

**PROPOSED REGULATION OF
THE STATE ENVIRONMENTAL COMMISSION**

LCB File No. R121-19

February 4, 2020

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

AUTHORITY: §§1-8, NRS 445A.425.

A REGULATION relating to sewage treatment; revising provisions related to certification as an operator of a plant for sewage treatment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations that require supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment to be certified by the State Department of Conservation and Natural Resources. (NRS 445A.425) This regulation revises various provisions relating to certification as an operator of a plant for sewage treatment.

Existing regulations set forth the educational requirements for an operator of a plant for sewage treatment. Existing regulations require that an applicant for full certification as a: (1) Grade I operator complete 60 contact hours of education related to sewage treatment; (2) Grade II operator complete 120 hours of education related to sewage treatment; (3) Grade III operator complete 120 contact hours of education and two postsecondary courses of instruction related to sewage treatment; and (4) Grade IV operator complete 120 contact hours of education and four postsecondary courses of instruction related to sewage treatment. (NAC 445A.2862) **Section 1** of this regulation requires, instead, that an applicant for full certification as a: (1) Grade I operator complete 50 contact hours of education related to sewage treatment; (2) Grade II operator complete 100 contact hours of education related to sewage treatment, 50 contact hours of which may have been completed for certification as a Grade I operator; (3) Grade III operator complete 100 contact hours of education related to sewage treatment, all of which may have been completed for Grade I and Grade II certification, and two postsecondary courses of instruction related to sewage treatment; and (4) Grade IV operator complete 100 contact hours of education related to sewage treatment, all of which may have been completed for Grade I and Grade II certification, and four postsecondary courses of instruction related to sewage treatment, two courses of which may have been completed for Grade III certification.

Existing regulations authorize a person to apply to the Division of Environmental Protection of the Department for a restricted certificate to act as an operator of a plant for sewage treatment. Under existing regulations, a restricted certificate is valid for 5 years and may not be renewed. (NAC 445A.2866) **Sections 4 and 8** of this regulation: (1) provide that a restricted certificate issued by the Division after this regulation becomes effective is valid for 2 years; and (2) authorize the holder of a restricted certificate to renew the restricted certificate if he or she satisfies certain requirements and pays a renewal fee. **Section 3** of this regulation makes conforming changes.

Existing regulations set forth the fees that must be paid to the Division for certification as an operator. (NAC 445A.287) **Section 5** of this regulation establishes a \$70 fee for the renewal of a restricted certificate.

Existing regulations require the Division to suspend a full certificate as an operator that is not renewed before the expiration date of the certificate. Such an operator may renew a suspended certificate within 6 months after the expiration date of the certificate. If the operator does not renew a suspended certificate within 6 months after the expiration date, the holder of the certificate is deemed decertified and, with limited exceptions, may not renew the certificate. (NAC 445A.2868) **Section 4** authorizes the holder of a certificate that is deemed decertified to obtain a new certificate under certain circumstances.

Under existing regulations, for the purposes of the certification program, plants for sewage treatment that utilize stabilization ponds or lagoons are considered Classification I facilities. (NAC 445A.289) **Section 6** of this regulation adds facultative ponds to the list of treatment processes for Classification I facilities.

Existing regulations require an operator who holds a full certificate and a restricted certificate at a higher grade level than the full certificate to comply with the requirements for continuing education for the full certificate to qualify for renewal. (NAC 445A.2912) **Section 7** of this regulation requires, instead, that such an operator comply with the requirements for continuing education for the classification level of the full certificate and complete an additional 5 contact hours of participation in a course of training in order to renew both certificates. **Section 7** also requires an operator who holds a Restricted Grade I certificate to complete 5 contact hours of participation in a course of training to renew his or her certificate.

Section 1. NAC 445A.2862 is hereby amended to read as follows:

445A.2862 1. A person responsible for the operation and maintenance of a plant for sewage treatment must be certified as an operator of a plant for sewage treatment.

2. To apply for ~~certification~~ *a full certificate* as an operator of a plant for sewage treatment:

(a) An applicant must submit an application to the Division or its designee that is accompanied by the appropriate fee set forth in NAC 445A.287.

(b) The applicant must be at least 18 years of age, possess a high school diploma or a general educational development certificate or its equivalent and meet the following additional educational requirements:

(1) For Grade I, ~~60~~ *completion of 50* contact hours of education related to sewage treatment.

