

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

LCB File No. R193-03

Effective January 22, 2004

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

AUTHORITY: §§1 and 2, NRS 439.150, 439.200 and 444.070; §3, NRS 439.200 and 444.650; §4, NRS 439.150, 439.200 and 444.650.

Section 1. NAC 444.259 is hereby amended to read as follows:

444.259 1. The Health Division ~~will~~ *shall* charge and collect ~~fees~~ *\$125* for *each* annual ~~permits~~ *permit* to operate *a* public bathing or swimming ~~facilities and~~ *facility or* natural bathing ~~places according to the following schedule,~~ *place*, except in areas where the laws and regulations governing such facilities and bathing places are administered by local health authorities . ~~{ }~~

[Surface Area of Facility	Fee
Under 1,000 square feet	\$80
1,000 – 2,000 square feet	100
Over 2,000 square feet	120}

2. The Health Division ~~will~~ *shall* charge and collect fees for reviewing plans for such facilities and bathing places as follows, except in areas where the laws and regulations governing the facilities and bathing places are administered by local health authorities:

A plan for a new facility\$200

Plus an amount equal to the fee for an annual permit to operate a facility of the size under review.

A plan for remodeling a facility which has a permit.....200

Plus an amount equal to one-half of the fee for an annual permit to operate the facility after the remodeling.

Sec. 2. NAC 444.521 is hereby amended to read as follows:

444.521 1. The Health Division shall charge and collect ~~fees~~ **\$170** for the issuance of *each* annual ~~permits~~ **permit** for the operation of *a* public ~~spas in accordance with the following schedule,~~ **spa**, except in areas where the laws and regulations governing public spas are administered by local health authorities . ~~[-]~~

~~For a spa having a surface area under 1,000 square feet.....\$80~~

~~For a spa having a surface area from 1,000 to 2,000 square feet100~~

~~For a spa having a surface area of more than 2,000 square feet..... 120]~~

2. The Health Division shall charge and collect fees for reviewing plans of public spas as follows:

For a plan of a new facility.....\$200

Plus an amount equal to the fee for an annual permit to operate a spa having

the area of the spa being reviewed.

For a plan to remodel a facility which has a permit200

Plus an amount equal to one-half of the fee for an annual permit to operate a spa having the area which the facility under review will have after the remodeling.

Sec. 3. NAC 444.820 is hereby amended to read as follows:

444.820 1. A person shall not engage in the operation of removing and disposing of the solid and liquid contents of septic tanks, holding tanks, grease traps, grease interceptors, portable toilets or other sewage treatment or disposal facilities unless he has obtained an annual permit from the health authority. To obtain a permit pursuant to this section and NAC 444.821, 444.822 and 444.828, the applicant must file with the health authority an application on a form prescribed, prepared and furnished by the health authority. A written application must be filed annually and as necessary to amend the permit. A permit must be amended before using a vehicle which is not listed on the application and before changing a point of discharge.

2. The application for this permit must contain the following information:

- (a) The area to be served.
- (b) The type of waste to be hauled.
- (c) The exact location of all discharge sites and type of waste to be discharged at each

location. The application must include a letter from the operating authority of each such discharge site ~~that~~ *which* states that the operating authority will accept the waste to be removed and disposed of by the applicant at the discharge site.

(d) The license number, vehicle identification number, make, model, year and color of each vehicle which the holder of a permit intends to use to remove or dispose of solid and liquid contents of septic tanks, holding tanks, grease traps, grease interceptors, portable toilets or other sewage treatment or disposal facilities. If the color of the vehicle is changed, the applicant or the holder of the permit, as appropriate, shall forthwith notify the health authority in writing of the change.

(e) The capacity of each vehicle to be listed on the permit.

(f) The location where each vehicle will be stored.

(g) The names and addresses of the employees of the applicant who will be removing or disposing of solid and liquid contents of septic tanks, holding tanks, grease traps, grease interceptors, portable toilets or other sewage treatment or disposal facilities. Not later than 2 weeks after the date on which any change in personnel is made, the applicant or holder of a permit, as appropriate, shall submit written notification of the change to the health authority.

(h) A description of each tank which is not physically affixed to a vehicle and which will be used to remove, dispose of or store solid and liquid contents of septic tanks, holding tanks, grease traps, grease interceptors, portable toilets or other sewage treatment or disposal facilities. The description must include the dimensions, size, capacity and color of each tank.

(i) A statement signed by the applicant that all waste material collected will be disposed of in accordance with the provisions of NAC 444.750 to 444.8396, inclusive, and that such waste will not be discharged to any waterway or sewer nor deposited on any land, including privately owned land, without the prior approval of the health authority or the Division of Environmental Protection of the State Department of Conservation and Natural Resources, as appropriate.

(j) Evidence satisfactory to the health authority that the applicant is of reputable and responsible character. If the applicant is a firm, association, organization, partnership, business trust, corporation or company, similar evidence must be submitted as to the members thereof [] and the person in charge of the business for which the application is made.

