (c) The estimated amount of water required for the system;
 - (d) A description of the customers who will be served by the system; and
 - (e) An estimate of the proposed use of the property of the system for 20 years, set forth in periods of 5 years;
4. An analysis of the technical capability of the system, including without limitation:
 - (a) The standards for the design, construction, operation and maintenance of the system that comply with the provisions of NAC 445A.65505 to NAC 445A.6731, inclusive, and, if applicable, the provisions of NAC 445A.495 to NAC 445A.540, inclusive;
 - (b) An analysis of a sample of water from a source of water that will be used by the system which is prepared in accordance with the provisions of NAC 445A.450 to 445A.652, inclusive; and
 - (c) A description and analysis of the inventory of the system;
5. An analysis of the water resources of the system, including:

- (a) A plan of water conservation developed in accordance with the provisions of NRS 540.121 to 540.151, inclusive, or NRS 704.662, 704.6622 and 704.6624, if applicable, and an analysis of the effectiveness of the plan if water meters are used;
 - (b) A description of the estimated amount of water required for the system for 5 years after the system begins operation;
 - (c) A demonstration of the ownership of or right to appropriate an amount of water that is sufficient to satisfy the requirements of the system for 5 years after the system begins operation, including, without limitation, a list specifying:
 - (1) Any vested water right obtained by the system; or
 - (2) Any right to appropriate water pursuant to a permit issued by the State Engineer;
 - (d) An analysis of the effect, if any, on the system if a nonresidential user decides not to continue to use the services of the system; and
 - (e) A plan for responding to any shortage of water that may occur in the system within 5 years after the system begins operation;
6. An analysis of any other sources of water available to the system, including:
- (a) A description of each of those sources of water;
 - (b) The identification of the community water system or nontransient water system that is located nearest to the system;
 - (c) A plan to obtain support for the operation or maintenance of the system from any other community water system or nontransient water system;
 - (d) Any connection that is available to the system from any other community water system or nontransient water system; and

(e) If the supplier of water specifies in the plan any other source of water for use by the system, the reasons for specifying that source of water;

7. A program of capital improvements for the system, including a schedule to carry out the program that includes:

(a) Documents that identify any projects required by the system to begin or maintain the operation of the system and the reasons for each of those projects;

(b) A schedule that ranks the projects in order of priority;

(c) A list of any costs incurred by the system for each of those projects; and

(d) Each source of money or financing required for each of those projects;

8. A demonstration of the financial capability of the system, including:

(a) An operating budget for the system for 5 years after the system begins operation that includes a demonstration of the ability of the system to expend money for emergency improvements, capital improvements and normal operation and maintenance of the system;

(b) An evaluation of the rate structure and connection fees of the system;

(c) An evaluation of the total cost of providing service to the customers of the system;

(d) An evaluation of the manner in which the total cost set forth in paragraph (c) will be recovered by the system; and

(e) An evaluation of the stability of the cash flow of the system;

9. Information concerning any legal matters relating to the system, including:

(a) A plan to operate the system if the system is declared bankrupt or is placed in receivership;

(b) The ownership of any real property of the system and any buildings located on that property;

(c) Any right-of-way, easement or restrictive covenant obtained by the system or which applies to the system; and

(d) Any contract to which the system is a party or which applies to the system;

10. A statement that specifies any federal, state or local governmental entity that may adopt regulations concerning the operation of the system or enforce any law or regulation that applies to the system; and

11. Any other information the ~~[Health]~~ Division *of Environmental Protection* may require to review and approve the plan.

Sec. 41. NAC 445A.5923 is hereby amended to read as follows:

445A.5923 1. Except as otherwise provided in subsection 2, if a plan is submitted by a supplier of water and approved by the ~~[Health]~~ Division *of Environmental Protection* pursuant to the provisions of NAC 445A.591 to 445A.5926, inclusive, the supplier of water shall, every 5 years after the plan is approved, revise the plan and submit it to the ~~[Health]~~ Division *of Environmental Protection* for its approval.

2. If the ~~[Health]~~ Division *of Environmental Protection* determines that minor revisions to the plan submitted for approval pursuant to this section are required, the supplier of water may, in lieu of providing a revised plan, submit to the ~~[Health]~~ Division *of Environmental Protection* an amendment to the plan.

