

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

LCB File No. R194-03

Effective January 22, 2004

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

AUTHORITY: §§1, 3, 5 and 6, NRS 439.150, 439.200 and 445A.860; §2, NRS 439.150 and 439.200; §4, NRS 445A.880.

Section 1. NAC 445A.547 is hereby amended to read as follows:

445A.547 1. No bottled water produced in a plant located outside of this state may be sold or distributed within this state unless the operator or distributor has obtained a permit issued by the appropriate health authority.

2. An applicant for such a permit must submit with his application:

(a) A copy of the document which records the approval of the source of water by the health authority which has jurisdiction;

(b) A copy of the permit issued to the applicant by the state or country in which his plant is located;

(c) A report by the applicant regarding his past compliance with the applicable regulations on the quality and sampling of the water he produced or distributed;

(d) A copy of each type of label which will be displayed with the bottled water distributed in this state;

(e) A copy of the most recent analysis conducted pursuant to:

(1) Paragraph (b) of subsection 1 of NAC 445A.555; and

(2) Paragraph (c) of subsection 1 of NAC 445A.555; ~~and~~

(f) Copies of the three most recent analyses conducted pursuant to paragraph (a) of subsection 1 of NAC 445A.555 ~~[-]~~; *and*

(g) The fee required pursuant to NAC 445A.589.

Sec. 2. NAC 445A.589 is hereby amended to read as follows:

445A.589 The Health Division shall charge and collect the following fees:

For an annual permit to operate a plant.....~~[\$100]~~ *\$150*

For an annual permit to sell or distribute bottled water produced in a plant located outside of this state. 175

To review plans for constructing a plant.....~~[100]~~ *200*

To review plans for remodeling a permitted plant.....~~[50]~~ *100*

Sec. 3. NAC 445A.609 is hereby amended to read as follows:

445A.609 The Health Division shall not issue a permit to operate a water system unless:

1. The fee for an annual permit to operate a public water system has been paid as set forth in paragraph (b) of subsection 1 of NAC 445A.6664; and

2. The fee for a review of an application for a permit to construct, ~~remodel~~ *modify* or expand a public water system has been paid as set forth in paragraph (a) of subsection 1 of NAC 445A.6664.

Sec. 4. NAC 445A.651 is hereby amended to read as follows:

445A.651 The Health Division shall charge and collect the following fees:

For the issuance of a full certificate.....	[\$40] \$84
For a certificate issued pursuant to subsection 1 of NAC 445A.634.....	[40] 57
For a certificate issued pursuant to subsection 2 of NAC 445A.634.....	[25] 57
For the issuance of a certificate as an operator-in-training.....	[40] 57
For conversion of a certificate as an operator-in-training to a full certificate.....	[25] 30
For the issuance of a provisional certificate.	[25] 30
For the renewal of a full certificate.....	[25] 30
For the renewal of a provisional certificate.	[25] 30
For the renewal of a certificate as an operator-in-training.....	[25] 30
For the reinstatement and renewal of a full certificate.	100

Sec. 5. NAC 445A.66635 is hereby amended to read as follows:

445A.66635 The Health Division shall not issue or renew any permit to operate a public water system or, except as otherwise provided in subsection 2 of NAC 445A.6669, review plans to construct, ~~remodel~~ *modify* or expand such a system until the fees prescribed in NAC 445A.6664 have been paid.

Sec. 6. NAC 445A.6664 is hereby amended to read as follows:

445A.6664 1. The Health Division shall charge and collect fees for its service, as follows:

(a) Except as otherwise provided in subsection 2 of NAC 445A.6669, for reviewing an application for a permit to construct, ~~remodel~~ *modify* or expand a public water system:

(1) If ~~it~~ *the public water system* is a community water system:

(I) For reviewing ~~[the master plan of:]~~ *on-site or off-site improvement plans for the construction of a new community water system within an existing subdivision or for a new subdivision or for the modification or expansion of an existing community water system within an existing subdivision.*.....\$250

~~----- [(i) The water system for a subdivision. \$100]~~

plus ~~[\$1]~~ \$3 for each connection for supply of water to customers.

~~----- [(ii) A treatment facility. 150]~~

(II) For reviewing plans to ~~[remodel the]~~ *construct, modify or expand a community water system which is not part of a subdivision.*~~[150]~~ 300

(III) For reviewing plans to *construct, modify or expand* ~~[the]~~ *a treatment facility of a community water system.*~~[150]~~

*0.1 percent
of the
capital cost
of the
treatment
facility, not
to exceed
\$3,250*

~~----- [plus \$1 for each connection for supply of water to customers.~~

~~----- [(IV) For reviewing plans for water line improvements only]. [75]~~

(2) If the *public water* system is not a community water system, *for reviewing any plans to construct, modify or expand the public water system*~~[75]~~ 200

(b) For issuing an annual permit to operate a public water system:

(1) If the system is a community water system:

Number of connections for service to customers

11	-	25	.....	\$225
26	-	50	.....	300
51	-	100	.....	400
101	-	500	.....	800
501	-	1,000	.....	2,000
1,001	-	3,000	.....	3,000
25		<i>or less</i>	.....	\$225
26	-	3,000	.....	225
				<i>plus 75 cents for each connection for service between 26 and 3,000 connections.</i>
3,001	-	10,000	.....	[5,000] 2,500
				<i>plus 60 cents for each connection for service between 3,001 and 10,000 connections.</i>
10,001	-	50,000	.....	[8,000] 6,700
				<i>plus 25 cents for each connection for service between 10,001 and 50,000 connections.</i>
over		50,000	.....	16,000
50,001	-	100,000	.....	16,700

