

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

LCB File No. R021-02

Effective August 29, 2002

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

AUTHORITY: §§1-23 and 25, NRS 445A.860 and 445A.880; §24, NRS 439.200 and 445A.860.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Disinfection” means a process that inactivates pathogenic organisms in water by using chemical oxidants or equivalent agents and processes, including, without limitation, ultraviolet light and ozonation.*

Sec. 3. *“Experience in operating” means having been actively engaged in the operation and maintenance activities of a water treatment or water distribution system.*

Sec. 4. *“Operator” has the meaning ascribed to it in NRS 445A.830.*

Sec. 5. 1. *An operator who works only on the operations of a distribution system or distribution facility of a public water system is required to hold a valid certificate only in class distribution at the appropriate level of classification pursuant to NAC 445A.629 as determined by the public water system.*

2. An operator who works only on operations of treatment or the operations of a treatment facility of a public water system is required to hold a valid certificate only in class treatment at the appropriate level of classification pursuant to NAC 445A.629 as determined by the public water system.

3. An operator who works on the operations of a distribution system or distribution facility and the operations of treatment or the operations of a treatment facility of a public water system is required to hold valid certificates in class distribution and class treatment at the appropriate level of classification pursuant to NAC 445A.629 as determined by the public water system.

Sec. 6. NAC 445A.617 is hereby amended to read as follows:

445A.617 As used in NAC 445A.617 to 445A.652, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.618 to 445A.625, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 7. NAC 445A.624 is hereby amended to read as follows:

445A.624 “Responsible charge” means:

1. Actively engaged in on-site supervision and performance of operation activities including the treatment ~~[and]~~ *or* distribution of water; and
2. Independently making process control ~~[A]~~ *or* system integrity decisions about water quality or quantity that affect public health.

FLUSH ~~[A person in responsible charge is generally classified as an operator or supervisor, including a shift operator or supervisor, of a public water system.]~~

Sec. 8. NAC 445A.626 is hereby amended to read as follows:

445A.626 A person who desires to ~~[obtain a certificate to]~~ operate a public water system described in subsection 1 of NRS 445A.875 must obtain a certificate to operate such a public water system pursuant to NAC 445A.617 to 445A.652, inclusive.

Sec. 9. NAC 445A.627 is hereby amended to read as follows:

445A.627 1. A public water system which:

(a) Is classified as a community water system or a nontransient, noncommunity water system;

or

(b) Is designated by the health division as being supplied by:

(1) Surface water; or

(2) Ground water under the direct influence of surface water,

FLUSH shall have a person in responsible charge at the site of the facility or on call at all times. Except as otherwise provided in NAC 445A.628, the person in responsible charge of the public water system must be the holder of a full certificate in the same classification or a higher classification than the classification of the public water system ~~[-]~~ pursuant to NAC 445A.629.

2. If the person in responsible charge is on call, he must be able to ~~[-]~~:

(a) *Be* contacted immediately ; and ~~[-]~~

(b) *Respond* at the site within ~~[-]~~

~~[-]~~ 4 hours.

3. A supplier of water shall notify the health division within 72 hours or 2 working days, whichever is earlier, of any time that the public water system is not in compliance with the provisions of this section.

~~[-]~~ 4. If a public water system serves more than 10,000 persons, the health division may require the public water system to have, in addition to the person in responsible charge of the public water system, *an* additional *person or* persons in responsible charge at the same time, including , *without limitation*, a person in responsible charge for the treatment of water ~~[-]~~ *or* a person in responsible charge for the distribution of water. If the health division requires *an*

additional *person or* persons in responsible charge ~~[, the]~~ *pursuant to this subsection, the health division must:*

(a) Deliver a written notification of the requirement to the public water system on or before December 31 of the year in which the requirement is made;

(b) Review the requirement not less than once every 5 years to determine whether any changes need to be made regarding the additional person or persons;

(c) Require a public water system that is subject to the requirement of an additional person or persons pursuant to this subsection to employ the additional person or persons within 2 years after the date the public water system receives the written notification of the requirement by the health division to employ the additional person or persons; and

(d) Require the additional person or persons in responsible charge ~~[:~~
~~—(a) May] to be certified [at a classification lower than] in the same level of classification or a higher level of classification as the classification of the public water [facility;~~

~~—(b) Must be certified if they make process control/system integrity decisions about water quality or quantity that affect public health; and~~

~~—(c) Must be certified at least one classification lower than the operator in responsible charge if they are shift operators who work on a shift alone or are forepersons or supervisors of a public water system.~~

~~—4.] system pursuant to NAC 445A.629.~~

5. A supervisor employed by a supplier of water must be:

(a) Certified at no less than one class lower than the classification of the public water system pursuant to NAC 445A.629; and

(b) Supervised by a person in responsible charge.

