

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

LCB File No. R196-03

Effective January 22, 2004

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

AUTHORITY: §1, NRS 439.150 and 439.200.

Section 1. NAC 583.550 is hereby amended to read as follows:

583.550 1. To apply for a certificate, a person must submit to the Health Division:

(a) A completed application on a form provided by the Health Division;

(b) A written description of the type of business in which the person wishes to engage and the facility that will be used;

(c) A map which indicates the location of the facility; ~~and~~

(d) *A plan for analyzing the hazards of critical control points; and*

(e) The applicable ~~fee.~~ *fees.*

↪ If a holder of a certificate moves to a new facility or remodels his facility, the holder must submit an application for a new certificate in accordance with this subsection.

2. The Health Division shall issue a certificate to each qualified applicant following *approval of the plan for analyzing the hazards of critical control points submitted by the applicant and* a satisfactory inspection of his facility. *The Health Division must approve the plan for analyzing the hazards of critical control points before it conducts the inspection.* Each certificate is valid for 1 year.

3. The Health Division shall, not later than 45 days before a certificate expires, send a notice of renewal to the holder of the certificate. The notice must include:

(a) The amount of the fee for the renewal of the certificate; and

(b) The date on which the notice of renewal and fee for renewal must be returned to the Health Division.

4. The Health Division may require an inspection of the facility to determine whether to renew the certificate. If the Health Division determines that an inspection of the facility is required for the renewal of the certificate, the certificate remains in effect until the certificate expires or until the Health Division makes a determination whether to renew the certificate, whichever occurs later.

5. The Health Division shall not renew the certificate of a holder who fails, without good cause, to submit the fee for renewal to the Health Division not later than 30 days before the certificate expires. The provisions of this subsection do not prohibit a holder of a certificate from applying for a new certificate.

6. The Health Division shall charge and collect ~~[a nonrefundable fee of \$1,250 for]~~ *the following nonrefundable fees:*

(a) *For* the issuance or renewal of a certificate ~~[]~~, *\$1,835.*

(b) *For the review of a plan for analyzing the hazards of critical control points for each new wholesaler, \$635.*

7. *As used in this section, “plan for analyzing the hazards of critical control points,” commonly known as an “HACCP plan,” means a written document created by a food establishment that sets forth the formal procedures for following the principles of the “Hazard Analysis and Critical Control Point System,” developed by the National Advisory Committee*

on Microbiological Criteria for Foods and available from the United States Department of Agriculture, 1255 22nd Street, NW, Washington, D.C. 20250-3700.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R196-03**

The State Board of Health adopted regulations assigned LCB File No. R196-03 which pertain to chapter 583 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 that the Bureau of Health Protection Services (BHPS) could identify as possibly being affected by these fee increases, and/or who normally do business with the BHPS and local health authorities advising them of the potential fee changes and providing notice of public workshops. A questionnaire soliciting comments was included. 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 also 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. No responses received thus far have been identified as specifically addressing this 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, Supervisor EHS, BHPS, 1179 Fairview Dr., Ste 101, Carson City, NV 89701 or by calling (775) 687-6353, 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.**

There were not 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

A possible adverse effect may be that some small businesses may experience increased costs for permits, for plan reviews of proposed or remodeled shellfish distribution and processing plants. A beneficial direct effect is that establishments will be provided with better-equipped and better trained environmental health specialists that conduct their plan reviews and inspections.

The estimated direct and indirect beneficial economic effects of the proposed fee changes on affected small businesses cannot be quantified. The direct beneficial effect cannot be determined. The overall indirect effect of the proposed fees will provide adequate funding for better protection of the health and safety of the public by providing better equipped and better trained inspectors, thereby decreasing the risk to public health and subsequently decreasing associated medical costs, pain and suffering, and a negative impact on local economies that could result.

Immediate and long-term effects

The estimated adverse economic effect of the proposed fee increases on establishments is not expected to be significant and will primarily occur in the plan review process and the certification for shellfish wholesalers. Indirect costs may be incurred by the customers of those businesses in that the costs might be passed through rates/fees for service or products. Costs would be determined on a case-by-case basis. The long-term benefit is to ensure that shellfish wholesale businesses comply with the hazard analysis of critical control points.

- 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 \$19,620, an increase of about \$5,920 over existing revenue. These funds will be used to purchase needed equipment, and to provide additional funds for salaries in order to improve the administration of the affected programs.