

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R155-22

October 5, 2022

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

AUTHORITY: §§ 1-8 and 10-13, NRS 445A.860; § 9, NRS 445A.860 and 445A.935.

A REGULATION relating to public water systems; reorganizing and revising certain fees for the services of the Division of Environmental Protection of the State Department of Conservation and Natural Resources relating to permits for public water systems; eliminating obsolete references to certain state agencies; revising the application fee for a permit to operate a water system; establishing certain fees relating to water hauling; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Environmental Commission to adopt regulations for the construction, operation and maintenance of public water systems if those activities affect the quality of water. (NRS 445A.860)

Existing law authorizes the Commission to establish fees relating to public water systems. (NRS 445A.860) Existing regulations require the Division of the Environmental Protection of the State Department of Conservation and Natural Resources to charge and collect fees for certain services provided by the Division including: (1) fees for reviewing an application for a permit to construct, modify or expand a public water system; (2) fees for issuing an annual permit to operate a public water system; and (3) subject to certain exceptions, fees for issuing an annual permit to operate a treatment facility. (NAC 445A.6664) **Section 1** of this regulation moves these fee provisions to a new section in the Nevada Administrative Code. **Section 13** of this regulation makes a conforming change by repealing the existing section of the Nevada Administrative Code establishing the fees. **Section 1** further establishes: (1) a base application fee and additional fees for reviewing an application for a permit to construct, renovate, modify or expand a community water system or a nontransient water system and a transient water system; (2) increases in the amounts of certain fees for issuing an annual permit to operate a public water system; and (3) increases in the amounts of fees for issuing an annual permit to operate a treatment facility. **Section 1** also: (1) requires certain fees to increase by 3 percent every calendar year, beginning on January 1, 2024; (2) requires certain fees to increase by 3 percent every calendar year, beginning on January 1, 2026; and (3) authorizes the Director of the Department to suspend any such increase during any calendar year. **Sections 7 and 11** of this regulation make technical changes related to the reorganization of the fee provisions in the Nevada Administrative Code.

Existing regulations require an applicant for a permit to operate a water system to submit an application fee. (NAC 445A.604) **Section 6** of this regulation increases the amount of the application fee.

Existing regulations authorize the use of water hauling in an emergency or on a temporary basis if: (1) a proposal for water hauling is submitted to and approved by the Division or the appropriate district board of health; (2) each vehicle used for water hauling is inspected by the Division or appropriate district board of health before it is used for water hauling and every year after the initial inspection; and (3) the supplier of water ensures that the water hauling complies with certain provisions of the Nevada Administrative Code. (NAC 445A.6728) **Section 12** of this regulation establishes: (1) a fee for reviewing the proposal for water hauling; and (2) a fee for the initial inspection and each annual inspection of each vehicle to be used for water hauling. **Section 12** further: (1) requires such fees to increase by 3 percent every calendar year, beginning on January 1, 2024; and (2) authorizes the Director of the Department to suspend any such increase during any calendar year.

Sections 2, 5 and 10 of this regulation replace references to the Bureau of Health Protection Services of the Division of Public and Behavioral Health of the Department of Health and Human Services with references to the Bureau of Safe Drinking Water of the Division of Environmental Protection of the State Department of Conservation and Natural Resources. **Sections 3 and 4** of this regulation replace obsolete references to the Division of Public and Behavioral Health of the Department of Health and Human Services with the Division of Environmental Protection. **Section 8** of this regulation removes an obsolete reference to provisions relating to appeals to the State Board of Health. **Section 10** of this regulation replaces an obsolete reference to provisions relating to appeals to the State Board of Health with provisions relating to appeals to the Commission. **Section 9** of this regulation replaces an obsolete reference to provisions relating to obtaining a variance from the Board with a reference to provisions relating to obtaining a variance from the Commission.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 3 and 4, the Division shall charge and collect fees for services, as follows:

(a) For reviewing an application for a permit to construct, renovate, modify or expand a public water system:

(1) If the public water system is a community water system or a nontransient water system, an application fee of \$200, and:

