

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

LCB File No. R203-99

Effective August 1, 2001

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

AUTHORITY: §§1-49, NRS 439.200 and 445A.863.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 45, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 45, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 22, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Accuracy” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 4. *“Analyst” means a chemist, microbiologist, physicist or technician who:*

- 1. Is qualified to conduct analyses of environmental samples pursuant to the provisions of the manual specified in subsection 6 of section 24 of this regulation; and*
- 2. Performs those tests or assists in performing those tests with other qualified employees of a certified laboratory.*

Sec. 5. *“Analyte” means any compound, element, radical, isotope, contaminant organism, species or other substance for which an environmental sample is tested by a laboratory.*

Sec. 6. *“Approved method of testing” means a laboratory procedure specified in subsection 4 of section 28 of this regulation that is approved by the Environmental Protection Agency or the bureau to test an environmental sample.*

Sec. 6.5. *“Board” means the state board of health.*

Sec. 7. *“Bureau” means the bureau of licensure and certification of the health division of the department of human resources.*

Sec. 8. *“Certified laboratory” means a laboratory for which a certificate to conduct analyses of drinking water is issued pursuant to the provisions of sections 2 to 45, inclusive, of this regulation.*

Sec. 9. *“Director” means:*

1. A person who is qualified to administer any technical or scientific operation of a certified laboratory and supervise the procedures for the testing and reporting of the results of tests pursuant to the provisions of the standards; or

2. A chemist, microbiologist or physicist who is qualified to engage in an activity specified in subsection 1 pursuant to the provisions of the manual specified in subsection 6 of section 24 of this regulation.

Sec. 10. *“Environmental sample” means a sample of any substance obtained from any natural source or any source that may reasonably be expected to pollute or receive pollution from the atmosphere, supplies of drinking water, ground water, surface water, soil, sediment or ecosystem biota of this state, including, without limitation:*

1. Ambient air;

2. Emissions of air from point sources;

3. Drinking water;

4. *Receiving waters;*
5. *Soil or sediment;*
6. *Effluents from industrial, municipal or residential sources;*
7. *Samples from facilities used to store or handle chemicals;*
8. *Facilities used to dispose of waste;*
9. *Runoff of surface water; and*
10. *Samples obtained from facilities used to handle or apply substances for the control of weeds or insects.*

Sec. 11. *“Federal Act” has the meaning ascribed to it in NRS 445A.815.*

Sec. 12. *“National Environmental Laboratory Accreditation Conference” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 13. *“Performance-based measurement system” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 14. *“Point source” has the meaning ascribed to it in NRS 445A.395.*

Sec. 15. *“Precision” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 16. *“Proficiency test sample” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 17. *“Proficiency testing program” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 18. *“Quality control sample” means an uncontaminated environmental sample that is spiked with a known analyte and provided to a laboratory for analysis to determine the*

performance of the laboratory in testing for the presence of that analyte by using a specified method of testing for the analyte.

Sec. 19. *“Quality manual” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 20. *“Sensitivity” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 21. *“Spike” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

Sec. 22. *“Standards” means the standards of the National Environmental Laboratory Accreditation Conference adopted by reference pursuant to the provisions of section 23 of this regulation.*

Sec. 23. *The board 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 gives notice pursuant to the provisions of section 45 of this regulation 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/ttn/nelac>>.*

Sec. 24. *The board hereby adopts by reference the following publications in the forms most recently published, unless the board gives notice pursuant to the provisions of section 45 of this regulation 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/support/ordering.htm>>. 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.*
- 2. DBP/ICR Analytical Methods Manual, EPA 814-B-96-002, Order Number PB96-157516, for the price of \$45.*
- 3. ICR Microbial Laboratory Manual, April 1996, EPA 600/R-95/178, Order Number PB96-157557, for the price of \$63.*
- 4. ICR Sampling Manual, April 1996, EPA 814-B-96-001, Order Number PB96-157508, for the price of \$45.*
- 5. Interim Radiochemical Methodology for Drinking Water, EPA/600/4-75-008, Order Number PB253258, for the price of \$31.50.*
- 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.*
- 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.*
- 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.*

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.*
10. *Methods for Chemical Analysis of Water and Wastes, EPA 600/4-79-020, Order Number PB84-128677, for the price of \$101.*
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.*
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.*
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.*
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.*
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.*
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.*
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.*

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.*
20. *Prescribed Procedures for Measurement of Radioactivity in Drinking Water, EPA 600/4-80-032, Order Number PB80-224744, for the price of \$41.*
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.*
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.*
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.*
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. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/superfund/programs/clp/prodserv.htm>>.*
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/superfund/programs/clp/prodserv.htm>>.

Sec. 25. The board hereby adopts by reference the following publications in the forms most recently published, unless the board gives notice pursuant to the provisions of section 45 of this regulation 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, Cincinnati, Ohio 45242.

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/OST/Methods/oil.html>>.

3. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846, 3rd edition, and Updates I, II, IIA, IIB and III, Publication Number 955-001-00000-1, for the price of \$239. The publication is also available, free of charge, from the United States Government Printing Office at the Internet address <<http://search.epa.gov/epaswer/hazwaste/test/txmain.htm>>.

Sec. 26. *The board 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 gives notice pursuant to the provisions of section 45 of this regulation 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.

3. ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories, 1990, which is available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, for the price of \$76.

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 for members and \$200 for nonmembers.

Sec. 27. *1. The provisions of sections 2 to 45, inclusive, of this regulation must not be interpreted to circumvent any of those provisions to make them less effective. If more than one interpretation exists for any of those provisions, the more restrictive interpretation applies.*

2. If any provision of a publication adopted by reference pursuant to the provisions of section 24, 25 or 26 of this regulation conflicts with any provision of sections 2 to 45,

inclusive, of this regulation or with the standards, the provision set forth in sections 2 to 45, inclusive, of this regulation or the standards applies.

Sec. 28. *1. Laboratory testing is the category of testing specified in Figure 1-3 of the standards for which a laboratory may obtain certification pursuant to the provisions of sections 2 to 45, inclusive, of this regulation.*

2. The scientific disciplines within the category of testing specified in subsection 1 for which a laboratory may obtain certification are:

(a) Chemistry;

(b) Microbiology; and

(c) Radiochemistry.

3. A laboratory may obtain certification pursuant to the provisions of sections 2 to 45, inclusive, of this regulation for any program relating to the analysis of drinking water approved by the Environmental Protection Agency pursuant to the Federal Act.

4. Except as otherwise provided in subsection 5, the approved methods of testing for which a laboratory may obtain certification are set forth in:

(a) 40 C.F.R. §§ 141.21(f), 141.23(k)(1), 141.24(e), 141.25(a) and (b), 141.40(n)(11), 141.74(a), 141.142(b), 141.143(b) and 143.4(b); and

(b) The publications adopted by reference pursuant to the provisions of subsections 1 to 13, inclusive, 15 to 18, inclusive, 20, 23 and 24 of section 24 and subsections 1, 2 and 4 of section 26 of this regulation.

5. A laboratory may obtain certification to use a performance-based measurement system or any other alternative method of testing if the Environmental Protection Agency indicates in

the Federal Register that the method of testing is equivalent to an approved method of testing and the laboratory:

(a) Complies with the provisions of subsection 5 of section 30 of this regulation; and

(b) Provides proof and evaluates the performance-based measurement system or any other alternative method of testing in accordance with the provisions of:

(1) Appendix E of chapter 5 of the standards; and

(2) 40 C.F.R. § 141.27.

6. To be certified to conduct an analysis of an analyte using an approved method of testing specified in subsection 4, the analyte must be listed by the bureau in the approved method of testing pursuant to that subsection.

Sec. 29. For the purposes of charging and collecting fees and conducting performance evaluations pursuant to the provisions of sections 2 to 45, inclusive, of this regulation, the bureau shall classify each analyte for which a laboratory may be certified into the following categories:

1. Primary inorganic contaminants;

2. Secondary inorganic contaminants;

3. Regulated and unregulated volatile organic contaminants, including, without limitation, vinyl chloride and trihalomethanes;

4. Regulated and unregulated synthetic organic contaminants;

5. Radiochemical contaminants;

6. Individual primary or secondary inorganic contaminants; or

7. Microbiological contaminants.

Sec. 30. 1. To be certified to conduct laboratory testing, a laboratory must comply with the requirements set forth in sections 1.8.3, 4.1.1, 5.0, 5.1 and 5.4 to 5.16, inclusive, of the standards.

2. To be certified in:

(a) Chemistry, a laboratory must comply with the requirements set forth in section 1.8.5 and Appendix D.1 of chapter 5 of the standards;

(b) Microbiology, a laboratory must comply with the requirements set forth in section 1.8.7 and Appendix D.3 of chapter 5 of the standards; or

(c) Radiochemistry, a laboratory must comply with the requirements set forth in section 1.8.8 and Appendix D.4 of chapter 5 of the standards.

