

LCB File No. R196-03

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

Shellfish HACCP definition and fees related to plan review and permitting.

Italicized type is new and will be added to the regulation, except for existing underlined type between parentheses. Type with a ~~{parentheses}~~ will be deleted from the regulation. Other type is existing in the regulation.

Shellfish

NAC 583.XXX “HACCP” or “Hazard Analysis of Critical Control Points” has the meaning ascribed in NAC 446.023.

NAC 583.550 Certificate: Application; issuance; renewal; fee. (NRS 439.150)

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) The applicable fee.
2. The health division shall issue a certificate to each qualified applicant following a satisfactory inspection of his facility. 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~~ **1,835** for the issuance or renewal of a certificate.
7. *The Health Division shall charge and collect a nonrefundable fee of \$635 for the review of an HACCP plan for each new shellfish wholesaler. The HACCP plan must be approved by the Health Division prior to the issuance of a certificate.*

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

**SMALL BUSINESS IMPACT STATEMENT
(Prepared Pursuant to Nevada Revised Statutes 233B.0608)**

**Amendments to Fees by the Bureau of Health Protection Services Contained in Nevada
Administrative Code (NAC) 583.**

PROPOSED AMENDMENTS TO EXISTING REGULATIONS provide for fee increases to allow the Bureau of Health Protection Services (BHPS), a bureau within the State Health Division to recover the new and increased costs associated with reviewing plans and issuing permits for shellfish distribution and processing plants.

This is the Small Business Impact Statement required under Nevada Revised Statutes (NRS) 233B.0608 and 233B.0609. 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 only applies to businesses meeting the aforementioned definition.**

The State Board of Health's (SBOH) policy in addressing fees for business operators regulated under its authority is to minimize the impact by having fees decreased where possible and increased where necessary in a graduated schedule based upon actual cost of performing work.

The proposed amendments to the Chapter 583 of the NAC will change fees associated with permits and plan reviews for shellfish distribution and processing plants. Permit fees for Shellfish distributors will be increased from \$1,250 to 1,835; and a shellfish Hazard Analysis of Critical Control Points plan review fee will be increase from \$600 to \$635.

Background

The Health Division receives no funding from the federal government for the purposes of administering shellfish program. Funding for these purposes is appropriated by the Nevada State Legislature. However, the State funding does not cover the actual costs by BHPS 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 BHPS. 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 \$104,000 to merely cover the existing level functions performed by this section of BHPS. . A second part of the total overall increase is expected to provide sufficient revenue for additional positions to improve the ability of the Environmental Health Section to provide the resources to meet regulatory requirements and to improve agency administration and response.

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 that 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 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. 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, after October 23, 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 possible direct 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.

Direct and Indirect Costs

The estimated direct adverse economic effect of the proposed fee increases on establishments is not expected to be large and will primarily occur in the plan review process and the annual permits for establishments. Indirect costs may be incurred by the customers of those

establishments in that the costs might be passed through rates/fees for service or products. Costs would 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 other than creation of some new fees as described above. 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.

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.

Fees are structured to recover the cost of BHPS performing these functions.

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 \$\$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.

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.