<i>For reviewing an engineering report or preliminary engineering report.....</i>	<i>\$900</i>
<i>For reviewing plans to construct, renovate, modify or expand a disinfection facility</i>	<i>600</i>
<i>For reviewing plans to construct, renovate, modify or expand a distribution system that is less than 1,000 linear feet.....</i>	<i>600</i>
<i>For reviewing plans to construct, renovate, modify or expand a distribution system that is at least 1,000 but not more than 10,000 linear feet</i>	<i>800</i>
<i>For reviewing plans to construct, renovate, modify or expand a distribution system that is more than 10,000 linear feet</i>	<i>900</i>
<i>For reviewing plans to construct, renovate, modify or expand a pumping facility.....</i>	<i>1,000</i>
<i>For reviewing plans to construct, renovate, modify or expand a spring facility.....</i>	<i>800</i>
<i>For reviewing plans to construct, renovate, modify or expand a storage facility.....</i>	<i>900</i>
<i>For reviewing plans to construct, renovate, modify or expand a treatment facility.....</i>	<i>0.1 percent of the capital cost of the treatment facility but not less than \$40</i>

*For reviewing plans to construct, renovate, modify or expand a well
facility.....1,000*

*For reviewing plans to operate a community or nontransient water
system submitted pursuant to NAC 445A.5921800*

*(2) If the public water system is a transient water system, an application fee of \$100,
and:*

For reviewing an engineering report or preliminary engineering report.....\$500

*For reviewing plans to construct, renovate, modify or expand a
disinfection facility400*

*For reviewing plans to construct, renovate, modify or expand a
distribution system that is less than 1,000 linear feet.....400*

*For reviewing plans to construct, renovate, modify or expand a
distribution system that is at least 1,000 but not more than 5,000
linear feet500*

*For reviewing plans to construct, renovate, modify or expand a
distribution system that is more than 5,000 linear feet.....600*

*For reviewing plans to construct, renovate, modify or expand a pumping
facility.....600*

*For reviewing plans to construct, renovate, modify or expand a spring
facility.....500*

For reviewing plans to construct, renovate, modify or expand a storage facility.....500

For reviewing plans to construct, renovate, modify or expand a treatment facility.....0.1 percent of the capital cost of the treatment facility but not less than \$40

For reviewing plans to construct, renovate, modify or expand a well facility.....600

(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

25 or less \$369

26-3,000..... 369

Plus 75 cents for each connection for service between 26 and 3,000 connections.

3,001-10,000..... 4,100

Plus 60 cents for each connection for service between 3,001 and 10,000 connections.

10,001-50,000..... 10,988

Number of connections for service to customers

*Plus 25 cents for each connection for service
between 10,001 and 50,000 connections.*

50,001-100,000..... 27,388

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

over 100,000..... 35,588

*(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:*

For the calendar year beginning January 1, 2023.....\$270

For the calendar year beginning January 1, 2024.....320

For the calendar year beginning January 1, 2025.....369

*(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:*

For the calendar year beginning January 1, 2023.....\$120

For the calendar year beginning January 1, 2024.....140

For the calendar year beginning January 1, 2025.....164

(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:

<i>Less than 500,000 gallons per day.....</i>	<i>\$234</i>
<i>At least 500,000 gallons per day but less than 1 million gallons per day.....</i>	<i>390</i>
<i>At least 1 million gallons per day but less than 5 million gallons per day.....</i>	<i>2,340</i>
<i>At least 5 million gallons per day but less than 10 million gallons per day</i>	<i>3,122</i>
<i>At least 10 million gallons per day but less than 50 million gallons per day</i>	<i>4,683</i>
<i>At least 50 million gallons per day but less than 100 million gallons per day</i>	<i>6,244</i>
<i>At least 100 million gallons per day or more.....</i>	<i>11,708</i>

2. 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. For the calendar year beginning on January 1, 2024, and for each calendar year thereafter, the Director of the State Department of Conservation and Natural Resources shall increase each fee set forth in this section, except the fees set forth in subparagraphs (2) and (3) of paragraph (b) of subsection 1, by an amount that is equal to 3 percent of the fee for the immediately preceding calendar year. The Director may, during any calendar year, suspend an increase in a fee specified in this subsection.

4. *For the calendar year beginning on January 1, 2026, and for each calendar year thereafter, the Director shall increase each fee set forth in subparagraphs (2) and (3) of paragraph (b) of subsection 1 by an amount that is equal to 3 percent of the fee for the immediately preceding calendar year. The Director may, during any calendar year, suspend an increase in a fee specified in this subsection.*

5. *The Director shall post on the Internet website of the Division the fees required pursuant to this section that are applicable for each calendar year.*

6. *As used in this section:*

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

Sec. 2. NAC 445A.5911 is hereby amended to read as follows:

445A.5911 “Bureau” means the Bureau of ~~Health Protection Services~~ *Safe Drinking Water* of the Division.