Sec. 42. NAC 445A.5924 is hereby amended to read as follows:

445A.5924 A copy of each plan or amendment to a plan that is approved by the ~~[Health]~~ Division *of Environmental Protection* pursuant to the provisions of NAC 445A.591 to 445A.5926, inclusive, must be:

1. Maintained in each business office of the community water system or nontransient water system for which the plan was approved; and

2. Available for inspection by the ~~Health~~ Division *of Environmental Protection* upon request.

Sec. 43. NAC 445A.5925 is hereby amended to read as follows:

445A.5925 1. If a supplier of water submits a report or other information concerning a community water system or nontransient water system to an agency of this State or any political subdivision or local government of this State that contains information that is required to be included in a plan pursuant to NAC 445A.591 to 445A.5926, inclusive, the supplier of water may include the report or other information in the plan.

2. If a report or other information is included in a plan pursuant to the provisions of subsection 1, the ~~Health~~ Division *of Environmental Protection* may consider the report or other information for its review and approval of the plan.

Sec. 44. NAC 445A.5926 is hereby amended to read as follows:

445A.5926 1. If a supplier of water submits a plan pursuant to the provisions of NAC 445A.591 to 445A.5926, inclusive, and, after submitting the plan, has reasonable cause to believe that an action taken by an employee of the Bureau concerning the plan is erroneous or based on inadequate knowledge, the supplier of water may, not more than 10 business days after the supplier of water receives notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of that employee.

2. Except as otherwise provided in this subsection, if the ~~Health~~ Division *of Environmental Protection* receives a request pursuant to subsection 1, the ~~Health~~ Division *of Environmental Protection* shall schedule an informal discussion concerning the action for which

the request was submitted at a date, place and time that is agreed upon by the Bureau and the supplier of water. The informal discussion must be held not later than 30 days after the ~~Health~~ Division *of Environmental Protection* receives the request.

3. If an informal discussion is conducted pursuant to subsection 2 and the action for which the informal discussion was conducted is not resolved, the supplier of water may, not more than 10 business days after the informal discussion, submit a written request to the Bureau for an informal conference concerning the request. Except as otherwise provided in this subsection, if the Bureau receives such a request, the Bureau shall schedule the informal conference at a date, place and time that is agreed upon by the Bureau and the supplier of water. The informal conference must be held not more than 60 days after the Bureau receives the written request.

4. If an informal conference is held pursuant to subsection 3, any determination of the Bureau resulting from the informal conference may not be appealed and is the final remedy for the supplier of water who requested the conference.

Sec. 45. NAC 445A.595 is hereby amended to read as follows:

445A.595 As used in NAC 445A.595 to 445A.614, inclusive, unless the context otherwise requires, the words and terms defined in NAC ~~445A.596~~ *445A.597* to 445A.601, inclusive, have the meanings ascribed to them in those sections.

Sec. 46. NAC 445A.603 is hereby amended to read as follows:

445A.603 1. The owner of a water system or his designated agent may apply for a permit to operate a water system on an application form provided by the ~~Health~~ Division ~~of~~ *Environmental Protection*.

2. Before filing an application, the owner of a water system or his designated agent may request a conference with the Chief of the Bureau ~~of Health Protection Services of the Health~~

~~Division~~ or a person designated by the Chief. The applicant, members of the local governing body, employees of the Public Utilities Commission of Nevada and the State Engineer may attend the conference.

Sec. 47. NAC 445A.604 is hereby amended to read as follows:

445A.604 1. An applicant for a permit to operate a water system shall submit four copies of a completed application form to the ~~Health~~ Division ~~of~~ *Environmental Protection*.

2. An application must be accompanied by:

(a) An application fee of \$500.

(b) The financial information required by NAC 445A.605.

(c) Evidence that the conditions prescribed by subsections 1 and 4 of NRS 445A.895 have been met.

(d) The names, addresses and qualifications of each person or entity who will be responsible for the operation, maintenance or management of the water system, including:

(1) The technical background or experience of each person or entity;

(2) The classification and type of certificate issued to the operator pursuant to NAC 445A.617 to 445A.652, inclusive, if applicable; and

(3) A list of the professional water industry organizations in which each person or entity is a member.

(e) A description of any governing board of the water system.

(f) A plan for the operation, maintenance and management of the water system, including:

(1) A program for the control of cross-connections;

(2) The procedures, methods, schedules and locations for production metering, testing pressure and testing customer's meters, if any; and

(3) A program for testing the quality of the water to ensure compliance with the provisions of NAC 445A.450 to 445A.492, inclusive.