(2) For Grade II, ~~20~~ *completion of 100* contact hours of education related to sewage treatment ~~1~~, *50 contact hours of which may have been completed for Grade I certification pursuant to subparagraph (1).*

(3) For Grade III, ~~20~~ *completion of 100* contact hours of education related to sewage treatment, *all of which may have been completed for Grade I and Grade II certification pursuant to subparagraphs (1) and (2), respectively,* and two postsecondary courses of instruction related to sewage treatment.

(4) For Grade IV, ~~20~~ *completion of 100* contact hours of education related to sewage treatment, *all of which may have been completed for Grade I and Grade II certification pursuant to subparagraphs (1) and (2), respectively, and four* postsecondary courses of instruction related to sewage treatment ~~and four postsecondary~~, *two* courses of ~~instruction related to sewage treatment.~~ *which may have been completed for Grade III certification pursuant to subparagraph (3).*

(c) The applicant must have the following experience in operating a plant for sewage treatment:

Certification Grade	Experience
Grade I	1 year of experience in operating at a Classification I facility or higher
Grade II	Grade I Certification and 2 years' experience in operating, with at least 1 year at a Classification II facility or higher
Grade III	Grade II Certification and 3 years' experience in operating, with at least 1 year at a Classification III facility or higher
Grade IV	Grade III Certification and at least 4 years' experience in operating, with at least 1 year at a Classification IV facility

(d) Except as otherwise provided in NAC 445A.2864, the applicant must pass the applicable examination or examinations for certification. ~~The~~ *Except as otherwise provided in NAC 445A.2868, the* examinations must be taken in ascending order beginning with the Grade I examination for certification as an operator of a plant for sewage treatment.

3. An applicant who has been certified as an operator of a plant for sewage treatment in another state must disclose in writing any past or pending disciplinary actions related to every other such certification.

4. As used in this section, “postsecondary course of instruction” means a successfully completed college level course which is at least 36 hours of instruction.

Sec. 2. NAC 445A.2864 is hereby amended to read as follows:

445A.2864 1. A *full* certificate as an operator of a plant for sewage treatment may be issued by the Division without examination as required by NAC 445A.2862 on a case-by-case basis to a person in a comparable classification who has passed an equivalent written examination and who holds a full certification in another state, territory or possession of the United States or another country if the requirements for the certification of operators are consistent with and not of a lower standard than the provisions of this chapter, as determined by the Division.

2. To apply for *full* certification by reciprocity as an operator of a plant for sewage treatment, an applicant must submit an application to the Division or its designee, which must include, without limitation:

(a) Evidence of the education and experience in operating a plant for sewage treatment of the applicant supporting the certification at the grade level that is requested;

(b) Evidence of any continuing education units completed by the applicant for the certification held by the applicant;

(c) Evidence of the valid, unexpired full certificate held by the applicant for which reciprocity is requested; and

(d) The fee required pursuant to NAC 445A.287.

3. An incomplete application or an application that includes an expired certificate will not be considered. The Division shall review an application to determine whether the application

meets the requirements of this section and shall respond to the applicant with a written decision not more than 60 days after the receipt of the application.

4. The Division shall not grant a request for *full* certification by reciprocity for a reciprocal certificate issued by another state, territory or possession of the United States or another country.

Sec. 3. NAC 445A.2866 is hereby amended to read as follows:

445A.2866 1. A person may apply to the Division for a restricted certificate as an operator of a plant for sewage treatment if the person does not meet the requirements for a full certificate. A restricted certificate does not authorize the holder of the certificate to operate in direct responsible charge of a plant for sewage treatment at the restricted grade level.

2. To apply for a restricted certificate, a person must:

(a) Meet the following requirements for his or her specific grade:

(1) For Restricted Grade I, a high school diploma or a general educational development certificate or the equivalent;

(2) For Restricted Grade II, hold an active Grade I full certification for a minimum of 1 year and meet the Grade II educational requirements set forth in NAC 445A.2862;

(3) For Restricted Grade III, hold an active Grade II full certification for a minimum of 1 year and meet the Grade III educational requirements set forth in NAC 445A.2862; and

(4) For Restricted Grade IV, hold an active Grade III full certification for a minimum of 1 year and meet the Grade IV educational requirements set forth in NAC 445A.2862; ~~and~~

(b) Pass the applicable examination or examinations for certification for the restricted grade level ~~H~~; *and*

(c) Submit an application to the Division or its designee that is accompanied by the appropriate fee set forth in NAC 445A.287.

