

LCB File No. R193-03

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

Type italicized is new and will be added to the regulation. Language with [omitted material] will be deleted from the regulation. Other type is existing in the regulation.

Public bathing, swimming facilities and spas

NAC 444.259 Fees for permits and review of plans.

1. The health division will charge and collect fees for annual permits to operate public bathing or swimming facilities and natural bathing places according to the following schedule, except in areas where the laws and regulations governing such facilities and bathing places are administered by local health authorities:

All public bathing and swimming facilities and natural bathing places regardless of size...Fee...\$125

Table with 2 columns: Surface Area of Facility, Fee. Rows: Under 1,000 square feet (\$80), 1,000-2,000 square feet (100), Over 2,000 square feet (120).

2. The health division will 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:

Table with 2 columns: Description, Fee. Rows: A plan for a new facility (\$200), A plan for remodeling a facility (200).

NAC 444.521 Fees for permits and review of plans.

1. The health division shall charge and collect fees for the issuance of annual permits for the operation of public spas in accordance with the following schedule, except in areas where the laws and regulations governing public spas are administered by local health authorities:

Table with 2 columns: Description, Fee. Rows: All spas regardless of size (\$170), 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 feet (100), For a spa having a surface area 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 permit..... 200

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.

Septic tank pumpers

NAC 444.820 Permit: Contents of application; terms; denial, refusal to renew, suspension or revocation. (NRS 439.200, 444.650)

(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. The name, ~~{address and}~~ phone number, *and permit 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, and on both sides and the rear of each vehicle *or tank mounted to each vehicle* used for septic tank pumping purposes. Unless otherwise authorized by the health authority, the lettering 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. 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 and the rear of the tank or portable receptacle. ~~{Unless otherwise authorized by the health authority,}~~ ~~{t}~~ 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. An operator may request other than 4 inch lettering as required by item 3 by making the request in writing to the Health Division. The request must state the desired lettering size and the reason/s smaller lettering is required due to such reasons as equipment design and size limitations for areas available on the vehicle or unit for placing lettering. The health division will make a decision and notify the operator in writing of that decision within 30 days of receipt of said request. The written decision from the health division, if it approves the smaller lettering, must be maintained in the vehicle and be available for review by health division staff.

Individual Septic Disposal Systems

NAC 444.828 Schedule of fees. ([NRS 439.150](#), [439.200](#)) 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 re-inspection of an individual sewage disposal system.....	50 100
6. For a review of an application to obtain a loan <i>and inspection of</i> for property which contains a system described in subsection 1, 2 or 3.....	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

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

SMALL BUSINESS IMPACT STATEMENT

**Amendments to Fees by the Bureau of Health Protection Services Contained in
Nevada Administrative Code (NAC) 444.259, 444.521, 444.820, 444.828**

PROPOSED AMENDMENTS TO EXISTING REGULATIONS within Nevada Administrative Code (NAC) will allow the Bureau of Health Protection Services (BHPS), a bureau within the State Health Division to:

Recover the increased costs of administering regulations governing public bathing places (NAC 444.259) and public spas (NAC 444.521);

Require identification information on all vehicles permitted by the Bureau of Health Protection Services (BHPS), a bureau within the State Health Division to be used by septic tank pumping contractors who remove and dispose of solid and liquid contents of septic tanks, holding tanks, grease traps, grease interceptors, portable toilets or other sewage treatment or disposal facilities (NAC 444.820); and

Recover the increased costs of administering regulations governing individual sewage disposal systems (NAC 444.828).

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."

Background

The Health Division has statutory responsibilities defined in NRS 444 for public bathing places, public spas and individual sewage disposal systems. The corresponding sections of the NAC provide the regulatory framework under which these duties are carried out by the BHPS. BHPS collects fees for the purpose of administering regulations governing public bathing places, public spas and individual sewage disposal systems. However, the collected fees do not cover the actual cost of the Bureau performing these statutory responsibilities. To meet this funding shortfall, the Nevada State Legislature has historically required that regulated entities pay an annual permit fee to the Bureau of Health Protection Services. In State Fiscal Year 04 (July 1, 2003 - June 30, 2004) and State Fiscal Year 05 (July 1, 2004 - June 30, 2005), the Legislature has budgeted a fee increase of approximately \$208,000 to merely cover the existing level of public health engineering functions and environmental health services performed by the Bureau.