(g) A plan for a sanitary survey to evaluate past and present sources of pollution which might affect the quality of the water system's source of water, including sanitary sewage, landfills, salt storage and commercial or industrial facilities which might affect the quality of the water system's source of water.

(h) A plan for action and proper notification of authorities in the event of a hurricane, typhoon, tornado, storm, flood, high water, wind-driven water, earthquake, volcanic eruption, landslide, mud slide, snowstorm, drought, fire, explosion, electrical outage, attack, sabotage or toxic spill or other spill that could pose a health hazard.

(i) Information from the State Engineer regarding water rights affecting the water system, the status of such water rights and the source of the water.

Sec. 48. NAC 445A.606 is hereby amended to read as follows:

445A.606 1. The ~~Health~~ Division *of Environmental Protection* shall:

(a) Submit a copy of each completed application that it receives pursuant to NAC 445A.604 to the Public Utilities Commission of Nevada, the State Engineer and the local governing body; and

(b) Request written comments regarding the application from the Public Utilities Commission of Nevada, the State Engineer and the local governing body.

2. For the ~~Health~~ Division *of Environmental Protection* to consider fully written comments from the Public Utilities Commission of Nevada or the State Engineer, the ~~Health~~ Division *of Environmental Protection* must receive the comments within 30 calendar days after the date the Public Utilities Commission of Nevada or the State Engineer received the

application. The ~~Health~~ Division *of Environmental Protection* shall furnish copies of any written comments from the Public Utilities Commission of Nevada or the State Engineer to the local governing body.

3. For the ~~Health~~ Division *of Environmental Protection* to consider fully written comments from the local governing body, the ~~Health~~ Division *of Environmental Protection* must receive the comments within 60 calendar days after the date the local governing body received the application.

Sec. 49. NAC 445A.608 is hereby amended to read as follows:

445A.608 The ~~Health~~ Division *of Environmental Protection* shall not issue a permit to operate a water system unless the local governing body submits:

1. A resolution;
2. A copy of the minutes of a public meeting; or
3. Other written documentation,

↪ which sufficiently demonstrates that the local governing body assumes the responsibilities and duties specified in subsection 4 of NRS 445A.895.

Sec. 50. NAC 445A.609 is hereby amended to read as follows:

445A.609 The ~~Health~~ Division *of Environmental Protection* shall not issue a permit to operate a water system unless:

1. The fee for an annual permit to operate a public water system has been paid as set forth in paragraph (b) of subsection 1 of NAC 445A.6664; and
2. The fee for a review of an application for a permit to construct, modify or expand a public water system has been paid as set forth in paragraph (a) of subsection 1 of NAC 445A.6664.

Sec. 51. NAC 445A.610 is hereby amended to read as follows:

445A.610 A permit to operate a water system must require the owner and operator to:

1. Comply with the provisions of NRS 445A.800 to 445A.955, inclusive.
2. Comply with the provisions of NAC 445A.450 to 445A.492, inclusive, 445A.595 to 445A.614, inclusive, and 445A.65505 to 445A.6731, inclusive.
3. Report any changes in operations, ownership, facilities, maintenance or management to the ~~Health~~ Division ~~of~~ *Environmental Protection*.
4. Comply with any other limitations or conditions placed on the owner or operator by the ~~Health~~ Division ~~of~~ *Environmental Protection*.

Sec. 52. NAC 445A.611 is hereby amended to read as follows:

445A.611 1. If a permit to operate a water system is issued to an applicant, the ~~Health~~ Division *of Environmental Protection* shall notify the applicant in writing of any limitations or conditions placed on the owner or operator of the water system pursuant to subsection 4 of NAC 445A.610. A copy of the notice must be attached to the permit.

2. All applications for permits and copies of permits issued are public records and may be inspected by any person during the regular office hours of the ~~Health~~ Division ~~of~~ *Environmental Protection*.

Sec. 53. NAC 445A.612 is hereby amended to read as follows:

445A.612 1. The ~~Health~~ Division *of Environmental Protection* may deny an application for or modify, suspend or revoke a permit to operate a water system on any of the following grounds:

(a) A violation of a condition or limitation placed on the permit pursuant to subsection 4 of NAC 445A.610.

(b) A misrepresentation of a relevant fact or a failure to disclose fully all relevant facts in obtaining the permit.