(k) A copy of the vehicle registration issued by the Department of Motor Vehicles for each vehicle to be used by the septic tank pumping contractor to remove and dispose of the solid and liquid contents of septic tanks, holding tanks, grease traps, grease interceptors, portable toilets or other sewage treatment or disposal facilities. Upon the request of the health authority, an applicant shall include in an application the original or a certified copy of the state registration or bill of sale, or both, for each vehicle listed on the application. If, while an application is pending, the ownership of a vehicle listed on the application changes, the applicant shall forthwith provide the health authority with documentation of the change. If a change in the ownership of the vehicle changes after a permit has been issued, the holder of the permit shall, not later than 2 weeks after the date on which the change occurred, provide to the health authority documentation of the change. If the applicant is not the registered owner of a vehicle, the applicant shall submit documentation of his authority to use the vehicle.

(l) Such other information as may be required by the health authority.

3. *If a septic tank pumping contractor uses:*

(a) A ~~[The name, address and phone number of the septic tank pumping contractor and his permit number must be legibly and permanently lettered on each]~~ tank which is not physically attached to a vehicle, *the name, phone number and permit number of the septic tank pumping contractor must be legibly and permanently lettered on:*

(1) *The tank;* and

(2) Any vehicle used to transport the tank.

(b) A tank that is mounted on a vehicle used for septic tank pumping purposes, the name, phone number and permit number of the septic tank pumping contractor must be legibly and permanently lettered on both sides and the rear of ~~each vehicle used for septic tank pumping purposes.~~:

(1) The tank; or

(2) The vehicle on which the tank is mounted.

↳ Unless otherwise authorized by the ~~health authority,~~ *Health Division pursuant to subsection 4*, the lettering *required pursuant to this subsection* must be at least 4 inches in height and of a color that contrasts with the color of the tank or vehicle, as appropriate.

4. A septic tank pumping contractor may submit a written request to the Health Division to use lettering that is smaller than the size of the lettering required pursuant to subsection 3. The request must include the size of the lettering requested and the reasons for the smaller lettering. The Health Division may approve a request for smaller lettering if the size or design of the vehicle or tank will not accommodate lettering at least 4 inches in height. The Health Division shall approve or deny a request for smaller lettering and notify the septic tank pumping contractor of its decision in writing within 30 days after receipt of a written request for smaller lettering. If the Health Division approves a request for smaller lettering on a vehicle used to transport a tank which is not physically attached to the vehicle, a vehicle used for septic tank pumping purposes or on a tank mounted on a vehicle used for septic tank pumping purposes, the septic tank pumping contractor must keep the written approval of the Health Division, or a legible copy thereof, in the vehicle for which it is issued. If the Health Division approves a request for smaller lettering for a tank which is not physically attached to

a vehicle, the septic tank pumping contractor must carry the written approval of the Health Division, or a legible copy thereof, with the tank. The septic tank pumping contractor shall, upon demand, make available the written approval of the Health Division for smaller lettering, or the copy thereof, to the staff of the Health Division for examination.

5. Each tank and portable receptacle that is used to transport liquid or solid waste must have the words “SEWAGE SLUDGE” or “RAW SEWAGE” permanently and legibly labeled on both sides *of the tank or portable receptacle* and *on* the rear of the tank or portable receptacle.

~~[Unless otherwise authorized by the health authority, the]~~ *The* lettering must be at least 4 inches in height and of a color that contrasts with the color of the tank or portable receptacle, as appropriate.

~~[5.]~~ 6. Every vehicle used for septic tank pumping purposes must be equipped with a watertight tank. A tank and portable receptacle that is used to transport liquid or solid waste must be maintained in a clean and sanitary condition. Water that is used to clean a portable receptacle must be disposed of in an approved individual sewage disposal system or sewage treatment facility. Liquid or solid waste must not be transported in a vehicle with an open body unless the waste is contained within suitable portable receptacles. All pumps and hose lines must be maintained so as to prevent leakage.

~~[6.]~~ 7. Prior approval in writing must be obtained from the health authority and the operating authority of the discharge site for every location at which a septic tank pumping contractor plans to discharge a specific volume of waste material collected. No waste material may be discharged on any site without prior approval. Waste material collected by the septic tank pumping contractor must not be discharged into ditches, watercourses, lakes, ponds or any point

where it can pollute any watercourse, water supply source or bathing area. Waste material must not be deposited within 600 feet of any highway or residence.

~~[7.]~~ **8.** A vehicle or portable receptacle that is used to remove or dispose of solid or liquid wastes must not be used for any other purpose.

~~[8.]~~ **9.** The health authority may deny an application for a permit if the applicant:

(a) Engaged in the operation of removing and disposing of solid and liquid contents of septic tanks, holding tanks, grease traps, grease interceptors or other sewage treatment or disposal facilities before obtaining a permit from the health authority.

(b) Failed to comply with the provisions of this section and NAC 444.821, 444.822 and 444.828.