Sec. 3. NAC 445A.59125 is hereby amended to read as follows:

445A.59125 “Division” means the Division of ~~Public and Behavioral Health~~ *Environmental Protection* of the *State* Department of ~~Health~~ *Conservation* and ~~Human Services~~ *Natural Resources*.

Sec. 4. NAC 445A.596 is hereby amended to read as follows:

445A.596 “Division” means the Division of ~~Public and Behavioral Health~~ *Environmental Protection* of the *State* Department of ~~Health~~ *Conservation* and ~~Human Services~~ *Natural Resources*.

Sec. 5. NAC 445A.603 is hereby amended to read as follows:

445A.603 1. The owner of a water system or the owner’s designated agent may apply for a permit to operate a water system on an application form provided by the Division.

2. Before filing an application, the owner of a water system or the owner’s designated agent may request a conference with the Chief of the Bureau of ~~Health Protection Services~~ *Safe Drinking Water* of the Division or a person designated by the Chief. The applicant, members of the local governing body, employees of the Public Utilities Commission of Nevada and the State Engineer may attend the conference.

Sec. 6. NAC 445A.604 is hereby amended to read as follows:

445A.604 1. An applicant for a permit to operate a water system shall submit four copies of a completed application form to the Division.

2. An application must be accompanied by:

(a) An application fee of ~~(\$500.)~~ *\$800.*

(b) The financial information required by NAC 445A.605.

(c) Evidence that the conditions prescribed by subsections 1 and 4 of NRS 445A.895 have been met.

(d) The names, addresses and qualifications of each person or entity who will be responsible for the operation, maintenance or management of the water system, including:

(1) The technical background or experience of each person or entity;

(2) The classification and type of certificate issued to the operator pursuant to NAC 445A.617 to 445A.652, inclusive, if applicable; and

(3) A list of the professional water industry organizations in which each person or entity is a member.

(e) A description of any governing board of the water system.

(f) A plan for the operation, maintenance and management of the water system, including:

(1) A program for the control of cross-connections;

(2) The procedures, methods, schedules and locations for production metering, testing pressure and testing customer's meters, if any; and

(3) A program for testing the quality of the water to ensure compliance with the provisions of NAC 445A.450 to 445A.492, inclusive.

(g) A plan for a sanitary survey to evaluate past and present sources of pollution which might affect the quality of the water system's source of water, including sanitary sewage, landfills, salt storage and commercial or industrial facilities which might affect the quality of the water system's source of water.

(h) A plan for action and proper notification of authorities in the event of a hurricane, typhoon, tornado, storm, flood, high water, wind-driven water, earthquake, volcanic eruption, landslide, mud slide, snowstorm, drought, fire, explosion, electrical outage, attack, sabotage or toxic spill or other spill that could pose a health hazard.

(i) Information from the State Engineer regarding water rights affecting the water system, the status of such water rights and the source of the water.

Sec. 7. NAC 445A.609 is hereby amended to read as follows:

445A.609 The 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;~~ *section 1 of this regulation;* and

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

Sec. 8. NAC 445A.612 is hereby amended to read as follows:

445A.612 1. The Division may deny an application for or modify, suspend or revoke a permit to operate a water system on any of the following grounds:

(a) A violation of a condition or limitation placed on the permit pursuant to subsection 4 of NAC 445A.610.

(b) A misrepresentation of a relevant fact or a failure to disclose fully all relevant facts in obtaining the permit.

(c) A failure or refusal of the applicant for or holder of a permit to comply with any provision of NAC 445A.595 to 445A.614, inclusive.

(d) Operating a water system without a permit.

(e) Interference with the Division in the performance of its duties.

2. The Division shall:

(a) Immediately notify the local governing body when a permit is revoked.