(c) A failure or refusal of the applicant for or holder of a permit to comply with any provision of NAC 445A.595 to 445A.614, inclusive.

(d) Operating a water system without a permit.

(e) Interference with the ~~Health~~ Division *of Environmental Protection* in the performance of its duties.

2. The ~~Health~~ Division *of Environmental Protection* shall:

(a) Immediately notify the local governing body when a permit is revoked.

(b) Send written notice of the denial of an application for or the modification, suspension or revocation of a permit to operate a water system pursuant to the requirements set forth in NAC 439.300 to 439.395, inclusive.

Sec. 54. NAC 445A.614 is hereby amended to read as follows:

445A.614 1. An applicant for or holder of a permit who:

(a) Has reason to believe that an action taken by the ~~Health~~ Division *of Environmental Protection* pursuant to NAC 445A.595 to 445A.614, inclusive, has been incorrect or based on inadequate knowledge; or

(b) Objects to a limitation or condition placed on his permit by the ~~Health~~ Division *of Environmental Protection* pursuant to subsection 4 of NAC 445A.610,

↪ may, within 10 business days after receiving notice of the action taken, request an informal discussion with the employee of the ~~Health~~ Division *of Environmental Protection* responsible for the action and his immediate supervisor.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the Bureau for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the Bureau, except that the informal conference must be held no later than 60 days after the date on which the Bureau received the written request.

3. Except as otherwise provided in subsection 4, the determination of the Bureau resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a permit issued pursuant to NAC 445A.595 to 445A.614, inclusive, who is aggrieved by an action of the ~~[Health]~~ Division *of Environmental Protection* relating to the denial of an application for or renewal of such a permit or the modification, suspension or revocation of such a permit may appeal that action in accordance with NAC 439.300 to 439.395, inclusive, after exhausting the informal procedures set forth in this section, except that the Bureau may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

5. As used in this section, “Bureau” means the Bureau of ~~[Health Protection Services]~~ *Water Pollution Control* of the ~~[Health]~~ Division of ~~[the Department of Health and Human Services]~~ *Environmental Protection* or its successor.

Sec. 55. NAC 445A.6603 is hereby amended to read as follows:

445A.6603 “Groundwater under the direct influence of surface water” means any water beneath the surface of the ground that the ~~[Health]~~ Division *of Environmental Protection* has determined to have:

1. A significant occurrence of insects or other macroorganisms;
2. Algae or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium* spp.; or
3. Significant and rapid shifts in water characteristics such as turbidity, temperature, conductivity or pH which closely parallel climatic or surface water conditions.

Sec. 56. NAC 445A.66055 is hereby amended to read as follows:

445A.66055 “Health authority” means the officers and agents of the district board of health of the health district in which the area of service of a public water system is located or, if none, the officers and agents of the ~~Health~~ Division ~~of~~ *Environmental Protection*.

Sec. 57. NAC 445A.6662 is hereby amended to read as follows:

445A.6662 1. Except as otherwise provided in subsection 2, the provisions of NAC 445A.65505 to 445A.6731, inclusive, apply to every public water system in this State.

2. Except for water projects performed after February 20, 1997, NAC 445A.65505 to 445A.6731, inclusive, do not apply to a public water system which the ~~Health~~ Division *of Environmental Protection* determines, based on a sanitary survey and past performance, to be safe and not subject to pollution or contamination as a result of the location, protection, construction, operation or maintenance of that public water system.

Sec. 58. NAC 445A.66635 is hereby amended to read as follows:

445A.66635 The ~~Health~~ Division *of Environmental Protection* shall not issue or renew any permit to operate a public water system or, except as otherwise provided in subsection 2 of NAC 445A.6669, review plans to construct, modify or expand such a system until the fees prescribed in NAC 445A.6664 have been paid.

Sec. 59. NAC 445A.6664 is hereby amended to read as follows:

445A.6664 1. The ~~Health~~ Division *of Environmental Protection* shall charge and collect fees for its service, as follows:

(a) Except as otherwise provided in subsection 2 of NAC 445A.6669, for reviewing an application for a permit to construct, modify or expand a public water system:

(1) If the public water system is a community water system:

(I) For reviewing on-site or off-site improvement plans for the construction of a new community water system within an existing subdivision or for a new subdivision or for the modification or expansion of an existing community water system within an existing subdivision. \$250

Plus \$3 for each connection for supply of water to customers.