3. To be certified pursuant to the program specified in subsection 3 of section 28 of this regulation, a laboratory must comply with the provisions concerning method detection limits, sample containers, holding times, proficiency testing and quality assurance set forth in 40 C.F.R. §§ 141.21(c), 141.21(f), 141.23(k), 141.24(e), 141.24(f)(17), 141.24(f)(20), 141.24(h)(13), 141.24(h)(19), 141.25, 141.30(e), 141.40(g), 141.40(n)(11), 141.40(n)(12), 141.74(a) and 141.89.

4. To be certified for an approved method of testing, a laboratory must comply with the requirements for using that approved method of testing specified in subsection 4 of section 28 of this regulation and the standards. If a conflict occurs between a provision specified in that subsection and the standards concerning an approved method of testing, the standards apply. If a manufacturer provides instructions for maintaining any equipment used for testing or for ensuring the performance of any test or demonstrating the performance of any system of measurement, the laboratory shall comply with those instructions. If a conflict occurs between

a provision of those instructions and a provision specified in subsection 4 of section 28 of this regulation or the standards, the provisions specified in that subsection or the standards apply.

5. If a laboratory intends to use a performance-based measurement system or any other alternative method of testing, the laboratory shall, before the bureau conducts an inspection of the laboratory pursuant to the provisions of section 37 of this regulation, submit to the bureau a written statement setting forth the performance-based measurement system or other alternative method of testing it intends to use. The bureau may approve the performance-based measurement system or alternative method of testing if, as determined by the bureau:

(a) The system or method is equivalent to or exceeds the approved method of testing for accuracy, precision, completeness and comparability relating to determining compliance with the regulatory concentration levels or system conditions;

(b) An approved method of testing is not available for use by the laboratory to determine the presence of an analyte for which the laboratory requests certification pursuant to the provisions of sections 2 to 45, inclusive, of this regulation; or

(c) The laboratory obtains approval for the system or method from the Environmental Protection Agency.

6. To be certified to test for a specific analyte using an approved method of testing, a laboratory must comply with the requirements established by the bureau for the approved method of testing and the standards for initial and continuing calibrations of test equipment and demonstrations by analysts of precision, accuracy, sensitivity and low system background for each analyte. If a conflict occurs between the requirements established by the bureau and the standards, the standards apply.

7. As used in this section:

(a) *“Holding times” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

(b) *“Low system background” means an analysis of a method blank that does not yield contamination at a concentration that is greater than the method detection limit.*

(c) *“Method blank” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

(d) *“Method detection limit” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.*

(e) *“Quality assurance” has the meaning ascribed to it in Appendix B of the standards.*

Sec. 31. 1. *A laboratory may apply for certification by the bureau or certification pursuant to the National Environmental Laboratory Accreditation Program.*

2. To obtain certification by the bureau, a laboratory must comply with the provisions of sections 2 to 45, inclusive, of this regulation.

3. A laboratory that is certified by the bureau may provide analytical data for an environmental sample originating in this state for each analyte for which the laboratory is certified.

4. To obtain certification pursuant to the National Environmental Laboratory Accreditation Program, a laboratory must:

(a) Comply with the provisions of sections 2 to 45, inclusive, of this regulation;

(b) Before obtaining certification pursuant to the program and every 2 years after obtaining the certification, submit to an assessment of the laboratory conducted at the laboratory under the direction of a person who is approved pursuant to the National Environmental Laboratory Accreditation Program; and

(c) Specify in its application for certification at least one approved method of testing and analyte pursuant to the provisions of subsections 4 and 6 of section 28 of this regulation.

5. As used in this section, “National Environmental Laboratory Accreditation Program” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.

Sec. 32. *1. To apply for certification pursuant to the provisions of sections 2 to 45, inclusive, of this regulation, the director of the laboratory for which certification is requested must submit an application to the bureau on a form approved by the bureau. The application must be accompanied by the fees prescribed in section 44 of this regulation and include the information specified in sections 4.1.7 and 4.1.9 of the standards.*

2. The provisions of this section do not require an application and certificate for each building or other portion of a certified laboratory that:

(a) Is operated by the same management, quality manual and quality assurance officer as the certified laboratory;

(b) Uses only methods for which the laboratory is certified;

(c) Does not issue reports directly but forwards data to the certified laboratory for reporting purposes; and

(d) The bureau determines is used to analyze the same environmental samples as the certified laboratory.

FLUSH *As used in this subsection, “quality assurance officer” means the quality assurance officer specified in section 5.4.2 of the standards.*

3. The bureau shall not consider an application for certification submitted pursuant to this section to be complete unless:

- (a) The laboratory specifies in the application the approved methods of testing in accordance with the provisions of section 28 of this regulation;*
- (b) The laboratory satisfactorily analyzes proficiency test samples in accordance with the provisions of section 35 of this regulation;*
- (c) The laboratory adopts a quality manual and submits the manual to the bureau pursuant to the provisions of section 36 of this regulation;*
- (d) The bureau conducts an inspection of the laboratory for the approved methods of testing and analytes for which the laboratory requests certification pursuant to the provisions of section 37 of this regulation, except that an inspection is not required pursuant to this paragraph if the laboratory has complied with the provisions of section 34 of this regulation;*
- (e) If the report of an inspection of the laboratory conducted by the bureau includes any deficiency that must be corrected, the laboratory submits to the bureau a written plan to correct the deficiency in accordance with the provisions of subsection 7 of section 37 of this regulation;*
- (f) The director of the laboratory is qualified for that position pursuant to the provisions of the manual specified in subsection 6 of section 24 of this regulation; and*
- (g) The applicable fees prescribed in section 44 of this regulation have been paid.*
- 4. An application for certification shall be deemed withdrawn by the applicant if it is not completed pursuant to the provisions of this section within 1 year after the bureau receives the application. The bureau may extend the period in which an application must be completed pursuant to this subsection if the applicant submits to the bureau a written request for an extension setting forth the reasons for the request.*

Sec. 33. If, as determined by the bureau, a change concerning a certified laboratory occurs which substantially affects the ability of the laboratory to perform any analysis for which the laboratory is certified, the director of the laboratory shall, not more than 30 days after the change occurs, notify the bureau of that change in writing. For the purposes of this section, a change includes, without limitation, a change in the name, ownership, location or personnel of a laboratory or any other change specified in sections 4.1.8 and 4.3.2 of the standards.

Sec. 34. The bureau shall accept data relating to the analysis of contaminants regulated pursuant to the provisions of the Federal Act that are submitted from a laboratory located outside this state if:

1. The laboratory has otherwise complied with the requirements set forth in sections 2 to 45, inclusive, of this regulation;

2. The laboratory is certified by:

(a) The state where it is located or, if the state where the laboratory is located does not have a program for certifying laboratories for the analysis of drinking water, by any other state that provides those certifications; or

(b) The Environmental Protection Agency;

3. The bureau determines that the state where the laboratory is located:

(a) Has adopted a program for certifying laboratories for the analysis of drinking water that is equivalent to the program for certifying those laboratories adopted by this state; and

(b) Accepts the results of laboratories certified in this state; and

4. The laboratory submits to the bureau a copy of an acceptable report relating to the most recent evaluation conducted at the laboratory by:

(a) The state where the laboratory is certified;

(b) An independent organization that is approved by the bureau to certify laboratories for the analysis of drinking water; or

(c) The Environmental Protection Agency.

FLUSH *The evaluation to which the report relates must be conducted within the 2 years immediately preceding the date of the application for certification of the laboratory.*

Sec. 35. 1. *Each laboratory for which an application for certification is submitted and each certified laboratory must participate in a proficiency testing program. The laboratory must:*

(a) Obtain single-blind proficiency test samples from a provider approved by the National Institute of Standards and Technology;

(b) Analyze the proficiency test samples, if available, for each category of certification and analyte that is included in program; and

(c) Report the results of the analysis to the provider specified in paragraph (a).

FLUSH *If the laboratory is a certified laboratory and if a test will be conducted for each category of certification and analyte for which the laboratory is certified, the certified laboratory must analyze a proficiency test sample pursuant to the program not less than once every 6 months.*

2. Each laboratory specified in subsection 1 shall pay the costs of subscribing to a program specified in that subsection.

3. Each laboratory specified in subsection 1 must satisfactorily analyze each analyte that is included in the program specified in subsection 3 of section 28 of this regulation on two of the most recent three rounds of testing. Each laboratory shall, before obtaining a proficiency test sample pursuant to paragraph (a) of subsection 1, authorize the provider of the

proficiency test sample to submit to the bureau the results of any test taken pursuant to the provisions of this section. If the laboratory fails to provide that authorization, the bureau may refuse to consider the results of any test taken pursuant to those provisions.

4. The bureau shall consider the results of any test taken pursuant to this section to be satisfactory if the results are within the limits of acceptance established by the provider of the proficiency test samples in accordance with the provisions of Appendix C of chapter 2 of the standards.