The proposed amendment to Section 444.259 of the NAC increases fees to provide funding for the BHPS to cover the cost of administering regulations governing public bathing places and include administrative costs (i.e. issuance of permits and inspection reports) and inspections performed by BHPS staff. Although the impacts to owners of public bathing places are difficult, if not impossible, to quantify, the following impacts may be expected. Operator permit fees increase between \$5 and \$45 depending on the size of swimming pool. The existing permit fee

schedule has been in place since at least 1996 and is based on the surface area of the swimming pool. The fee for a permit to operate a public bathing place is proposed to be \$125 regardless of swimming pool size. Public bathing place operators with swimming pools that are less than 1,000 square feet of surface area will experience the largest fee increase.

The proposed amendment to Section 444.521 of the NAC increases fees to provide funding for the BHPS to cover the cost of administering regulations governing public spas and include administrative costs (i.e. issuance of permits and inspection reports) and inspections performed by BHPS staff. Although the impacts to owners of public spas are difficult, if not impossible, to quantify, the following impacts may be expected. Operator permit fees increase \$90. The existing permit fee schedule has been in place since at least 1996 and is based on the surface area of the swimming pool. The fee for a permit to operate a public spa is proposed to be \$170 regardless of spa size. All spas currently permitted by the BHPS have less than 1,000 square feet of surface area and will all experience a fee increase of \$90.

The proposed amendments to Section 444.820 of the NAC removes the requirement for septic tank pumping contractors to label vehicles and tanks used for septic tank pumping purposes with their address. The proposed amendments also define the procedure for septic tank pumping contractors to request vehicle labels that are smaller than the required four-inch size. There is no Impact to septic tank pumping contractors since the proposed amendments require less information on labels of vehicles and tanks used for septic tank pumping purposes.

The proposed amendment to Section 444.828 of the NAC increases fees to provide funding for the BHPS to cover the cost of administering regulations governing individual sewage disposal systems. BHPS duties include review and approval of plans, issuance of permits and inspection of constructed systems. The existing permit/fee schedules have been in place since at least 1999. Although the impacts to owners of individual sewage disposal systems are difficult, if not impossible, to quantify, the following impacts may be expected. Plan review fees for a system serving a single family dwelling, an alternative treatment system, and a commercial system are proposed to increase from \$100 to \$200, from \$200 to \$250, and from \$200 to \$250, respectively. Resubmittals of plans are proposed to increase from \$50 to \$100. Re-inspection fees and loan inspection fees are proposed to increase from \$50 to \$100 and from \$50 to \$133, respectively. The annual permit fee for a septic tank pumping contractor is proposed to increase from \$50 to \$150.

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 entities, including engineering firms and local health authorities, that 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 will be posted at the Health Division's web site. Public workshops were held in September 2003 and are scheduled again for 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.

Interested persons may obtain a list of the recipients and a summary of written responses to the solicited comments by contacting Galen D. Denio, Manager, or Kinley Goodman, Acting EHS Supervisor, BHPS, 1179 Fairview Dr., Ste 101, Carson City, NV 89701 or by calling (775) 687-4750 after October 13, 2003.

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

A potential direct 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. A direct 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.

The estimated indirect adverse economic 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 estimated indirect beneficial economic effects of the proposed fee changes on affected small businesses cannot be quantified.

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 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.

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.

Except for providing an alternative for the lettering requirements for septic pumping contractors (NAC 444.820), this proposal does not propose new regulations for compliance. The impact of these fee increases on small businesses has been minimized or eliminated to the extent possible. New fees are implemented, or existing ones increased in those areas where BHPS has experienced or expects increased activity and, therefore, increased costs. However, fees must be increased based upon the legislatively approved budget for BHPS's regulatory responsibilities.

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. It does provide for an additional alternative for the lettering on the vehicles of septic pumping contractors.

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 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.

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.