

LCB File No. R192-03

**PROPOSED REGULATION OF THE HEALTH DIVISION OF
THE DEPARTMENT OF HUMAN RESOURCES**

NAC 439.650 Fee for collecting sample of water. When an entity or person requests the services of the health division 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.

Emergency Response

NAC 439.XXX (New Section) Emergency Response

- 1.
For an emergency response such as to a truck wreck to determine if food must be quarantined, destroyed or ultimately allowed to be provided to the public for consumption. The fee is based upon an hourly rate. The hourly rate begins with the notification of health authority personnel of the emergency situation and will include only the time actually worked by health division personnel in response, investigation, and other duties related to the emergency response* *\$90 per hour*
- 2.
For an emergency response such as a ruptured sewer main or an accident involving a septic pumping vehicle to determine if the public health is at risk and to provide guidance to alleviate such risk as may be determined necessary* *\$90 per hour*
- 3.
For Health Division emergency response such as to a truck wreck to determine if amygdalin, procaine hydrochloride or other drugs must be quarantined, destroyed, or ultimately allowed to be provided to the public for consumption. The hourly rate begins with the notification by the initial response personnel to the emergency situation.* *\$90 per hour*

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SMALL BUSINESS IMPACT STATEMENT

(Prepared Pursuant to Nevada Revised Statutes 233B.0608)

**Amendments to Fees by the Bureau of Health Protection Services Proposed in a new
section of Nevada Administrative Code 439**

PROPOSED AMENDMENTS TO EXISTING REGULATIONS within Nevada Administrative Code (NAC) provide for new fees to allow the Bureau of Health Protection Services (BHPS), a bureau within the State Health Division to recover the costs of emergency response to incidents involving sewage and to accidents involving food, drugs and cosmetics.

A small business is defined in Nevada Revised Statutes (NRS) 233B.0382 as a "business conducted for profit which employs fewer than 150 full-time or part-time employees." **This statement applies primarily to companies which transport, or which provide transportation for, consumable products such as food, drugs and/or cosmetics. It may also apply to septic tank pumps, and to entities, which control or manage temporary or permanent sewage disposal facilities, or others who cause a sewage spill.**

Background

The State Health Division receives funding for BHPS from three primary sources: grants from the federal government for administering the Public Water System Supervision Program; fees from regulated entities; and General Fund appropriations by the Nevada State Legislature. The only sources of revenue for expenses incurred under this section of Chapter 439 of the NAC are from fees and General Fund appropriations.

While the Nevada State Legislature appropriates varying levels of funds for all of these purposes, these appropriations do not cover the actual cost of the Bureau performing these statutory responsibilities. To meet this funding shortfall, and to provide program enhancements, the Nevada State Legislature has historically required that regulated entities pay fees to the State Health Division to supplement the funding for BHPS. (See NRS 439.150.) In State Fiscal Year 04 (July 1, 2003 — June 30, 2004) and State Fiscal Year 05 (July 1, 2004— June 30, 2005), the Nevada State Legislature has budgeted a fee increase of approximately \$208,000 just to provide funding for the Public Health Engineering Section and Environmental Health Section functions performed by the Bureau. An additional estimated \$200,000 will be required to provide for additional personnel, equipment and training.

The proposed amendments to Chapter 439 of the NAC impose new fees to cover the costs of collecting a water sample, and to provide emergency response by the BHPS to incidents involving sewage and to accidents involving food, drugs and cosmetics. The fee for collecting a water sample will be raised from \$50 to \$133. The fee for emergency response to these types of incidents and accidents is proposed to be \$90.00 per hour. The proposed fee amendments to

Chapter 439 of the NAC will enable the State Health Division to better meet its statutory responsibilities and will provide an estimated \$10,101 towards meeting the projected revenue shortfall of approximately \$208,000 and to provide funds for program enhancements.

1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons 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 will be posted at the Health Division's web site. Public workshops were held in September 2003 and another is scheduled for October 28, 2003. Copies of proposed amendments will be provided to those individuals and businesses, which have requested direct service.

To date, no specific responses have been received on this proposed fee increase.

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 Division, BHPS, 1179 Fairview Dr., Ste 101, Carson City, NV 89701 or by calling (775) 687-4750, extension 261.

2. The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation, both adverse and beneficial effects and both direct and indirect effects.

Direct 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, 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 employee to determine actions to be taken.

The estimated direct and indirect beneficial economic effects of the proposed fee changes on affected small businesses cannot be quantified. Overall, an indirect beneficial 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.

Direct and Indirect Costs

The estimated direct adverse economic effect of the proposed fee increases on small businesses, although unknown, is not expected to be large 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.

3. A description of the methods that BHPS considered to reduce the impact of the proposed regulation on small businesses and statement regarding whether the agency actually used those methods.

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

This fee proposal does not propose new regulations for compliance. These new fees will be implemented in an area where BHPS has experienced unrecovered costs. However, fees must be increased based upon the legislatively approved budget for BHPS's statutory and regulatory responsibilities for response to public health emergencies.

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

This fee proposal does not propose new regulations for compliance.

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

Not applicable.

4. The estimated cost to the agency for 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.

5. Total amount BHPS expects to collect from any fees 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 indicted (salaries, transportation, supplies, etc.).

6. An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

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