5. If the bureau determines that the results of a test are satisfactory, the laboratory may be certified to use any approved method of testing for each analyte that is satisfactorily analyzed by the laboratory if, as determined by the bureau, data sufficient to validate the use of that method of testing on an annual basis are available. If such data are not available, the bureau shall deny or revoke the certification for that method of testing. As used in this paragraph, “data sufficient to validate” means performance of an initial demonstration of capability as defined in section 7.2.8 of the manual specified in subsection 6 of section 24 of this regulation.

6. If a certified laboratory fails:

(a) Two rounds of testing pursuant to subsection 3, the bureau shall suspend the certification of that laboratory for each analyte the laboratory failed to analyze during those rounds; or

(b) Three rounds of testing pursuant to subsection 3, the bureau shall revoke the certification of that laboratory for each analyte the laboratory failed to analyze during those rounds.

7. If the bureau suspends the certification of a certified laboratory pursuant to subsection 6 because the laboratory failed two nonconsecutive rounds of testing, the bureau shall reinstate the certification of that laboratory for the method of testing and analyte for which the certification was suspended if the certified laboratory satisfactorily analyzes the analyte in a proficiency test sample that is approved by the bureau.

8. If the bureau suspends the certification of a certified laboratory pursuant to subsection 6 because the laboratory failed to analyze an analyte on two consecutive rounds of testing, the laboratory must satisfactorily analyze the analyte during each of two consecutive rounds of testing conducted after the bureau suspends the certification.

9. If the bureau revokes the certification of a certified laboratory pursuant to subsection 6, the laboratory must:

(a) Analyze satisfactorily the analyte for which the certification was revoked during each of two consecutive rounds of testing conducted after the bureau revoked the certification; and

(b) Reapply for certification and pay the applicable fees pursuant to the provisions of sections 2 to 45, inclusive, of this regulation.

FLUSH

If a certified laboratory complies with the provisions of this subsection and is otherwise qualified for certification pursuant to the provisions of sections 2 to 45, inclusive, of this regulation, the bureau shall reinstate the certification of the laboratory for each method of testing and analyte for which the laboratory was certified.

10. Each certified laboratory must comply with the requirements concerning enrollment, testing, conduct and participation in the program specified in subsection 1 pursuant to the provisions of sections 2.4, 2.5 and 2.7 of the standards.

Sec. 36. 1. Each laboratory that applies for certification pursuant to sections 2 to 45, inclusive, of this regulation shall adopt a quality manual and comply with the provisions of that manual. The director of the laboratory shall submit the manual to the bureau before the bureau conducts an inspection of the laboratory.

2. Each quality manual specified in subsection 1 must be adopted in accordance with the provisions of section 5.5 of the standards and include, without limitation:

(a) A statement setting forth the requirements of the laboratory for sensitivity, precision and accuracy for each method of testing or analyte for which the laboratory requests certification; and

(b) The policy of the laboratory concerning any unauthorized use of data or fraudulent activity that occurs at the laboratory.

Sec. 37. 1. The bureau shall conduct an inspection of the premises and operation of each certified laboratory or laboratory for which an application for certification is submitted pursuant to the provisions of section 32 of this regulation. An inspection conducted pursuant to this section must be conducted in accordance with the provisions of sections 3.4 to 3.7, inclusive, of the standards. If a certified laboratory conducts analyses of drinking water, the laboratory must be inspected in accordance with the manual specified in subsection 6 of section 24 of this regulation. A certified laboratory shall analyze a control sample for each method of testing and analyte for which it is certified:

(a) At least once every 12 months; and

(b) Each time a new calibration curve is generated.

2. The bureau shall conduct an inspection specified in subsection 1:

(a) Not less than once every 2 years, if the laboratory is a certified laboratory; or

(b) If the laboratory submits an application for certification pursuant to the provisions of section 32 of this regulation, not more than 30 days after the bureau determines that the laboratory has complied with the provisions of paragraphs (a), (b) and (c) of subsection 3 of that section.

3. The bureau may conduct an inspection of a laboratory more than once every 2 years pursuant to this section if:

(a) The bureau receives a complaint concerning the quality of the laboratory from a member of the general public or any public agency;

(b) The bureau has reasonable cause to believe the laboratory is engaging in fraudulent activity;

(c) The bureau identifies deficiencies in the operation of the laboratory after conducting an inspection of the laboratory pursuant to this section;

(d) The laboratory notifies the bureau pursuant to section 33 of this regulation of any changes specified in that section; or

(e) Any circumstance specified in section 3.3 of the standards occurs.

4. An inspection conducted pursuant to the provisions of this section may include, without limitation:

(a) Requiring the laboratory to conduct an analysis of a proficiency test sample; and

(b) Photocopying, photographing or videotaping:

(1) Any part of the laboratory that is used for analyzing samples of drinking water;

(2) Any equipment, activity, environmental sample, records or results of any test relating to the analysis of regulated samples of drinking water;

(3) Any data concerning the control of the quality of any analysis relating to samples of drinking water conducted by the laboratory; and

(4) Any other information required by the bureau to ensure compliance with the provisions of sections 2 to 45, inclusive, of this regulation.

5. Except as otherwise provided in this subsection, the bureau shall announce each inspection conducted pursuant to the provisions of this section. The bureau may conduct an unannounced inspection of a laboratory if the bureau determines that such an inspection is required to ensure compliance by the laboratory with the provisions of sections 2 to 45, inclusive, of this regulation. In determining whether to conduct an unannounced inspection, the bureau shall consider:

(a) The laboratory's record of compliance with the provisions of sections 2 to 45, inclusive, of this regulation;

(b) The results of any proficiency test taken by the laboratory;

(c) The performance of any analyst or other employee of the laboratory in conducting an analysis of an environmental sample pursuant to the provisions of sections 2 to 45, inclusive, of this regulation;

(d) Any complaints concerning the laboratory that the bureau has received from members of the general public or any public agency; and

(e) The performance of the laboratory in conducting analyses pursuant to the provisions of sections 2 to 45, inclusive, of this regulation.

6. If the bureau conducts an inspection of a laboratory pursuant to the provisions of this section, the laboratory shall:

(a) Ensure that any record or other information which relates to compliance by the laboratory with the Federal Act or sections 2 to 45, inclusive of this regulation and which is required by the bureau to conduct the inspection is available for review, including, without limitation:

(1) The quality manual adopted pursuant to the provisions of section 36 of this regulation;

(2) Any information concerning the methods of testing used by the laboratory;

(3) Any data concerning the control of the quality of a regulated analysis conducted by the laboratory; and

(4) Any information concerning any proficiency test taken by the laboratory; and

(b) Allow the bureau to:

(1) Examine any records of the laboratory concerning the operation or certification of the laboratory that relate to compliance by the laboratory with the Federal Act or sections 2 to 45, inclusive of this regulation;

(2) Observe the operation, facilities and equipment of the laboratory that relate to compliance with the Federal Act or sections 2 to 45, inclusive of this regulation;

(3) Interview any employee of the laboratory who performs duties relating to compliance by the laboratory with the Federal Act or sections 2 to 45, inclusive of this regulation; and

(4) Engage in any activity which is necessary and appropriate for determining compliance by the laboratory with the Federal Act or sections 2 to 45, inclusive, of this regulation and which is required by the bureau.

7. If the bureau conducts an inspection of a laboratory, it shall, within 30 days after it conducts the inspection, provide to the laboratory a copy of the report of the inspection. The report must include any deficiency the bureau discovers during its inspection of the laboratory. The laboratory shall prepare a plan to correct the deficiency specified in the report. The plan must:

(a) Be submitted to the bureau not more than 30 days after the laboratory receives the report from the bureau;

(b) Be submitted on a form approved by the bureau; and

(c) Include, without limitation:

(1) The signature of the person who prepared the plan; and

(2) The proposed date by which the laboratory will correct the deficiency.

8. If, after reviewing the plan submitted pursuant to subsection 7, the bureau determines that the plan is insufficient to correct the deficiency, the bureau shall notify the laboratory of that fact in writing. Upon receipt of the written notice, the laboratory shall, not more than 30 days after receiving the notice, submit a revised plan to the bureau. If, after reviewing the revised plan, the bureau determines that the revised plan is insufficient to correct the deficiency, or if the bureau conducts an inspection of the laboratory and determines that the deficiency has not been corrected, the bureau shall deny the laboratory's application for certification or revoke its certification.

Sec. 38. *If the bureau denies an application for certification of a laboratory or revokes the certification of a certified laboratory, the laboratory may, after the period specified in section 4.4 of the standards has expired, reapply for certification in the manner prescribed in section 32 of this regulation.*

Sec. 39. 1. *The bureau may renew the certificate of a certified laboratory if:*

(a) The laboratory pays the applicable fee to renew the certificate;

(b) The laboratory submits a statement on a form approved by the bureau indicating that it is in compliance with the provisions of sections 2 to 45, inclusive, of this regulation concerning each category of testing, method of testing and analyte for which it is certified;

(c) The laboratory submits a report to the bureau indicating that it has received satisfactory proficiency test results for each category of testing and analyte for which it is certified; and

(d) The bureau determines that the laboratory is in compliance with the provisions of sections 2 to 45, inclusive, of this regulation.