(II) For reviewing plans to construct, modify or expand a community water system which is not part of a subdivision. 300

(III) For reviewing plans to construct, modify or expand a treatment facility of a community water system. 0.1 percent of the capital cost of the treatment facility, not to exceed \$3,250

(2) If the public water system is not a community water system, for reviewing any plans to construct, modify or expand the public water system. 200

(b) For issuing an annual permit to operate a public water system:

(1) If the system is a community water system:

Number of connections for service to customers

| | |
|--|--------|
| 25 or less | \$225 |
| 26-3,000..... | 225 |
| Plus 75 cents for each connection for service between 26 and 3,000 connections. | |
| 3,001-10,000..... | 2,500 |
| Plus 60 cents for each connection for service between 3,001 and 10,000 connections. | |
| 10,001-50,000..... | 6,700 |
| Plus 25 cents for each connection for service between 10,001 and 50,000 connections. | |
| 50,001-100,000..... | 16,700 |
| Plus 10 cents for each connection for service between 50,001 and 100,000 connections. | |
| over 100,000..... | 21,700 |

(2) If the system is not a community water system and regularly serves at least
25 of the same persons for more than 6 months per year 225

(3) If the system is not a community water system or a public water system
that serves at least 25 of the same persons for more than 6 months per year 100

(c) Except as otherwise provided in subsection 2, for issuing an annual permit to operate a
treatment facility based on the capacity of the treatment facility as follows:

(1) Less than 500,000 gallons per day..... \$150

- (2) At least 500,000 gallons per day but less than 1 million gallons per day 250
- (3) At least 1 million gallons per day but less than 5 million gallons per day 1,500
- (4) At least 5 million gallons per day but less than 10 million gallons per day 2,000
- (5) At least 10 million gallons per day but less than 50 million gallons per day 3,000
- (6) At least 50 million gallons per day but less than 100 million gallons per day 4,000
- (7) At least 100 million gallons per day or more 7,500

2. An applicant for a permit to operate a treatment facility that only provides treatment related to chlorination is not required to pay the fees set forth in paragraph (c) of subsection 1.

3. As used in this section:

(a) “Capital cost of the treatment facility” means the cost estimated by an engineer to construct, modify or expand the treatment facility.

(b) “Community water system” means a public water system which:

- (1) Has at least 15 service connections used by residents for an entire year; or
- (2) Regularly serves at least 25 residents for an entire year.

Sec. 60. NAC 445A.66645 is hereby amended to read as follows:

445A.66645 1. A person who has reason to believe that an action taken by the ~~Health~~ Division *of Environmental Protection* pursuant to NAC 445A.65505 to 445A.6731, inclusive, is incorrect or based on inadequate knowledge may obtain an administrative review of the matter only as provided in this section.

2. The aggrieved person may, not later than 10 working days after receiving notice of the action, request an informal discussion with the employee responsible for the action and his immediate supervisor.

3. If the informal discussion does not resolve the problem, the aggrieved person may, not later than 10 working days after the date scheduled for the informal discussion, request an informal conference by submitting a letter to the Bureau of ~~[Health Protection Services]~~ *Water Pollution Control* of the ~~[Health]~~ Division *of Environmental Protection* requesting the conference. The informal conference must be held within 60 days after the Bureau receives the letter at a place, date and time mutually agreed upon by the aggrieved person and the Bureau. Except as otherwise provided in subsections 3 ~~[and 4,]~~ *, 4 and 5*, the informal conference is the final administrative hearing on the matter.

4. If the informal conference does not resolve the problem and the action taken by the ~~[Health]~~ Division *of Environmental Protection* consisted of:

- (a) The denial of an application for a permit;
- (b) The suspension or revocation of a permit; or
- (c) The modification of or refusal to modify a permit,

→ the aggrieved person may request a hearing pursuant to NAC 439.190.

5. The Bureau of ~~[Health Protection Services]~~ *Water Pollution Control of the Division of Environmental Protection* may waive any of the provisions of subsections 1 to 4, inclusive. The Bureau shall provide the aggrieved person with written notice of any waiver it grants pursuant to this subsection regarding his grievance.

