

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

**LCB File No. R192-03**

Effective January 22, 2004

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

AUTHORITY: §§1-7, NRS 439.200; §§8 and 9, NRS 439.150 and 439.200.

**Section 1.** Chapter 439 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 8, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Cosmetic” has the meaning ascribed to it in NRS 585.060.*

**Sec. 4.** *“Division” means the Health Division of the Department of Human Resources.*

**Sec. 5.** *“Drug” has the meaning ascribed to it in NRS 585.080.*

**Sec. 6.** *“Food” has the meaning ascribed to it in NRS 585.100.*

**Sec. 7.** *“Law enforcement agency” means an agency, office or bureau, the primary duty of which is to enforce the law.*

**Sec. 8. 1.** *If a law enforcement agency requests the services of the Division in responding to an accident involving a vehicle used to transport or hold food, drugs or cosmetics in commerce or a vehicle used for septic tank pumping purposes, the Division shall charge and collect an hourly fee of \$90 from the manufacturer, producer, jobber or seller of*

*the food, drugs or cosmetics or the owner of the vehicle used for septic tank pumping purposes to determine whether, as a result of the accident:*

*(a) The food, drugs or cosmetics:*

*(1) Have been adulterated and must be quarantined, condemned or destroyed; or*

*(2) Have not been adulterated and may be provided to the public for use or consumption.*

*(b) The contents of the vehicle used for septic tank pumping purposes constitute a risk to the health or safety of the public. If the Division determines there is a risk to the health or safety of the public, it must provide guidance to the law enforcement agency to alleviate such risk.*

*2. The hourly fee set forth in subsection 1:*

*(a) Applies to a period beginning at the time the law enforcement agency provides notice of the accident to the personnel of the Division; and*

*(b) Includes only the time actually spent by the personnel of the Division in response to the accident, including, without limitation, travel to the site of the accident and any investigation related to the accident.*

**Sec. 9.** NAC 439.650 is hereby amended to read as follows:

439.650 When an entity or person requests the services of the Health Division *of the Department of Human Resources* in collecting a sample of water, the Health Division shall charge and collect a fee of ~~[\$50]~~ **\$133** from the requester for each visit to the site by an employee of the Health Division. This fee must be charged in addition to any fees assessed pursuant to NAC 439.520, 439.530 or 439.540.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R192-03**

The State Board of Health adopted regulations assigned LCB File No. R192-03 which pertain to chapter 439 of the Nevada Administrative Code on December 12, 2003.

**Notice date:** 11/12/2003  
**Hearing date:** 12/12/2003

**Date of adoption by agency:** 12/12/2003  
**Filing date:** 1/22/2004

**INFORMATIONAL STATEMENT**

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

Letters were sent to all firms that pump septic tanks, to food establishments and to drug manufacturers. Copies of the proposed amendments were posted at the Health Division's web site. Notices were published in 8 newspapers throughout the state and posted at public libraries and Bureau of Health Protection Services (BHPS) offices. Public workshops were held in September 2003 and another was held in Carson City and Las Vegas on October 28, 2003. Copies of proposed amendments will be provided to those individuals and businesses, which had requested direct service.

To date, only one specific response was received on this proposed fee increase from a commenter in Carson City, who indicated that he thought the local health department could take care of these types of responses.

Interested persons may obtain a list of the recipients and a summary of written responses to the solicited comments by contacting Kinley Goodman, REHS, Acting Supervisor, Environmental Health Section, BHPS, 1179 Fairview Dr., Ste. 101, Carson City, NV 89701 or by calling (775) 687-4750, extension 261.

- 2. The number of persons who:**  
**(a) Attended the hearing;**  
**(b) Testified at each hearing; and**  
**(c) Submitted to the agency written comments.**

On December 12, 2003, the State Board of Health meeting was held in Las Vegas and via videoconference to Carson City.

- a. No one from the public attended the hearing regarding this proposed amendment.
- b. No one from the public testified at the hearing.
- c. No one submitted to the agency any written comments.

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

Comments were solicited from businesses and the general public as indicated in the response to Question 1, so the response to this requirement is the same.

**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.**

The regulation was adopted without change. There were no proposals for changing the proposed fees, so there are no reasons for changing the proposed fees.

**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.**

**Adverse and Beneficial Effects**

Direct adverse effects are not known, other than these proposed fees are for services caused, but not currently paid for, by the entity in responsible charge at the time of the incident involving sewage, or the accident involving food, drugs and/or cosmetics. The beneficial effect of this fee is to ensure that the first responder to an incident or accident can obtain the services and expertise of BHPS employees to determine actions to be taken.

The direct and indirect beneficial economic effects of the proposed fee changes on affected small businesses cannot be quantified. The estimated direct adverse economic effect of the proposed fee increases on small businesses, although unknown, is not significant and will only occur as the BHPS responds to emergencies. The customers of those entities that suffer damages may incur indirect costs; however, insurance carried by the person or firm experiencing the damage may cover some of these costs. Costs would have to be determined on a case-by-case basis.

**Immediate and long-term effects**

The immediate effect of the proposed fees will be that adequate funding for better protection of the health and safety of Nevada residents and tourists by decreasing the possibility that food, drugs or cosmetics damaged in an accident do reach the public for consumption, and that sewage spills are efficiently and effectively cleaned up and the public health is protected. The long-term effect is to improve the public's perception of safety and security with respect to these types of incidents and accidents.

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

The estimated cost to the agency for enforcement of the proposed regulation is minimal and will be handled through the existing administrative process.

**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.**

The proposed fee changes do not overlap or duplicate any federal, state or local regulations.

- 8. The regulation includes provisions, which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.**

This section does not apply. These fees are relevant only to statutory and budget requirements proscribed by the Nevada State Legislature.

- 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.**

The total amount of new fee revenue expected to be collected from this fee proposal is estimated at \$10,101. The fee will be used to recover costs of responding to emergencies as indicated (salaries, transportation, supplies, etc.).