2. A certificate issued to a laboratory pursuant to the provisions of sections 2 to 45, inclusive, of this regulation expires on July 31 of each year. If the certificate of a certified laboratory expires, the laboratory may reapply for certification in the manner prescribed in section 32 of this regulation.

3. Not later than July 1 of each year, the bureau shall mail to each certified laboratory a notice for the renewal of the certificate and a form to provide a statement of compliance specified in paragraph (b) of subsection 1.

Sec. 40. 1. *The director of the laboratory shall display the certificate issued by the bureau in a conspicuous place in the laboratory to which the members of the general public have access.*

2. A certificate:

(a) Must include a statement indicating each category of testing and analyte for which the laboratory is certified; and

(b) Is the property of the bureau and must be surrendered to the bureau if:

(1) The bureau revokes the certificate;

(2) The laboratory for which the certificate is issued ceases to conduct analyses of drinking water for which a certificate is required; or

(3) The bureau ceases to be an accrediting authority approved by the Environmental Protection Agency. As used in this subparagraph, “accrediting authority” has the meaning ascribed to it in Appendix B of chapter 5 of the standards.

Sec. 41. *1. A certified laboratory shall ensure that each analysis it performs complies with the provisions of Appendix D of chapter 5 of the standards.*

2. A certified laboratory shall maintain any document or other information required by the provisions of section 4.3.3 of the standards in accordance with the provisions of that section.

3. If a certified laboratory prepares a report of any test conducted pursuant to the provisions of this section, the report must be prepared in accordance with the provisions of section 5.13 of the standards.

4. If a certified laboratory is not certified to conduct a test in a category of testing or to use a method of testing or test for an analyte pursuant to the provisions of sections 2 to 45, inclusive, of this regulation, the director of the laboratory may contract with a certified laboratory to perform that test if:

(a) Before entering into the contract, the director notifies in writing the person for whom the test will be conducted of his intent to enter into the contract; and

(b) The laboratory complies with sections 2 to 45, inclusive, of this regulation or the requirements specified in section 5.14 of the standards.

5. If a certified laboratory contracts with another certified laboratory pursuant to the provisions of this section, the director of the certified laboratory shall ensure that the certified laboratory that will conduct the test is certified pursuant to the provisions of sections 2 to 45, inclusive, of this regulation. If the certified laboratory that offered the contract maintains any record of the contract or of any test conducted pursuant to the contract, it shall include in that record:

(a) Any report submitted by the certified laboratory that conducted the test concerning the results of the test conducted pursuant to the contract; and

(b) The certification number of the certified laboratory that conducted the test.

6. If the certified laboratory that offered the contract prepares a report concerning the results of any test conducted pursuant to the contract, it shall specify in the report that the results of the test were obtained by contract pursuant to the provisions of this section.

Sec. 42. 1. *The bureau may deny an application for certification of a laboratory or revoke, suspend or limit the certification of a certified laboratory if the laboratory:*

(a) Makes a false statement in:

(1) An application for certification;

(2) A report concerning the analysis of an environmental sample; or

(3) Any other document relating to certification in violation of the provisions of sections 2 to 45, inclusive, of this regulation;

(b) Falsifies the results of any laboratory testing or misrepresents any information obtained from laboratory testing in violation of the provisions of section 30 or 41 of this regulation;

- (c) Fails to maintain the facilities or equipment of the laboratory in accordance with the quality manual or quality system of the laboratory;*
- (d) Fails to participate satisfactorily in a proficiency testing program, if the program is available, in violation of the provisions of section 35 of this regulation;*
- (e) Falsely claims certification for a method of testing or an analyte for which the laboratory is not certified in violation of the provisions of section 41 of this regulation;*
- (f) Fails to prepare a plan of correction or to correct any deficiency specified by the bureau within the period specified in the plan in violation of the provisions of section 37 of this regulation;*
- (g) Fails to pay any fees or expenses of the bureau in violation of the provisions of section 44 of this regulation;*
- (h) Fails to notify the bureau of any changes specified in section 33 of this regulation;*
- (i) Authorizes a person who is not qualified to perform an analysis in violation of the provisions of section 30 of this regulation;*
- (j) Communicates with or receives a communication concerning the results of a proficiency test sample from a laboratory on or before the date established for submitting the results of that sample to the provider of the sample pursuant to the provisions of section 35 of this regulation;*
- (k) Knowingly receives a proficiency test sample from a laboratory or provides a proficiency test sample to a laboratory on or before the date specified in paragraph (j);*
- (l) Prohibits an employee of the bureau from conducting an inspection of the laboratory in violation of the provisions of section 37 of this regulation;*

(m) Fails to provide to the bureau any information required by the bureau to determine whether the laboratory is operated in compliance with the provisions of sections 2 to 45, inclusive, of this regulation;

(n) Misrepresents any material fact to obtain or maintain certification pursuant to the provisions of sections 2 to 45, inclusive, of this regulation; or

(o) Engages in any activity that is a ground for the denial of an application for certification or for the suspension or revocation of the certification of a laboratory set forth in section 4.4 of the standards.

2. In determining whether to deny an application for certification or to revoke, suspend or limit the certification of a laboratory pursuant to this section, the bureau shall consider:

(a) The gravity of the violation;

(b) The harm to the health and safety of the members of the general public;

(c) The intent of the person who committed the violation;

(d) The extent of the violation; and

(e) Any proposed correction of the violation.

3. As used in this section:

(a) "Protocol" has the meaning ascribed to it in Appendix B of chapter 5 of the standards.

(b) "Quality system" has the meaning ascribed to it in Appendix B of chapter 5 of the standards.

Sec. 43. 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 human resources, 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.

3. The board shall continue, modify or revoke the emergency order within 30 days after it conducts the hearing required by the provisions of subsection 2.

Sec. 44. 1. Each application for:

(a) Chemistry certification must include a fee of \$500.

(b) Microbiology certification must include a fee of \$600.

2. In addition to the fees specified in subsection 1, the bureau shall charge and collect the following fees:

For an application to renew certification.....\$500

*Initial fee or annual renewal fee for certification to analyze primary inorganic
contaminants.....\$545*

*Initial fee or annual renewal fee for certification to analyze secondary
inorganic contaminants.....\$545*

<i>Initial fee or annual renewal fee for certification to analyze regulated and unregulated volatile organic contaminants, including trihalomethanes and vinyl chloride.....</i>	<i>\$545</i>
<i>Initial fee or annual renewal fee for certification to analyze regulated and unregulated synthetic organic contaminants</i>	<i>\$1,090</i>
<i>Initial fee or annual renewal fee for certification to analyze radiochemical contaminants.....</i>	<i>\$545</i>
<i>Annual renewal fee for certification to analyze specific primary or secondary inorganic contaminants, or both.....</i>	<i>\$200</i>
<i>Annual renewal fee for microbiology certification</i>	<i>\$600</i>

3. The initial or annual renewal fee for certification to analyze any chemical contaminant not set forth in subsection 2 is \$400, plus the per diem allowance and travel expenses provided for state officers and employees generally for each person who conducts an inspection that is required for certification of the laboratory.

4. If an application for certification to test for an analyte is received during the fiscal year, the fees for that certification must be prorated by using the following formula:

$$\text{Fee} \times .083 \times \text{the number of months remaining in the fiscal year.}$$

FLUSH The month in which the application is submitted must not be counted as a month remaining in the fiscal year. The prorated fee must be rounded to the next highest dollar. The fee for submitting an application for certification to test for an analyte must not be prorated.

5. In addition to any fees paid by a laboratory located outside this state, each such laboratory shall pay to the bureau the costs incurred by the bureau to conduct an inspection of the laboratory.

6. A fee for certification to analyze a specific contaminant must be paid before a certificate may be issued.

7. Any fee paid pursuant to the provisions of this section is nonrefundable.

Sec. 45. *If any publication adopted by reference pursuant to the provisions of sections 2 to 45, inclusive, of this regulation is revised, the board may review the revision to determine its suitability for this state. If the board 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 does not revise its determination, the board will give notice that the revision is not suitable for this state within 30 days after the hearing. If the board does not give the notice, the revision becomes part of the publication adopted by reference pursuant to the provisions of sections 2 to 45, inclusive, of this regulation.*

Sec. 46. NAC 445A.454 is hereby amended to read as follows:

445A.454 1. The monitoring requirements for the primary standards ~~contained~~ *set forth* in NAC 445A.453 must be performed as required by the most recently published edition of 40 C.F.R. §§ 141.21 to 141.30, inclusive, and 141.40 ~~[to 141.42, inclusive,]~~, *141.41 and 141.42* of the “National Primary Drinking Water Regulations,” unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915. ~~[All analyses]~~ *Each analysis* of the primary standards must be performed in compliance with NAC

445A.458 and in a laboratory that is certified pursuant to ~~[NAC 445A.460 to 445A.484, inclusive.]~~ *the provisions of sections 2 to 45, inclusive, of this regulation.*

2. The “National Primary Drinking Water Regulations,” as set forth in 40 C.F.R. §§ 141.21 to 141.30, inclusive, and 141.40 ~~[to 141.42, inclusive,]~~, *141.41 and 141.42* are hereby adopted by reference. Copies of ~~[these]~~ *those* regulations are available ~~[for purchase]~~ from the Superintendent of Documents, United States Government Printing Office, ~~[Washington, D.C. 20402,]~~ *P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954*, for the price of ~~[\$32.]~~ *\$40*. *Copies of those regulations are also available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/safewater/mcl.html>>.*

Sec. 47. NAC 445A.458 is hereby amended to read as follows:

445A.458 1. Except as otherwise provided in this section, each analysis required by NAC 445A.453 to 445A.457, inclusive, must be performed by a properly certified laboratory.