Sec. 61. NAC 445A.6665 is hereby amended to read as follows:

445A.6665 The ~~[Health]~~ Division *of Environmental Protection* may grant a supplier of water a special exception from any of the provisions of NAC 445A.65505 to 445A.6731, inclusive, if the special exception:

- 1. Is justified by an engineer;

2. Involves an advance in technology, improvement in materials, or alternative method of construction or operation that will not be detrimental to the public health; and

3. Will not conflict with the provisions of NAC 445A.66615.

Sec. 62. NAC 445A.6668 is hereby amended to read as follows:

445A.6668 A supplier of water may elect to participate in the program of the ~~Health~~ Division *of Environmental Protection* for the assessment of sources of groundwater for vulnerability to contamination. Pursuant to that program, the ~~Health~~ Division *of Environmental Protection* may evaluate a source of water used by a public water system and, based upon its determination of the susceptibility of the source to contamination, authorize a reduction in the required frequency for monitoring the water quality of the source for the presence of certain contaminants. The ~~Health~~ Division *of Environmental Protection* shall base such a determination upon:

1. Any previous results from the monitoring of water quality.
2. The proximity of a source of groundwater to potential sources of contamination.
3. The environmental persistence and potential mobility of any identified contamination.
4. Any policies and procedures that could be carried out to control potential sources of contamination.
5. The potential effects in the worst possible case of a release from a potential source of contamination.
6. The physical features and conditions in place to protect the source of groundwater from potential sources of contamination, including the design and construction of the well, the type of soil and the hydrogeological environment.

Sec. 63. NAC 445A.66685 is hereby amended to read as follows:

445A.66685 1. The design and construction of a public water system must comply with the provisions of:

(a) NAC 445A.65505 to 445A.6731, inclusive.

(b) *The American Water Works Association Standards.*

(c) Standards 14, 42, 44, 53, 54, 55, 58, 60 and 61 of the American National Standards Institute and the National Sanitation Foundation International.

(d) *Recommended Practice for Backflow Prevention and Cross-Connection Control.*

(e) *Recommended Standards for Water Works.*

(f) For public water systems in Carson City, Fallon, Reno, Sparks, Yerington, Douglas County, Lander County, Lyon County, Nye County or Washoe County, *Standard Specifications for Public Works Construction.*

(g) For public water systems in Boulder City, Henderson, North Las Vegas, the Big Bend Water District or the Las Vegas Valley Water District, *Uniform Design and Construction Standards for Potable Water Distribution Systems.*

(h) *The Uniform Plumbing Code.*

(i) Any other engineering standards approved by the ~~Health~~ Division ~~of~~ *Environmental Protection.*

2. If there is any conflict between any of the provisions described in subsection 1, the most stringent of those provisions prevails.

Sec. 64. NAC 445A.6682 is hereby amended to read as follows:

445A.6682 1. On or before March 1, 2000, all water delivered for human consumption in a county whose population is 400,000 or more by a:

(a) Public water system that serves a population of 100,000 or more; or

(b) Water authority,

↪ must be fluoridated.

2. In a county whose population is less than 400,000, all requests that fluoride be added to the water supply for the reduction of the incidence of dental caries must be referred to the health authority, who shall send the request to the board of health for consideration. In addition to any approval required pursuant to NRS 445A.025 to 445A.050, inclusive, the following must agree to a request to add fluoride to the water supply:

(a) The public water system;

(b) The county board of health;

(c) The State Board of Health;

(d) The local dental and medical society, or if there is none, the state dental and medical society; and

(e) The local governing authority.

↪ If such approval is granted, the fluoridation of the water must be provided in accordance with the provisions of this section.

3. The ~~[State Board of Health]~~ *Commission* will exempt a public water system or water authority from the requirement of fluoridation of the groundwater in its wells if the public water system or water authority submits documentation to the ~~[State Board of Health]~~ *Commission* that demonstrates that its system for the production of groundwater:

(a) Produces less than 15 percent of the total average annual water production of the public water system or water authority for the years in which drought conditions are not prevalent; and

(b) Is part of a combined regional and local system for the distribution of water that is served by a fluoridated source.

4. A public water system or water authority that is required to fluoridate all water delivered for human consumption pursuant to subsection 1 shall:

- (a) Cease fluoridation of that water during an emergency related to fluoridation of the water;
- (b) Submit to the ~~[Health]~~ Division *of Environmental Protection* within 30 days after the emergency occurs, a written notice describing the emergency and the length of time during which the public water system or water authority ceased fluoridation of the water; and
- (c) Resume fluoridation of the water when the emergency no longer exists.