3. A restricted certificate may be converted to a full certificate if the applicant:

(a) Meets the experience requirement for the equivalent full certificate set forth in NAC 445A.2862; ~~and~~

(b) Holds an active, full certificate for the grade below ~~H~~

~~4.—A restricted certificate is valid for 5 years after the date of its issuance and may not be renewed. After a restricted certificate has expired, an operator may take the examination for certification again and submit a new application for a restricted certificate pursuant to the requirements of this section.~~; *and*

(c) Submits an application to the Division or its designee that is accompanied by the appropriate fee set forth in NAC 445A.287.

Sec. 4. NAC 445A.2868 is hereby amended to read as follows:

445A.2868 1. ~~A~~ *Any full or restricted* certificate issued pursuant to NAC 445A.2862, ~~or~~ 445A.2864 ~~may be renewed once every~~ *or 445A.2866 is valid for 2 years and may be renewed* if the holder of the certificate submits a completed application for renewal on the form supplied by the Division before the expiration date of the certificate, which must include, without limitation:

(a) Evidence of completion of the requirements of continuing education set forth in NAC 445A.2912; and

(b) The fee for renewal set forth in NAC 445A.287.

2. If the holder of a **full** certificate issued pursuant to NAC 445A.2862 or 445A.2864 does not renew the certificate before the expiration date of the certificate, the Division shall suspend the certificate. Except as otherwise provided in **this** subsection, ~~{3,}~~ to renew **such** a suspended certificate, the holder of the certificate must, in addition to the requirements of subsection 1, pay the reinstatement fee set forth in NAC 445A.287.

~~{3,}~~ If the holder of **such** a **suspended** certificate ~~issued pursuant to NAC 445A.2862 or 445A.2864~~ does not renew ~~{a}~~ **the** suspended certificate within 6 months after the expiration date of the certificate, the holder of the certificate shall be deemed decertified.

~~Except as otherwise provided in subsections 4 and 5, the holder of a certificate who is decertified may not renew the certificate.~~

~~4. If~~ *The holder of a certificate who has been deemed decertified pursuant to this subsection may reapply for the full certificate pursuant to NAC 445A.2862. Such a person must pay the appropriate fee set forth in NAC 445A.287 for an initial full certificate and retake and pass the applicable examination for the level of certification previously held.*

3. *The holder of a restricted certificate issued pursuant to NAC 445A.2866 shall be deemed decertified if:*

(a) The restricted certificate is not renewed before the expiration date of the restricted certificate; or

(b) The holder's full certification for the grade below the restricted certificate is deemed decertified pursuant to subsection 2.

↪ The holder of a restricted certificate who is deemed decertified pursuant to this subsection may reapply, as applicable, for a restricted certificate pursuant to NAC 445A.2866 and a full

certificate for the grade below the restricted certificate pursuant to NAC 445A.2862. Such a person must pay the appropriate fee set forth in NAC 445A.287 for an initial restricted certificate and retake and pass the applicable examination for the level of certification previously held.

*4. Notwithstanding the provisions of subsections 2 and 3, if the holder of an expired certificate issued pursuant to NAC 445A.2862, ~~or~~ 445A.2864 **or 445A.2866** provides to the Division ~~documentation~~ :*

(a) Documentation of health problems that made the holder unable to meet the requirements of continuing education for renewal of his or her certificate in the time provided pursuant to NAC 445A.2912, the holder of the expired certificate may request, within 2 years after the expiration date of the certificate, that the certificate be reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.287 and verification that all requirements of continuing education have been satisfied ~~†~~

~~5. If the holder of a certificate issued pursuant to NAC 445A.2862 or 445A.2864 provides to the Division documentation~~ ; **or**

(b) Documentation of military duty that made the holder unable to meet the requirements of continuing education for renewal of his or her certificate in the time provided pursuant to NAC 445A.2912, the holder of the expired certificate may request, within 4 years after the expiration date of the certificate, that the certificate be reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.287 and verification that all requirements of continuing education have been satisfied.

Sec. 5. NAC 445A.287 is hereby amended to read as follows:

445A.287 1. The following fees must be paid to the Division:

Certification	Fee	Period
Initial <i>full</i> certificate <i>issued pursuant to NAC 445A.2862</i>	\$140	2 years
Reciprocal Initial <i>full</i> certificate <i>issued pursuant to NAC</i> <i>445A.2864</i>	150	2 years
Renewal of a <i>full</i> certificate	110	2 years
Restricted Initial <i>restricted</i> certificate	90	5 2 years
<i>Renewal of a restricted certificate</i>	<i>70</i>	<i>2 years</i>
Conversion of restricted certificate to full certificate	70	
Reinstatement of a certificate	80	

2. The holder of a certificate must pay to the Division a fee of \$20 for each duplicate certificate he or she requests. A fee of \$25 will be charged to any person whose check is returned to the Division because of a lack of funds.