2. Turbidity measurements may be made by a certified laboratory or by water supply personnel utilizing an instrument capable of meeting the requirements of 40 C.F.R. § 141.22(a), as adopted *by reference* pursuant to NAC 445A.454.

3. Chlorine residual measurements when authorized as a substitute for coliform bacteria monitoring may be made by the water supplier utilizing an instrument and methods capable of meeting the requirements of 40 C.F.R. § 141.74 . ~~[, as adopted pursuant to NAC 445A.460.]~~

Sec. 48. NAC 445A.6636 is hereby amended to read as follows:

445A.6636 “Secondary standard” ~~[has the meaning ascribed to it in NAC 445A.450.]~~ *means a standard which specifies a maximum level for constituents found in a public water supply which, if exceeded, may adversely affect the public welfare. The standards apply to*

constituents that adversely affect the taste, odor, appearance and other esthetic qualities of water.

Sec. 49. NAC 445A.4595, 445A.460, 445A.461, 445A.462, 445A.463, 445A.464, 445A.465, 445A.466, 445A.467, 445A.468, 445A.469, 445A.470, 445A.4705, 445A.471, 445A.472, 445A.473, 445A.4735, 445A.474, 445A.475, 445A.476, 445A.477, 445A.478, 445A.479, 445A.480, 445A.481, 445A.4815, 445A.483 and 445A.484 and sections 1 to 45 and 47 to 50, inclusive, of LCB File No. R048-99, which was adopted by the state board of health and was filed with the secretary of state on September 27, 1999, are hereby repealed.

TEXT OF REPEALED SECTIONS

445A.4595 Certification of laboratories to analyze chemical contaminants:

Maintenance and availability of information for certain samples.

1. A laboratory certified to analyze chemical contaminants shall maintain the following information for any sample of a contaminant regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.:

(a) A log of those samples that includes, without limitation:

- (1) The program under which a sample is submitted;
- (2) The date and place for taking the sample;

- (3) The analysis requested; and
- (4) The person to whom the results of that analysis were reported;
- (b) A log of the source and preparation of all reagents and the standards used to perform the approved methods of analysis;
- (c) Information relating to the preparation of each sample that includes, without limitation, which reagents and standards were used to analyze a sample or batch of samples; and
- (d) Information relating to the analysis of each sample that includes, without limitation:
 - (1) The laboratory and the names of the persons responsible for performing the analysis;
 - (2) The analytical techniques and methods performed;
 - (3) All data associated with the analysis, including data stored on a computer;
 - (4) All calculations associated with the analysis;
 - (5) All data relating to quality control associated with the analysis; and
 - (6) The final results reported.
2. The information required by subsection 1:
 - (a) May be kept at the site of the laboratory or may be retrievable through a central system for maintaining records. If it is retrievable through such a system, it must be made available for review at the request of the Nevada laboratory certification officer.
 - (b) Must be made available for review at the laboratory at the request of the chemistry certification officer.
 - (c) Must be maintained and made available for review for at least 3 years.

445A.460 Certification of laboratories to analyze chemical contaminants: Bases.

1. The certification of a laboratory to analyze chemical contaminants regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., must be based on:

(a) The laboratory's use of approved methods of analysis as set forth in the most recently published edition of 40 C.F.R. §§ 141.22 to 141.25, inclusive, 141.30, 141.40 to 141.42, inclusive, 141.74 and 141.89, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915;

(b) A satisfactory annual analysis of samples used to evaluate the laboratory's performance;

(c) The results of an evaluation conducted at the site of the laboratory pursuant to NAC 445A.469; and

(d) The payment of the applicable fees.

2. The state board of health hereby adopts by reference 40 C.F.R. §§ 141.22 to 141.25, inclusive, 141.30, 141.40 to 141.42, inclusive, 141.74 and 141.89. A copy of these regulations may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the price of \$41. If any revision of these regulations is determined to be suitable for this state pursuant to NAC 445A.4915, a laboratory shall comply with the revised methods of analysis within 120 days after the effective date of the publication of the revision.

445A.461 Certification of laboratories to analyze chemical contaminants: Submission and review of application; review of data used to evaluate performance of laboratory.

1. For a laboratory to be certified to analyze chemical contaminants regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., the director of the laboratory must submit an application to the Nevada laboratory certification officer. The application must be submitted on a form provided by the Nevada laboratory certification officer.

2. The chemistry certification officer shall review each completed application that is received to determine whether the approved methods of analyzing drinking water are being used

by the laboratory. Approved methods must be used for the analysis of a contaminant before certification may be granted.

3. The chemistry certification officer shall review data used to evaluate the performance of a laboratory using the criteria set forth in NAC 445A.462 to 445A.468, inclusive.

4. The chemistry certification officer may deny an application if it is not complete and may request verification of any information in the application, including, without limitation, the qualifications of persons employed by the laboratory and copies of school transcripts of those persons.

445A.462 Certification of laboratories to analyze certain primary organic and inorganic contaminants or trihalomethanes: Prerequisites.

1. To be certified to analyze primary organic and inorganic contaminants, excluding volatile organic contaminants, a laboratory must properly analyze the water supply performance evaluation samples provided by the Environmental Protection Agency for the evaluation of the laboratory's performance.

2. To be granted and maintain certification to analyze primary organic and inorganic contaminants, excluding volatile organic contaminants, a laboratory must analyze all levels of concentration of the contaminant provided pursuant to the acceptance criteria established by the Environmental Protection Agency in at least one sample set per 12-month period.

3. To be certified to analyze trihalomethanes, a laboratory must analyze chloroform and total trihalomethanes pursuant to the requirements set forth in subsection 2.

445A.463 Certification of laboratories to analyze certain primary organic and inorganic contaminants or trihalomethanes: Provisional certification; revocation. If a laboratory that is certified to analyze a contaminant listed in NAC 445A.462 fails to analyze one

or more levels of concentration for that contaminant in the current water supply performance evaluation samples pursuant to the acceptance criteria established by the Environmental Protection Agency, the laboratory's certification must be changed to a provisional certification for that contaminant. If, in the next available sample set, the laboratory fails to analyze one or more levels of concentration for that contaminant pursuant to the required acceptance criteria, the laboratory's certification for that contaminant must be revoked.

445A.464 Certification of laboratories to analyze volatile organic contaminants.

1. To be certified to analyze volatile organic contaminants, a laboratory must properly analyze the water supply performance evaluation samples provided by the Environmental Protection Agency for the evaluation of the laboratory's performance.

2. The board hereby adopts by reference the requirements for certification to analyze volatile organic contaminants as set forth in 40 C.F.R. § 141.24, as adopted pursuant to subsection 2 of NAC 445A.460.

3. To be issued and to maintain such certification, a laboratory must analyze the samples containing regulated volatile organic contaminants pursuant to the criteria established by the Environmental Protection Agency for all contaminants present, including those analyses reported pursuant to the criteria of the Environmental Protection Agency on the previous survey of the water supply performance evaluation samples.

4. If a laboratory that is certified fails to analyze the current water supply performance evaluation samples containing the regulated volatile organic contaminants pursuant to the criteria set forth in 40 C.F.R. § 141.24, as adopted pursuant to subsection 2 of NAC 445A.460, its certification must be changed to a provisional certification. If, in the next available sample set,

the laboratory does not produce the data pursuant to the required criteria, the laboratory's certification to analyze volatile organic contaminants must be revoked.

445A.465 Certification of laboratories to analyze secondary contaminants:

Prerequisites.

1. To be certified to analyze secondary contaminants, a laboratory must properly analyze the water pollution performance evaluation samples provided by the Environmental Protection Agency for the evaluation of the laboratory's performance.

2. To be granted and maintain certification to analyze secondary contaminants, a laboratory must analyze all levels of concentration of the contaminant pursuant to the warning limits criteria established by the Environmental Protection Agency in at least one sample set per 12-month period.

445A.466 Certification of laboratories to analyze secondary contaminants: Provisional certification; revocation. If a laboratory that is certified to analyze a secondary contaminant fails to analyze one or more levels of concentration for that contaminant pursuant to the warning limits criteria established by the Environmental Protection Agency, the laboratory's certification must be changed to a provisional certification for that contaminant. If, in the next available sample set, the laboratory fails to analyze one or more levels of concentration for that contaminant pursuant to the required criteria, the laboratory's certification for that contaminant must be revoked.