6. An operator employed by a supplier of water to make decisions regarding process control, quality of water, quantity of water or system integrity must be:

(a) Certified at the appropriate level of classification as determined by the public water system; and

(b) Supervised by a person in responsible charge.

7. As used in this section:

(a) “Community water system” has the meaning ascribed to it in NRS 445A.808.

(b) “Nontransient, noncommunity water system” means a nontransient water system as defined in NRS 445A.829.

(c) “Supervisor” does not include a person in responsible charge.

Sec. 10. NAC 445A.628 is hereby amended to read as follows:

445A.628 1. Upon the request of the owner of a public water system and the approval of the health division, a person holding a certificate as an operator-in-training may be the person in responsible charge of the public water system ~~[The owner must demonstrate that the public water system is unable to employ a person who holds a full certificate.]~~ *for not more than 6 months.* The health division shall not grant approval unless it makes a finding that ~~[the]~~ :

(a) The person holding the certificate as an operator-in-training has the basic knowledge necessary to operate the public water system ~~[and that the]~~ ;

(b) The health and safety of the public will be protected ~~[;]~~ ; *and*

(c) The owner has demonstrated that the public water system is unable to employ a person who holds a full certificate.

2. The health division shall consider the following in making its decision of whether to grant approval ~~[;]~~ *pursuant to subsection 1:*

(a) The results of an inspection of the site of the public water system;

(b) A review of the plans and specifications of the public water system;

(c) A review of the personnel records **[H]** *that pertain to the operation of a public water system*, experience *in operating* and training of the person holding the certificate as an operator-in-training; and

(d) A review of any other reasonably available and relevant information.

3. Upon the occurrence of circumstances of an emergency nature, the health division may approve any other qualified person as the person in responsible charge of a public water system for not more than 6 months.

4. The health division shall consider the following in making its decision of whether to grant approval pursuant to subsection 3:

(a) The results of an inspection of the site of the public water system;

(b) A review of the plans and specifications of the public water system;

(c) A review of the personnel records that pertain to the operation of a public water system, experience in operating and training of the person being considered; and

(d) A review of any other reasonably available and relevant information.

5. Upon request from a public water system, the health division may approve a qualified person as the person in responsible charge of a public water system for not more than 15 months to provide vacation and temporary relief of the designated person in responsible charge.

6. The health division shall consider the following in making its decision of whether to grant approval pursuant to subsection 5:

(a) The results of an inspection of the site of the public water system;

(b) A review of the plans and specifications of the public water system;

(c) A review of the personnel records that pertain to the operation of a public water system, experience in operating and training of the person being considered; and

(d) A review of any other reasonably available and relevant information.

7. Within 4 months after an approval is granted pursuant to subsection 1 or 3 or within 12 months after an approval is granted pursuant to subsection 5, the health division shall review the status of the public water system to determine whether the approval should be extended past the limit of approval provided pursuant to subsection 1, 3 or 5. Any determination made by the health division pursuant to this review must be received by the public water system no less than 15 days before the end of the period specified in the approval granted by the health division.

Sec. 11. NAC 445A.629 is hereby amended to read as follows:

445A.629 1. The health division shall classify all public water systems in this state pursuant to ~~subsection~~ *subsections* 2 and ~~or~~ 3.

2. A public water system which:

(a) Uses only ground water or water provided by another public water system; and

(b) Does not provide treatment of the water or ground water or ~~the only treatment it provides is chlorination,~~ *provides only disinfection by chlorination,*

FLUSH must be classified based only on the population it serves as follows:

DISTRIBUTION CLASSIFICATION AVERAGE DAILY POPULATION SERVED

Class Distribution-1 25 - 500

Class Distribution-2 501 - 3,300

DISTRIBUTION CLASSIFICATION AVERAGE DAILY POPULATION SERVED

Class Distribution-3.....	3,301 - 10,000
Class Distribution-4.....	10,001 or more

3. A public water system which:

(a) Uses surface water or ground water under the direct influence of surface water; or

(b) Uses ground water and provides treatment of the ground water, other than *disinfection by*

chlorination,

must be classified on a point system as follows:

FLUSH

ITEMS FOR ***TREATMENT*** CLASSIFICATION POINTS

Average daily population served

25 - 500.....	5
501 - 3,300.....	10
3,301 - 10,000.....	15
10,001 - 100,000.....	20
100,001 or more	25