~~[9.]~~ **10.** The health authority may refuse to renew a permit or may suspend or revoke a permit if the holder of a permit:

(a) Violates any provision of this chapter or chapter 444 of NRS;

(b) Violates any of the terms of the permit; or

(c) Uses a vehicle or tank which is not listed in the permit.

Sec. 4. NAC 444.828 is hereby amended to read as follows:

444.828 The Health Division shall charge and collect fees for its services in accordance with the following schedule, except in areas where the laws and regulations governing individual sewage disposal systems and septic tank pumping contractors are administered by another administrative authority:

1. For a permit to construct an individual sewage disposal system for a single-family dwelling, including a review of the plan for the system and an initial inspection of the system..... ~~[\$100]~~ **\$200**

- 2. For a permit to construct a residential system that utilizes an alternative treatment or disposal system design, including a review of the plan for the system and an initial inspection of the system..... ~~[\$200]~~ **\$250**
- 3. For a permit to construct an individual sewage disposal system for a commercial building, including a review of the plan for the system and an initial inspection of the system..... ~~[\$200]~~ **\$250**
- 4. For the resubmission of a plan described in subsection 1, 2 or 3. ~~[\$50]~~ **\$100**
- 5. For a reinspection of an individual sewage disposal system..... ~~[\$50]~~ **\$100**
- 6. For ~~[a review of an application to obtain a loan for property which contains]~~ ***an inspection of*** a system described in subsection 1, 2 or 3 ***where such inspection is necessary to obtain a loan to purchase a piece of real property*** ~~[\$50]~~ **\$133**
- 7. For an annual permit for a septic tank pumping contractor. ~~[\$50]~~ **\$150**
 Plus \$50 per year for each pumping unit to be authorized for use pursuant to the permit.
- 8. To extend a permit to construct an individual sewage disposal system for a 1-year period after the expiration date of the permit. \$50
- 9. For an annual permit to operate a nitrate removal wastewater treatment unit.... \$50
- 10. For an annual permit to operate an aerobic wastewater treatment unit..... \$50

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R193-03**

The State Board of Health adopted regulations assigned LCB File No. R193-03 which pertain to chapter 444 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 entities, including engineering firms and local health authorities, that Bureau of Health Protection Services (BHPS) could identify, who could be affected by the proposed changes advising them of the potential fee changes and providing notice of public workshops. Copies of the proposed amendments were posted at the Health Division's web site. Notice of the workshops and hearings were published in 8 newspapers throughout Nevada and posted at public libraries and BHPS offices. Public workshops were held in September 2003 and again in Carson City and Las Vegas on October 28, 2003. Copies of proposed amendments have been provided to those individuals and businesses, which have requested direct service.

Several faxed responses and numerous phone calls provided initial general responses to the generic questionnaire included in the mass mailing, which included fee amendments to nine Chapters of the NAC. Generally, many responders, whether or not they met the definition of a small business, complained that any increase in state fees was an increase in consumer fees, which was an adverse impact, and therefore not warranted. There were no specific responses to the changes proposed in Chapter 444.

Interested persons may obtain a list of the recipients and a summary of written responses to the solicited comments by contacting the Bureau of Health Protection Services, 1179 Fairview Dr., Ste. 101, Carson City, NV 89701 or by calling (775) 687-4750.

- 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.**

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.**

Direct Adverse and Beneficial Effects

A potential adverse effect may be that some small businesses will experience increased operating costs for public bathing places and public spas, increased costs for the review and approval of individual sewage disposal systems and increased costs to operate as a septic tank pumping contractor. The estimated economic effect of the proposed fee increases on small businesses, although unknown, is not expected to be large and will primarily occur in the plan review process for individual sewage disposal systems and the annual permits for public bathing places, public spas and septic tank pumping contractors. Indirect costs may be incurred by the customers of these small businesses in that the costs might be passed through to them.

A beneficial effect of the proposed fee increases will be that adequate funding for better protection of the health and safety of Nevada residents and tourists by ensuring BHPS staffing levels remain adequate for administering regulations governing public bathing places, public spas and individual sewage disposal systems.

Immediate and long-term effects

The immediate effects of the proposed fee changes on affected small businesses may result in higher consumer costs to use public bathing places and public spas as well as higher purchase prices for properties improved with an individual sewage disposal system. The long-term economic effects of the proposed fee changes cannot be quantified, but is not expected to be significant. The long-term environmental effects should be positive in that adequate resources are provided by the state to ensure that proper design, development and planning requirements are confirmed and that public health requirements are conformed to.

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 revenue expected to be collected from this fee proposal is estimated at \$227,485, an increase of about \$112,615 over existing revenue. This revenue (\$12,550 for Public Health Engineering and \$100,065 for Environmental Health Services) will be used to improve administration of the regulatory requirements of Chapter 444 of the NAC by purchasing new equipment, improving business systems, and providing for funding of new positions to improve response to public health needs.