*plus 10 cents for each connection for service
between 50,001 and 100,000 connections.*

over 100,000.....21,700

~~[In determining the number of connections for service to customers, a community water system shall include the number of connections for service of any consecutive public water system which receives water from the community water system. Except as otherwise provided in subsections 2 and 3, a consecutive public water system is not required to pay a fee pursuant to this subparagraph.]~~

(2) If the system is not a community water system and regularly serves at least 25 of the same persons for more than 6 months per year..... \$225

(3) If the system is not a community water system or a public water system that serves at least 25 of the same persons for more than 6 months per year..... 100

(c) Except as otherwise provided in subsection 2, for issuing an annual permit to operate a treatment facility based on the capacity of the treatment facility as follows:

(1) Less than 500,000 gallons per day \$150

(2) At least 500,000 gallons per day but less than 1 million gallons per day 250

(3) At least 1 million gallons per day but less than 5 million gallons per day 1,500

(4) At least 5 million gallons per day but less than 10 million gallons per day 2,000

(5) At least 10 million gallons per day but less than 50 million gallons per day 3,000

(6) At least 50 million gallons per day but less than 100 million gallons 4,000

per day

(7) *At least 100 million gallons per day or more* 7,500

~~2. [A consecutive public water system that operates a facility for the treatment of surface water shall pay an annual fee based on the number of the connections for service to customers served by the facility for the treatment of surface water in the same amount as designated in subparagraph (1) of paragraph (b) of subsection 1.~~

~~—3.— A community water system may require a consecutive public water system which receives water from the community water system to pay annually a portion of the fee imposed pursuant to subparagraph (1) of paragraph (b) of subsection 1 equal in proportion to the amount of services received by the consecutive public water system.~~

~~—4.] *An applicant for a permit to operate a treatment facility that only provides treatment related to chlorination is not required to pay the fees set forth in paragraph (c) of subsection 1.*~~

3. As used in this section:

(a) *“Capital cost of the treatment facility” means the cost estimated by an engineer to construct, modify or expand the treatment facility.*

(b) “Community water system” means a public water system which:

(1) Has at least 15 service connections used by residents for an entire year; or

(2) Regularly serves at least 25 residents for an entire year.

~~[(b) “Consecutive public water system” means a public water system that:~~

~~—(1) Has at least 15,000 service connections; and~~

~~—(2) Receives treated water from a community water system.]~~

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R194-03**

The State Board of Health adopted regulations assigned LCB File No. R194-03 which pertain to chapter 445A 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 affected public water systems as well as those engineering firms who normally do business with the Bureau of Health Protection Services (BHPS) and local health authorities 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. Notices were published in 8 newspapers throughout Nevada, and posted at public libraries and BHPS offices. Public workshops were held in September 2003 and again 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. Although many of the responses were not specific to the changes proposed in NAC 445A, the following did appear to address the proposal. Some indicated that they doubted very much if they would see any beneficial effects. Some indicated that the increase in fees would erode already slim profit margins. Several respondents indicated that an increase in water system fees would have an adverse economic impact, and that an increase in operator certification fees would make it harder to qualify and hire operators. Generally, responders did not recognize that annual permit fees for smaller water systems would actually decrease; when that was clarified for those that phoned, they were somewhat mollified. Staff responded in writing to one developer and one water system to explain the fee impacts for which they had questions. Both seemed satisfied with the answers; one wrote a letter of support.

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.

One recommendation made in the October 28 workshop was adopted. This clarified that, for water system annual permits for systems having service connections in the 26-100,000 range, the per service connection charge only applied to the number of connections over a certain base number of connections, not to the entire number of service connections for a water system. There were no other proposals for changes, 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

A potential adverse effect may be that some small privately-owned, public water systems and some engineering firms will experience increased costs for plan reviews of subdivisions, water projects, and treatment facilities. Fees for bottled water plants, both in-state and out-of-state, will increase.

A beneficial effect is that costs for annual permits should decrease for some smaller privately-owned, public water systems. Overall, better service to those entities affected should result from adequate funding of BHPS administrative activities.

The estimated direct and indirect beneficial economic effects of the proposed fee changes on affected small businesses cannot be quantified. Fee decreases for annual permits for small systems (serving less than 10,000 connections) will be beneficial. 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 of contamination of the public water supply, and ensuring the safe drinking water.

Immediate and long-term effects

The immediate effects of the fee proposals should have an immediate positive effect on smaller systems since most annual permit fees will decrease. Larger systems may experience an increase in fees and systems with treatment plants will experience increased fees. Overall, the annual permit fees should be more equitable to the size of and work done on a system by BHPS. Increases on the public water systems that qualify as small businesses, although unknown, is not expected to be large and will primarily occur in the plan review process and the annual permits for treatment facilities. Indirect costs may be incurred by the customers of those systems in that the costs might be passed through to rates. Costs would be determined on a case-by-case basis. New fees for treatment plants reflect the reality of BHPS work in that a significant amount of staff time is and will be spent dealing with those types of issues. The long-term effect should be positive in that critical drinking water issues can be addressed by adequate staffing at BHPS.

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. Some changes in the fee system and operator certification (Safe Drinking Water Information System) modules may be required.

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 in Chapter 445A of the NAC is estimated at \$405,739, an increase of about \$89,599 over existing revenue. This additional revenue (\$78,549 for Public Health Engineering and \$11,050 for Environmental Health Services) will be used to purchase needed equipment, and to provide additional funds for salaries in order to improve the administration of the affected programs.