5. A public water system or water authority that is required to fluoridate all water delivered for human consumption pursuant to subsection 1 may cease fluoridation of that water during a period of routine maintenance if the public water system or water authority:

- (a) Submits to the ~~[Health]~~ Division *of Environmental Protection* within 30 days before the period of routine maintenance, a written notice describing the maintenance and the length of time during which the public water system or water authority will cease fluoridation of the water; and
- (b) Resumes fluoridation of the water when the maintenance is completed.

6. In addition to meeting the standards set forth in NAC 445A.450 to 445A.492, inclusive, a public water system or water authority shall maintain in all water it delivers for human consumption:

- (a) A minimum concentration of fluoride that is not less than 0.7 ppm; and
- (b) A maximum concentration of fluoride that does not exceed 1.2 ppm.

7. The introduction of a chemical for fluoridation into the facilities of a public water system or water authority must be made:

- (a) Through accurate feeding equipment; and
- (b) In accordance with *Water Fluoridation: A Manual for Engineers and Technicians*.

8. The feeding equipment must be maintained in accordance with *Water Fluoridation: A Manual for Engineers and Technicians*.

9. The feeding equipment must be controlled in such a manner that fluoride is added to the facilities of the public water system or water authority only when those facilities and the related equipment for supplying water are functioning properly. Electrical power to the feeding equipment must be wired in conjunction with the pumping or flow control equipment of the public water system or water authority in such a manner that fluoride cannot be introduced into the supply of water when the water is not flowing. Pumps for feeding chemicals must be equipped with flow detectors which ensure that the injection of chemicals stops when the well or booster pumps stop.

10. Either gravimetric or volumetric dry-feed equipment or positive displacement liquid-feed equipment with an accuracy within 5 percent is required. When liquid-feed equipment is used, at least two solution tanks must be available for the preparation and storage of the fluoride solution.

11. A person who handles chemicals that are added to the water in the fluoridation process shall comply with the requirements relating to protective equipment set forth in section 5.3.4 of the *Recommended Standards for Water Works*.

12. Each public water system and water authority shall:

(a) Maintain a kit which is approved by the health authority for testing the concentration of fluoride in water.

(b) Adjust the concentration of fluoride if the natural concentration of fluoride in the water delivered for human consumption by the public water system or water authority is not within the permissible concentrations of fluoride set forth in subsection 6.

(c) Take samples from one or more points in the distribution system that are approved by the health authority.

(d) Test or monitor the concentration of fluoride daily after its introduction into the facilities of the public water system or water authority and maintain accurate records of the results of that testing or monitoring.

(e) Report the results of the daily testing or monitoring to the health authority at least monthly and in accordance with any written instructions prescribed by the health authority.

(f) Not less than once a week, have a properly certified laboratory verify the results of the testing or monitoring for at least 1 day using the methods approved in the *Standard Methods for the Examination of Water and Wastewater*. The health authority may take samples from points in the distribution system approved by it pursuant to paragraph (c) to test the samples for control purposes.

(g) Follow any written instructions of the health authority for the sampling of water to which fluoride has been added.

(h) Keep a record or copy of the results of the daily testing or monitoring on the premises of its facility or at a convenient location near the premises for the period specified in 40 C.F.R. § 141.33. The record or copy must be available for inspection by the health authority upon request.

(i) In the fluoridation of water, only use fluoride that meets the requirements set forth in standards B701-94, B702-94 and B703-94 of the *American Water Works Association Standards*.

(j) Notify the ~~Health~~ Division *of Environmental Protection* as soon as possible, but not later than the end of the next business day, if:

(1) The concentration of fluoride in the water that is delivered for human consumption does not meet the levels of concentration required by subsection 6; or

(2) Any other event occurs that may affect the ability of the public water system or water authority to produce safe, potable water.

(k) Comply with the provisions of:

- (1) This section;
- (2) The *Recommended Standards for Water Works*;
- (3) The *Standard Methods for the Examination of Water and Wastewater*;
- (4) *Water Fluoridation: A Manual for Engineers and Technicians*; and
- (5) Standards B701-94, B702-94 and B703-94 of the *American Water Works Association Standards*.

↪ If there is a conflict between any of the provisions described in this paragraph, the most stringent of those provisions prevails.