Sec. 6. NAC 445A.289 is hereby amended to read as follows:

445A.289 1. For the purpose of the certification program operated pursuant to the provisions of NAC 445A.2855 to 445A.293, inclusive, and except as otherwise provided in subsection 2, a plant for sewage treatment must be classified in accordance with the following schedule:

Treatment Process	Plant Classification
Stabilization Ponds , <i>Facultative Ponds</i> or Lagoons	I
Primary Treatment (settling, grit removal, etc.)	
Fixed Film Treatment (e.g., trickling filters, etc.) for BOD Removal	II
Activated Sludge (without nitrogen removal and <20,000 gallons per day)	
Solids Treatment (thickening/dewatering)	
Fixed Film Treatment (e.g., trickling filters) for Nutrient Removal	III
Activated Sludge (with nitrogen removal or >20,000 gallons per day)	
Tertiary Treatment	IV
Activated Sludge (>10 million gallons per day)	
Indirect Potable Reuse	

2. The Division may deviate from this table if it determines that mitigating or intensifying factors exist to raise or lower a plant classification. Factors may include, without limitation,

receiving stream water quality, process complexity, waste stream pollutant strength or variations and flow variability.

3. As used in this section:

(a) “BOD” means biochemical oxygen demand.

(b) “Tertiary treatment” means the process of treating wastewater beyond secondary treatment units for nutrient removal or other advanced removal methods, including, without limitation, membrane filtration.

Sec. 7. NAC 445A.2912 is hereby amended to read as follows:

445A.2912 1. ~~Every~~ *Except as otherwise provided in subsection 3, every* 2 years, each holder of a *full* certificate as an operator of a plant for sewage treatment must complete the following requirements of continuing education within the effective period of the certificate to qualify for the renewal of the certificate:

(a) The holder of a *Full* Grade I certificate must earn at least 5 contact hours of participation in a course of training.

(b) The holder of a *Full* Grade II certificate must earn at least 10 contact hours of participation in a course of training.

(c) The holder of a *Full* Grade III certificate must earn at least 15 contact hours of participation in a course of training.

(d) The holder of a *Full* Grade IV certificate must earn at least 20 contact hours of participation in a course of training.

2. ~~A course of training required pursuant to subsection 1 must be approved by the Division or its designee pursuant to NAC 445A.2915.~~

~~—3.—~~ *An operator who holds a Restricted Grade I certificate must earn at least 5 contact hours of participation in a course of training within the effective period of the certificate to qualify for the renewal of the certificate.*

3. An operator who holds a full certificate and a restricted certificate at a higher grade level than the full certificate must comply with the requirements for continuing education for the full certificate *and complete an additional 5 contact hours of participation in a course of training* to qualify ~~[for renewal.]~~ *to renew both certificates.*

4. *A course of training required pursuant to this section must be approved by the Division or its designee pursuant to NAC 445A.2915.*

Sec. 8. This regulation, LCB File No. R121-19, is hereby amended by adding thereto the following transitory language which has the force and effect of law but which will not be codified in the Nevada Administrative Code:

1. A restricted certificate issued pursuant to NAC 445A.2866, as that section existed before the effective date of this regulation, remains valid for 5 years after the date of its issuance pursuant to NAC 445A.2866, as that section existed before the effective date of this regulation. The holder of a restricted certificate issued pursuant to NAC 445A.2866, as that section existed before the effective date of this regulation, may apply for a new restricted certificate pursuant to NAC 445A.2866, as amended by section 3 of this regulation. Such a person must meet all of the requirements for his or her specific grade of restricted certificate set forth in NAC 445A.2866, as amended by section 3 of this regulation, and, except as otherwise provided in subsection 2, must retake and pass the applicable examination or examinations for certification for the restricted grade level.

2. If the holder of a restricted certificate issued pursuant to NAC 445A.2866, as that section existed before the effective date of this regulation, renews the restricted certificate pursuant to NAC 445A.2868, as amended by section 4 of this regulation, not later than 2 years after the effective date of this regulation, such person is not required to retake and pass the applicable examination or examinations for certification for the restricted level.