445A.467 Certification of laboratories to analyze radiochemical contaminants.

1. To be certified to analyze radiochemical contaminants, a laboratory must properly analyze the intercomparison samples and blind samples provided by the Environmental Protection Agency for the evaluation of the laboratory's performance.

2. To be granted and maintain certification to analyze each radiochemical contaminant of interest, the laboratory must analyze two intercomparison samples and one blind sample pursuant to the acceptance criteria established by the Environmental Protection Agency per each 12-month period.

3. If a laboratory fails to evaluate a radiochemical contaminant pursuant to the requirements set forth in this section, its certification for that contaminant must be changed to a provisional certification. If the laboratory fails to analyze the next available samples pursuant to the requirements set forth in this section, the laboratory's certification to analyze that contaminant must be revoked.

445A.468 Certification of laboratories to analyze chemical contaminants: Denial of application for or revocation of certification; recertification; appeal of action taken.

1. In addition to the grounds set forth in this chapter and chapter 445A of NRS, an application for certification to analyze a chemical contaminant may be denied or the certification to analyze a chemical contaminant may be denied or the certification of a laboratory to analyze a chemical contaminant may be revoked if the laboratory:

(a) Fails or refuses to comply with any of the provisions of chapter 445A of NRS or NAC 445A.450 to 445A.682, inclusive;

(b) Submits a performance evaluation sample to another laboratory for analysis and reports the data received as its own;

(c) Falsifies data or engages in other deceptive practices;

(d) Reports data for a sample of a contaminant regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., for which the laboratory is not certified to analyze; or

(e) Operates or holds itself out as a properly certified laboratory after the certification of the laboratory has been revoked or before receiving certification to analyze a chemical contaminant.

2. If a laboratory's certification to analyze a chemical contaminant is revoked or is changed to a provisional certification for a contaminant, the Nevada laboratory certification officer shall send a written notice of the revocation or change to the owner or director of the laboratory, by certified mail, within 20 days after the date the Nevada laboratory certification officer revokes or changes the certification.

3. A laboratory whose certification is revoked may not apply for recertification for 6 months after the date of the revocation. The laboratory may be recertified to analyze a chemical contaminant if it analyzes the contaminant pursuant to the applicable requirements set forth in NAC 445A.462 to 445A.467, inclusive.

4. Any applicant for certification to analyze a chemical contaminant or a properly certified laboratory that is aggrieved by an action of the chemistry certification officer or the Nevada laboratory certification officer may appeal that action in accordance with chapter 439 of NAC.

445A.469 Certification of laboratories to analyze chemical contaminants: Evaluation of laboratory before certification; provisional certification.

1. Upon the receipt of a completed application, the chemistry certification officer shall conduct an evaluation at the site of each laboratory in this state that applies for certification pursuant to NAC 445A.460 to 445A.470, inclusive. The evaluation may only be conducted after the laboratory has produced acceptable data from the appropriate samples of the contaminants for which certification is requested. If so requested by a laboratory, the chemistry certification officer shall mail a copy of the report of the evaluation to the laboratory within 30 calendar days

after the date on which the evaluation is completed. The evaluation shall be deemed completed after all requested information is received by the chemistry certification officer.

2. The chemistry certification officer shall determine whether the laboratory is using required methods of analysis in an acceptable manner, including all required procedures for controlling quality.

3. The chemistry certification officer shall evaluate the laboratory's facilities, equipment, personnel and protocols using the criteria established by the Environmental Protection Agency in chapter IV, regarding chemistry, and chapter VI, regarding radiochemistry, of its "Manual for the Certification of Laboratories Analyzing Drinking Water," in the form most recently published by the agency, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915. A copy of these chapters may be obtained from the Nevada laboratory certification officer free of charge and must be provided with the application for certification.

4. If data relating to performance evaluation samples are not available pursuant to NAC 445A.467, provisional certification to analyze a chemical contaminant may be granted to a laboratory based on the laboratory's analysis of a full-volume performance evaluation sample acquired by the chemistry certification officer at the laboratory's expense.

445A.470 Certification of laboratories to analyze chemical contaminants: Evaluations at site of laboratory after certification; submission of independent evaluations.

1. An evaluation of a laboratory certified pursuant to NAC 445A.460 to 445A.472, inclusive, must be conducted at the site of the laboratory at least once every 2 years. The evaluations:

(a) Must be conducted in accordance with the requirements set forth in NAC 445A.469; and

(b) May be conducted without prior notice.

2. An evaluation at the site of the laboratory may be required if the laboratory's performance indicates that the laboratory is having problems analyzing chemical or microbiological contaminants, requests to be certified to analyze additional contaminants are submitted, complaints have been brought against the laboratory, or other factors set forth in NAC 445A.473 are present which will impair the ability of the laboratory to analyze the contaminants for which it is certified. The laboratory certification officer shall maintain a log of any complaints received about the laboratory, written or oral, that includes, without limitation:

- (a) The nature of each complaint received;
- (b) The date on which the complaint was received;
- (c) The action that was taken in response to the complaint; and
- (d) The date on which that action was taken.

3. The certification of a laboratory must be revoked if the director of the laboratory refuses to allow an evaluation at the site of the laboratory.

4. A laboratory shall submit to the Nevada laboratory certification officer a copy of:

(a) Any evaluation conducted at the site of the laboratory pursuant to the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., if the evaluation is conducted by another state, a federal agency, or any independent organization that certifies laboratories, such as the American Association for Laboratory Accreditation or the National Sanitation Foundation. A copy of the evaluation must be provided within 30 days after the laboratory receives the evaluation.

(b) The laboratory's response to the evaluation. The response must be submitted at the time it is submitted by the laboratory to the agency that performed the evaluation.

445A.4705 Certification of laboratories to analyze chemical contaminants: Period of validity; application for renewal.

1. A certification to analyze chemical contaminants issued pursuant to NAC 445A.460 to 445A.472, inclusive, is valid for 1 year.
2. An application for renewal of that certification must be submitted on a form provided by the Nevada laboratory certification officer. The Nevada laboratory certification officer shall provide the form to the appropriate laboratories on or before May 15 of each year.
3. An application for renewal must be:
 - (a) Postmarked by June 30 of each year; and
 - (b) Accompanied by the fees required by NAC 445A.471.
4. A laboratory operated by the Federal Government or a state or local government may submit with its application for renewal a purchase order for the fees that are due that is approved by the Nevada laboratory certification officer.
5. The certification of a laboratory that fails to submit an application for renewal by June 30 of any year terminates on July 1 of that year.

445A.471 Certification of laboratories to analyze chemical contaminants: Fees; payment of certain expenses for persons who conduct evaluations.

1. The fees related to the certification of laboratories pursuant to NAC 445A.460 to 445A.472, inclusive, to perform chemical analysis for contaminants that are regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., are:

For an initial application for certification	\$500
For an application to renew certification.....	500

Initial fee or annual renewal fee for certification to analyze primary inorganic contaminants.....	545
Initial fee or annual renewal fee for certification to analyze secondary inorganic contaminants.....	545
Initial fee or annual renewal fee for certification to analyze regulated and unregulated volatile organic contaminants, including trihalomethanes	545
Initial fee or annual fee for certification to analyze regulated and unregulated synthetic organic contaminants	1,090
Initial fee or annual renewal fee for certification to analyze radiochemical contaminants.....	545
Annual fee for certification to analyze individual primary or secondary inorganic contaminants, or both	200

2. The initial or annual renewal fee for certification to analyze any chemical contaminant not listed in subsection 1 is \$400 plus the per diem allowance and travel expenses provided for state officers generally for the persons who conduct the evaluations at the site of the laboratory that are required for certification.

3. If an application for certification is received during the fiscal year, the fee required to be paid by this section will be prorated using the following formula:

$$\text{Fee} \times .083 \times \text{the number of months remaining in the fiscal year.}$$

FLUSH The month in which the application is submitted will not be counted as a month remaining in the fiscal year. The prorated fee will be rounded to the next highest dollar.

4. A laboratory that is located outside of this state must pay the actual travel and per diem expenses of the persons who conduct the evaluations at the site of the laboratory that are required for certification. The expenses must be paid in advance based on estimates of those expenses. Any payment made in excess of the actual expenses will be reimbursed to the laboratory when the evaluations are completed.

5. The fee for an initial application for certification or for an application to renew certification must be submitted with the initial application or application to renew certification. A fee for certification to analyze a particular contaminant must be paid before a certificate may be issued.

6. The administrator of the health division may waive the requirement for the advance payment of fees set forth in subsection 4 or 5 for a laboratory operated by the Federal Government or a state or local government if the director of the laboratory submits a request for a waiver with the initial application for certification or the application to renew certification.