(b) Send written notice of the denial of an application for or the modification, suspension or revocation of a permit to operate a water system . ~~pursuant to the requirements set forth in NAC 439.300 to 439.395, inclusive.~~

Sec. 9. NAC 445A.613 is hereby amended to read as follows:

445A.613 Except as otherwise provided in NRS 445A.800 to 445A.955, inclusive, an applicant may request a variance from the requirements of NAC 445A.595 to 445A.614, inclusive, pursuant to ~~NAC 439.200 to 439.280, inclusive.~~ **NRS 445A.935.**

Sec. 10. NAC 445A.614 is hereby amended to read as follows:

445A.614 1. An applicant for or holder of a permit who:

(a) Has reason to believe that an action taken by the Division pursuant to NAC 445A.595 to 445A.614, inclusive, has been incorrect or based on inadequate knowledge; or

(b) Objects to a limitation or condition placed on his or her permit by the Division pursuant to subsection 4 of NAC 445A.610,

↪ may, within 10 business days after receiving notice of the action taken, request an informal discussion with the employee of the Division responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the Bureau for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the Bureau, except that the informal conference must be held no later than 60 days after the date on which the Bureau received the written request.

3. Except as otherwise provided in subsection 4, the determination of the Bureau resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a permit issued pursuant to NAC 445A.595 to 445A.614, inclusive, who is aggrieved by an action of the Division relating to the denial of an application

for or renewal of such a permit or the modification, suspension or revocation of such a permit may appeal that action in accordance with NAC ~~439.300~~ **445B.875** to ~~439.395~~ **445B.899**, inclusive, after exhausting the informal procedures set forth in this section, except that the Bureau may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

5. As used in this section, “Bureau” means the Bureau of ~~Health Protection Services~~ **Safe Drinking Water** of the Division or its successor.

Sec. 11. NAC 445A.66635 is hereby amended to read as follows:

445A.66635 The 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 **for or any engineering report related** to ~~construct, modify or expand~~ **the construction, renovation, modification or expansion of** such a system until the fees prescribed in ~~NAC 445A.6664~~ **section 1 of this regulation** have been paid.

Sec. 12. NAC 445A.6728 is hereby amended to read as follows:

445A.6728 **1.** Water hauling may be used only:

~~1.1~~ **(a)** In an emergency or on a temporary basis when water hauling is the only means of distributing drinking water to the customers of a public water system; and

~~1.2~~ **(b)** If:

~~1.2(a)~~ **(1)** The proposal for water hauling is submitted to and approved by the Division or the appropriate district board of health before the water hauling begins;

~~1.2(b)~~ **(2)** Each vehicle to be used for water hauling is inspected by the Division or the appropriate district board of health before it is used for water hauling and annually thereafter; and

~~(e)~~ (3) The supplier of water ensures that the water hauling complies with NAC 445A.67275 to 445A.6731, inclusive.

2. Except as otherwise provided in subsection 4, the Division shall charge a fee of \$600 for reviewing the proposal for water hauling submitted pursuant to subparagraph (1) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, the Division shall charge a fee of \$300 for each initial inspection and each annual inspection conducted pursuant to subparagraph (2) of paragraph (b) of subsection 1.

4. For the calendar year beginning on January 1, 2024, and for each calendar year thereafter, the Director of the State Department of Conservation and Natural Resources shall increase each fee set forth in this section by an amount that is equal to 3 percent of the fee for the immediately preceding calendar year. The Director may, during any calendar year, suspend an increase in a fee specified in this subsection.

5. The Director shall post on the Internet website of the Division the fees required pursuant to this section that are applicable for each calendar year.

Sec. 13. NAC 445A.6664 is hereby repealed.

TEXT OF REPEALED SECTION

445A.6664 Prescribed fees. (NRS 439.150, 439.200, 445A.860)

1. The 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, modify or expand a public water system:

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

(I) For reviewing 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

Plus \$3 for each connection for supply of water to customers.

(II) For reviewing plans to construct, modify or expand a community water system which is not part of a subdivision.300

(III) For reviewing plans to construct, modify or expand a treatment facility of a community water system.....0.1 percent of the capital cost of the treatment facility, not to exceed \$3,250

(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.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
25 or less\$225

Number of connections for service to customers

26- 3,000.....	225
	Plus 75 cents for each connection for service between 26 and 3,000 connections.
3,001 - 10,000.....	2,500
	Plus 60 cents for each connection for service between 3,001 and 10,000 connections.
10,001 - 50,000.....	6,700
	Plus 25 cents for each connection for service between 10,001 and 50,000 connections.
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

(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 per day 4,000
- (7) At least 100 million gallons per day or more 7,500

2. 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.