13. As used in this section:

(a) “Health authority” has the meaning ascribed to it in NAC 445A.66055, except that with regard to a county whose population is 400,000 or more, “health authority” means the officers and agents of the ~~Health~~ Division ~~of~~ *Environmental Protection*.

(b) “Water authority” has the meaning ascribed to it in NRS 377B.040.

Sec. 65. NAC 445A.6716 is hereby amended to read as follows:

445A.6716 If a sewer service lateral parallels a water main or water service lateral, the sewer service lateral must be in a separate trench and:

1. Located:

(a) At least 12 inches lower than the water main or water service lateral, as measured vertically from the exterior walls of the pipes; and

(b) At least 48 inches away from the water main or water service lateral, as measured horizontally from the exterior walls of the pipes; or

2. If compliance with subsection 1 is impracticable, located in such a manner as is authorized by the ~~Health~~ Division ~~[-]~~ of *Environmental Protection*.

Sec. 66. NAC 445A.6717 is hereby amended to read as follows:

445A.6717 1. If a sewer main crosses a water service lateral, the sewer main must be located:

(a) At least 18 inches lower than the water service lateral, as measured vertically from the exterior walls of the pipes; or

(b) If compliance with paragraph (a) is impracticable, in such a manner as is authorized by the ~~Health~~ Division ~~[-]~~ of *Environmental Protection*.

2. If a water service lateral is in place at the time a sewer main is constructed and must be relocated to comply with this section, the relocation must be performed:

(a) With the approval of and in accordance with the procedures and standards of the supplier of water; or

(b) If compliance with paragraph (a) is impracticable, in such a manner as is authorized by the ~~Health~~ Division ~~[-]~~ of *Environmental Protection*.

Sec. 67. NAC 445A.67175 is hereby amended to read as follows:

445A.67175 1. If a sewer service lateral crosses a water main or water service lateral, the sewer service lateral must be located:

(a) At least 12 inches lower than the water main or water service lateral, as measured vertically from the exterior walls of the pipes; or

(b) If compliance with paragraph (a) is impracticable, in such a manner as is authorized by the ~~Health~~ Division ~~of~~ *Environmental Protection*.

2. If a water main or water service lateral is in place at the time a sewer service lateral is constructed and must be relocated to comply with this section, the relocation must be performed:

(a) With the approval of and in accordance with the procedures and standards of the supplier of water; or

(b) If compliance with paragraph (a) is impracticable, in such a manner as is authorized by the ~~Health~~ Division ~~of~~ *Environmental Protection*.

Sec. 68. NAC 445A.67265 is hereby amended to read as follows:

445A.67265 Except as otherwise authorized by the ~~Health~~ Division ~~of~~ *Environmental Protection*, if any part of a distribution system loses all pressure, the supplier of water shall, before placing that part of the distribution system back into service:

1. Inform the customers of the public water system within the affected portion of its area of service of the need to boil their water before consumption.

2. Collect, on 2 or more consecutive days, samples of water from that part of the distribution system which indicate that the presence of any coliform bacteria complies with primary standards.

Sec. 69. NRS 278.060, 445A.54218, 445A.5914, 445A.596 and 445A.6606 are hereby repealed.

Sec. 70. 1. This section and sections 1 to 12, inclusive, and 14 to 69, inclusive, of this regulation become effective upon filing with the Secretary of State.

2. Section 12 of this regulation expires by limitation on the date on which the United States Environmental Protection Agency adopts a final rule establishing a maximum contaminant level

for arsenic in public water systems and the State Environmental Commission adopts that standard.

3. Section 13 of this regulation becomes effective on the date on which the United States Environmental Protection Agency adopts a final rule establishing a maximum contaminant level for arsenic in public water systems and the State Environmental Commission adopts that standard.

TEXT OF REPEALED SECTIONS

278.060 “Health Division” defined. (NRS 439.200) “Health Division” means the Health Division of the Department of Health and Human Services.

445A.54218 “Board” defined. (NRS 445A.860, 445A.863) “Board” means the State Board of Health.

445A.5914 “Health Division” defined. (NRS 439.200, 445A.860) “Health Division” means the Health Division of the Department of Health and Human Services.

445A.596 “Health Division” defined. (NRS 445A.860) “Health Division” means the Health Division of the Department of Health and Human Services.

445A.6606 “Health Division” defined. (NRS 445A.860) “Health Division” means the Health Division of the Department of Health and Human Services.