7. The fees paid pursuant to this section are nonrefundable.

445A.472 Certification of laboratories to analyze chemical contaminants: Acceptance of data from laboratory located outside of state. The Nevada laboratory certification officer shall accept data relating to the analysis of chemical contaminants regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., that is submitted from a laboratory located outside of this state if:

1. The laboratory has otherwise complied with the requirements set forth in NAC 445A.460 to 445A.470, inclusive, including the payment of fees required by NAC 445A.471;

2. The laboratory is certified by the state in which it is located or the Environmental Protection Agency, and that state accepts the results of evaluations conducted by laboratory certification officers in this state;

3. The Nevada laboratory certification officer determines that the state in which the laboratory is located has adopted a certification program that is equivalent to the certification program adopted by this state; and

4. The laboratory files with the Nevada laboratory certification officer a copy of the report relating to the latest evaluation conducted at the site of the laboratory by the state in which the laboratory is located or by the Environmental Protection Agency. The evaluation must have been conducted within the 12 months immediately preceding the date of the laboratory's application for certification.

445A.473 Certification of laboratories to analyze chemical contaminants: Changes in personnel, location, facilities or equipment of laboratory.

1. The director of a certified laboratory shall report to the Nevada laboratory certification officer any changes in:

(a) The personnel of the laboratory, as defined by the Environmental Protection Agency in section 1 of chapter IV or section 1 of chapter VI, or both, of its "Manual for the Certification of Laboratories Analyzing Drinking Water," in the form most recently published by the agency, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915;

(b) The location of the laboratory;

(c) The facilities of the laboratory; or

(d) Any equipment of the laboratory that has been replaced or has failed and is not being replaced. For the purposes of this paragraph, “equipment” has the meaning ascribed to it by the Environmental Protection Agency in section 3 of chapter IV or section 3 of chapter VI, or both, of its “Manual for the Certification of Laboratories Analyzing Drinking Water,” in the form most recently published by the agency, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915.

The report must be made within 30 days after the change.

2. After the report is made, the Nevada laboratory certification officer shall determine whether the laboratory is able to analyze the contaminants for which it is certified and, if necessary, conduct an evaluation at the site of the laboratory. The Nevada laboratory certification officer may:

(a) Make no change in the certification of the laboratory;

(b) Change the laboratory’s certification to a provisional certification for the affected contaminants; or

(c) Revoke the certification of the laboratory to analyze the affected contaminants.

3. If the laboratory’s certification is changed to a provisional certification for the affected contaminants, the laboratory must be evaluated based on the criteria set forth in NAC 445A.462 to 445A.468, inclusive.

4. If the laboratory’s certification is revoked for the affected contaminants, the laboratory may reapply for certification when it is able to analyze properly the contaminant for which certification is requested.

5. If a change in the personnel, location, facilities or equipment of a laboratory is not reported pursuant to the requirements of this section, the certification of that laboratory must be revoked.

6. Sections 1 and 3 of chapter IV and sections 1 and 3 of chapter VI of the “Manual for the Certification of Laboratories Analyzing Drinking Water,” are hereby adopted by reference. Copies of these sections may be obtained from the Nevada laboratory certification officer free of charge.

445A.4735 Certification of laboratories to analyze chemical contaminants: Proposed change in or new method of analysis.

1. The director of a laboratory that is certified to analyze chemical contaminants pursuant to NAC 445A.461 shall report to the Nevada laboratory certification officer any proposed change in the methods of analysis used by the laboratory for contaminants for which the laboratory is certified or any new methods of analysis proposed to be used by the laboratory.

2. The report must be accompanied by:

- (a) Data from the initial demonstration of capability for the proposed method of analysis; and
- (b) Performance evaluation data which is produced:

(1) Using the proposed method of analysis and which complies with the requirements of NAC 445A.462 to 445A.467, inclusive; or

(2) From an acceptable alternative source pursuant to NAC 445A.469.

3. Such a laboratory shall not change a method of analysis or use a new method of analysis unless it is first approved by the Nevada laboratory certification officer. The Nevada laboratory certification officer shall issue a written determination within 60 days after receipt of the report

required by subsection 1. If necessary, the Nevada laboratory certification officer shall conduct an evaluation at the site of the laboratory to make his determination.

4. The certification of any laboratory that violates the provisions of subsection 3 must be revoked for the affected contaminants pursuant to NAC 445A.468

445A.474 Certification of laboratories to analyze microbiological contaminants:

Prerequisites. For a laboratory in this state to be certified to analyze microbiological contaminants regulated pursuant to NAC 445A.453, the laboratory must:

1. Submit a written request to the Nevada laboratory certification officer for an application.

The application must be submitted on a form provided by the Nevada laboratory certification officer.

2. Obtain performance evaluation samples from a source that is acceptable to the Nevada laboratory certification officer for each category for which it is seeking certification and satisfactorily analyze 80 percent of the samples pursuant to the acceptance criteria of the provider of the samples.

3. Use methods of analysis authorized by NAC 445A.454.

4. Pay the applicable fees required by NAC 445A.483.

445A.475 Certification of laboratories to analyze microbiological contaminants:

Procedure.

1. The microbiology certification officer shall:

(a) Review each completed application that is received pursuant to subsection 1 of NAC 445A.474.

(b) Determine whether the laboratory is using methods of analysis authorized by NAC 445A.454, in an acceptable manner, for the microbiological analysis of drinking water, including all required quality assurance procedures.

(c) Conduct an evaluation at the site of the laboratory after the laboratory has complied with the provisions of subsection 2 of NAC 445A.474. The microbiology certification officer shall evaluate the laboratory's facilities, equipment, personnel, records and protocols, using the criteria established by the Environmental Protection Agency in chapter V of its "Manual for the Certification of Laboratories Analyzing Drinking Water," in the form most recently published by the agency, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915. A copy of this chapter may be obtained from the laboratory certification officer free of charge.

(d) Notify the Nevada laboratory certification officer of his conclusions and determinations made pursuant to paragraphs (a), (b) and (c).

2. The Nevada laboratory certification officer shall certify a laboratory that:

(a) Is in compliance with the provisions of NAC 445A.474; and

(b) Receives an evaluation which is satisfactory pursuant to paragraph (c) of subsection 1.

445A.476 Certification of laboratories to analyze microbiological contaminants: Period of validity; application for renewal; periodic evaluations at site of laboratory after certification.

1. A certification to analyze microbiological contaminants issued pursuant to subsection 2 of NAC 445A.475 is valid for 1 year.

2. An application for renewal of that certification must be submitted on a form provided by the Nevada laboratory certification officer. The Nevada laboratory certification officer shall provide the form to the appropriate laboratories on or before May 15 of each year.

3. An application for renewal must be:

(a) Postmarked by June 30 of each year; and

(b) Accompanied by the appropriate fees required by NAC 445A.483.

4. The certification of a laboratory that fails to submit an application for renewal by June 30 of any year terminates on July 1 of that year.

5. An evaluation of a certified laboratory must be conducted at least once every 2 years. If such an evaluation is not conducted, the certification of the laboratory may not be renewed.

6. The certification of a laboratory must be revoked if the director of the laboratory refuses to allow an evaluation at the site of the laboratory.

445A.477 Certification of laboratories to analyze microbiological contaminants:

Unannounced evaluations of laboratory. The microbiology certification officer may conduct unannounced evaluations at the site of a laboratory that is certified to analyze microbiology contaminants if:

1. The laboratory fails to comply with the provisions of subparagraph (1) of paragraph (d) of subsection 1 of NAC 445A.478;

2. The laboratory fails to use methods of analysis authorized by NAC 445A.454;

3. The laboratory applies for certification to analyze additional microbiological contaminants regulated pursuant to NAC 445A.453;

4. Complaints have been brought against the laboratory; or

5. Other factors are present which may impair the ability of the laboratory to analyze the contaminants for which it is certified.

445A.478 Certification of laboratories to analyze microbiological contaminants:

Requirements for maintenance of certification; failure to comply with requirements.

1. To maintain certification to analyze microbiological contaminants, a laboratory must:

(a) Notify the microbiological certification officer in writing within 30 days after a change in:

(1) The personnel of the laboratory, as defined by the Environmental Protection Agency in section 1 of chapter V of its "Manual for the Certification of Laboratories Analyzing Drinking Water," as adopted pursuant to NAC 445A.475;

(2) The equipment used by the laboratory, as defined by the Environmental Protection Agency in chapter V of its "Manual for the Certification of Laboratories Analyzing Drinking Water," as adopted pursuant to NAC 445A.475;

(3) The methods of analysis used by the laboratory; or

(4) The location of the laboratory.

(b) Correct deviations identified during an evaluation conducted at the site of the laboratory within the time specified by the microbiology certification officer.

(c) Notify the health authority and the public water system which submitted the drinking water of any drinking water that tests positive for microbiological contaminants:

(1) Within 24 hours; or

(2) By the end of the next business day,

after such a determination is made, whichever is earlier.

(d) Every 6 months:

(1) Obtain performance evaluation samples from a source that is acceptable to the Nevada laboratory certification officer for each category for which it is certified and satisfactorily analyze 80 percent of at least one set of samples in each category pursuant to the criteria of the provider of the samples.

(2) Report data to the microbiology certification officer on at least one set of performance evaluation samples obtained from a source that is acceptable to the Nevada laboratory certification officer in each category for which it is certified.

2. If a laboratory fails to comply with the requirements of paragraph (a), (b) or (c) of subsection 1:

(a) The microbiology certification officer shall notify the Nevada laboratory certification officer, in writing; and

(b) The Nevada laboratory certification officer shall change the laboratory's certification to provisional certification or revoke its certification for the affected contaminants.

3. If a laboratory fails to comply with the requirements of paragraph (d) of subsection 1:

(a) The microbiology certification officer shall notify the Nevada laboratory certification officer; and

(b) The Nevada laboratory certification officer shall change the laboratory's certification to provisional certification.

445A.479 Certification of laboratories to analyze microbiological contaminants:

Provisional certification; revocation of certification.

1. A laboratory's certification to analyze microbiological contaminants must be changed to provisional certification if the laboratory:

(a) Has deficiencies that may temporarily impair its ability to produce data for a contaminant;

or

(b) Fails to analyze in a satisfactory manner 80 percent of the samples of a contaminant in a performance evaluation sample obtained from a source that is acceptable to the certification officer. If, in the next available sample set, the laboratory fails to analyze the same microbiological contaminant in a satisfactory manner, its certification for that contaminant must be revoked.

2. A laboratory's certification must be revoked for affected contaminants if:

(a) The laboratory has provisional certification and fails to report data or analyze in a satisfactory manner 80 percent of the samples in the next set of performance evaluation samples obtained from a source that is acceptable to the Nevada laboratory certification officer; or

(b) The laboratory has deficiencies that impair its ability to produce data for a particular contaminant.

3. A laboratory's certification may be revoked if the laboratory:

(a) Falsifies data or engages in other deceptive practices; or

(b) Reports data on a microbiological contaminant for which it is not certified.

445A.480 Certification of laboratories to analyze microbiological contaminants: Effect of provisional certification; recertification. If a laboratory's certification for a microbiological contaminant is changed to provisional certification, the health authority may continue to accept the laboratory's data for the contaminant. The laboratory may be recertified to analyze the microbiological contaminant if the laboratory obtains a set of performance evaluation samples from a source that is acceptable to the Nevada laboratory certification officer and

satisfactorily analyzes 80 percent of the samples provided in the category for the microbiological contaminant for which certification was changed to provisional certification.

445A.481 Certification of laboratories to analyze microbiological contaminants: Effect of revocation for particular contaminant; recertification. If a laboratory's certification to analyze microbiological contaminants is revoked for a particular microbiological contaminant, the health authority shall not accept data from the laboratory for the microbiological contaminant for which the certification is revoked. The health authority may continue to accept data for the other microbiological contaminants for which the laboratory is certified. The laboratory may be recertified to analyze the microbiological contaminant for which the certification is revoked if the laboratory obtains a set of performance evaluation samples from a source that is acceptable to the Nevada laboratory certification officer and satisfactorily analyzes 80 percent of the samples provided in the category for that microbiological contaminant.

445A.4815 Certification of laboratories to analyze microbiological contaminants: Denial of application for or revocation of certification; appeal of action taken; recertification.

1. In addition to the grounds set forth in this chapter and chapter 445A of NRS, an application for certification to analyze microbiological contaminants may be denied or the certification of a laboratory to analyze microbiological contaminants may be revoked if the laboratory:

(a) Fails or refuses to comply with any of the provisions of chapter 445A of NRS or NAC 445A.450 to 445A.6731, inclusive; or

(b) Operates or holds itself out as a certified laboratory after the certification of the laboratory has been revoked or before receiving certification to analyze microbiological contaminants.

2. If an applicant's application for certification to analyze microbiological contaminants is denied or a laboratory's certification to analyze microbiological contaminants is revoked, the laboratory certification officer shall send a written notice of the denial or revocation to the director of the laboratory in accordance with the requirements of chapter 439 of NAC.

3. Any applicant for certification to analyze microbiological contaminants or a laboratory certified to analyze microbiological contaminants that is aggrieved by an action of the microbiology certification officer or the laboratory certification officer may appeal that action in accordance with chapter 439 of NAC.

4. A laboratory whose certification to analyze microbiological contaminants is revoked may not apply for recertification for 6 months after the date of the revocation. The laboratory may be recertified to analyze a microbiological contaminant by complying with the requirements of NAC 445A.474.

445A.483 Certification of laboratories to analyze microbiological contaminants: Fees.

1. The fees related to the certification of laboratories pursuant to NAC 445A.474 to 445A.484, inclusive, to analyze microbiological contaminants regulated by NAC 445A.453, are:

Fee for an initial application for certification.....	\$600
Fee for an annual renewal of certification.....	600

2. The fees paid pursuant to this section are nonrefundable.

445A.484 Certification of laboratories to analyze microbiological contaminants:

Acceptance of data from laboratory located outside of state. The health authority shall

accept data relating to the analysis of microbiological contaminants regulated pursuant to NAC 445A.453, that is submitted from a laboratory located outside of this state if:

1. The laboratory has otherwise complied with the requirements set forth in NAC 445A.474 to 445A.484, inclusive, including the payment of fees required by NAC 445A.483;

2. The laboratory is certified by the state in which it is located or by the Environmental Protection Agency, and that state accepts the results of evaluations conducted pursuant to the certification program adopted by this state;

3. The Nevada laboratory certification officer determines that the state in which the laboratory is located has adopted a certification program that is equivalent to the certification program adopted by this state; and

4. The laboratory files with the Nevada laboratory certification officer a copy of the report relating to the latest evaluation conducted at the site of the laboratory by the state in which the laboratory is located or by the Environmental Protection Agency. The evaluation must have been conducted within the 12 months immediately preceding the date of the laboratory's application for certification.

LCB File No. R203-99

INFORMATIONAL STATEMENT

HEALTH DIVISION

Bureau of Licensure and Certification

LCB File No. 203-99

Information Statement per NRS 233B.066

1. DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION OF HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Notice of public workshops held on April 2, 2001, in Reno and April 3, 2001, in Las Vegas was published in the Las Vegas Review Journal and Reno Gazette Journal on or before March 21, 2001. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, environmental laboratories, and interested parties. Notices of the public workshops were also posted on the environmental laboratory web page. In addition, on February 26, 2001, a small business impact statement questionnaire was mailed to all environmental laboratories currently certified by the Nevada State Health Division's Environmental Laboratory Certification Program. The summary of the small business impact statement was available to the public at the public workshop.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal, Reno Gazette Journal on or before May 16, 2001. Notices of public hearing, proposed regulations and the small business impact summary was mailed to all environmental laboratories, and interested parties on May 11, 2001.

In addition, copies of the proposed regulations were available during normal office hours at:

Bureau of Licensure and Certification - Carson City
Bureau of Licensure and Certification - Las Vegas
Bureau of Licensure and Certification - Reno
Nevada State Library
Emergency Medical Services - Elko
Emergency Medical Services - Tonopah

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 87 people attended the June 15, 2001, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

None.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

None.

3. A DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY

Comment was solicited from affected or potentially affected businesses by mailing appropriate facilities and all interested parties the proposed regulations, a small business impact questionnaire, a copy of the small business impact summary, and the notices for the workshops and Board of Health hearing. Copies the workshop minutes and Board of Health hearing minutes may be obtained by calling the Bureau of Licensure and Certification at (775) 687-4475.

4. IF THE REGULATION WAS ADOPTED WITHOUT CHANGING ANY PART OF THE PROPOSED REGULATION, A SUMMARY OF THE REASONS FOR ADOPTING THE REGULATION WITHOUT CHANGE.

None.

5. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:

- (A) BOTH ADVERSE AND BENEFICIAL EFFECTS; AND**
- (B) BOTH IMMEDIATE AND LONG TERM EFFECTS.**

Anticipated effects on the public are beneficial and long-term. The changes will assist in maintaining quality laboratory analytical capacity to ensure that measurements that affect the public health will be trustworthy.

6. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

There is no anticipated additional cost to the agency for enforcement of the proposed regulation changes.

7. A DESCRIPTION OF ANY REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES WHICH THE PROPOSED REGULATION OVERLAPS OR DUPLICATES AND A STATEMENT EXPLAINING WHY THE DUPLICATION OR OVERLAPPING IS NECESSARY. IF THE REGULATION OVERLAPS OR DUPLICATES A FEDERAL REGULATION, NAME THE REGULATING FEDERAL AGENCY.

None.

8. IF THE REGULATION INCLUDES PROVISION WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY, A SUMMARY OF SUCH PROVISION.

None.

9. IF THE REGULATION PROVIDES A NEW FEE OR INCREASES AN EXISTING FEE, THE TOTAL ANNUAL AMOUNT THE AGENCY EXPECTS TO COLLECT AND THE MANNER IN WHICH THE MONEY WILL BE USED.

None.