Source for public water system

Ground water.....	3
Ground water under the direct influence of surface water	4
Surface water	5

ITEMS FOR *TREATMENT* CLASSIFICATION

POINTS

Air stripping	4
Ozone.....	7
<i>Ultraviolet light</i>	8
pH adjustment or corrosion control.....	4
Iron and manganese removal/sequestering.....	2
Softening (ion exchange).....	5
Granular activated carbon for organic contamination.....	7
Coagulation	5
Taste and odor control.....	4
Chlorination.....	5
Fluoridation	5
Chlorine-ammonia treatment.....	8
Chlorine dioxide.....	8
Bacteriological or chemical laboratory	2
Blending, aesthetic	5
Blending, health effects.....	8
Arsenic removal	5 8
Nitrate removal.....	8
Filtration	
Conventional	10
<i>Direct</i>	10

ITEMS FOR *TREATMENT* CLASSIFICATION

POINTS

Rapid	7
Diatomaceous earth	7
Slow sand	5
Bag, ceramic, microfiltration, <i>nanofiltration, reverse osmosis, membrane</i>	5

TREATMENT CLASSIFICATION

TOTAL POINTS

Class Treatment-1.....	5 - 19
Class Treatment-2.....	20 - 35
Class Treatment-3.....	36 - 45
Class Treatment-4.....	46 or more

4. *The health division shall review the classification of every public water system not less than once every 5 years to determine whether the public water system continues to meet the criteria for that classification pursuant to this section. Upon a determination that the public water system no longer meets the criteria for the classification, the health division shall:*

(a) Reclassify the public water system in accordance with the criteria for classification pursuant to this section;

(b) Deliver a written notification of the reclassification to the public water system on or before December 31 of the year in which the determination is made; and

(c) Require the public water system to comply with the requirements of the new classification within 2 years after the date the public water system receives the written notification of the determination by the health division.

5. As used in this section, “filtration” means a process for removing particulate matter from water by passing the water through porous media.

Sec. 12. NAC 445A.630 is hereby amended to read as follows:

445A.630 1. An application to take an examination for certification as an operator must be made on a form provided by the health division and must be submitted to the health division not less than 30 days before the date of the examination. The application must be complete and must be accompanied by the fee for the certification for which the examination is being administered as set forth in NAC 445A.651.

2. The fee accompanying the application for examination entitles an applicant who passes the examination and meets any other qualifications for certification to be certified until December 31 of the first calendar year after the calendar year in which the certification is issued.

3. An applicant who fails an examination is ~~[not]~~ eligible for reexamination ~~[until 6 months after the date on which the examination was taken.]~~ *at the next scheduled examination if the applicant satisfies the requirements set forth in subsection 1.*

4. Examinations for certification must be given at least twice annually at locations and times designated by the health division.

5. Except as otherwise provided in this subsection, an applicant must take the examinations for certification in ascending order beginning with the examination for a certificate as a class distribution-1 or class treatment-1 operator, as applicable. An applicant who holds or has held within the year immediately preceding the date of the examination a certificate to operate a

public water system in another state that is equivalent to such a certificate in this state may take an examination for certification in a class higher than class distribution-1 or class treatment-1 if the health division determines that the applicant qualifies to take an examination for a higher certification.

Sec. 13. NAC 445A.631 is hereby amended to read as follows:

445A.631 1. The health division , *or its designee*, shall ~~give~~ *offer separate* examinations for certification ~~for~~ *in the* four classifications in water treatment and *separate examinations for certification in the* four classifications in water distribution. *The health division shall validate the areas of knowledge tested in an examination pursuant to this subsection before offering such examination to the applicant.* The areas in which the examination must test the knowledge of the applicant include, but are not limited to:

- (a) General water supply;
 - (b) Control processes in the treatment or distribution of water;
 - (c) Operation, maintenance and emergency procedures in the treatment and distribution of water;
 - (d) Proper recordkeeping relating to the operation of a public water system;
 - (e) Laws and regulations relevant to the operation of a public water system; and
 - (f) Water quality standards.
2. Examinations must not be returned to examinees.
3. The health division shall maintain an analysis of each examination administered in the offices of the health division for not less than 1 year after the date on which the examination was administered.

Sec. 14. NAC 445A.632 is hereby amended to read as follows:

445A.632 1. The health division shall *proctor*, review and grade , or enter into a contract with a person, organization or agency to *proctor*, review and grade , the examinations for certification. A score of not less than 70 percent is required to pass the examination.

2. The health division shall review , or enter into a contract with a person, organization or agency to review , the qualifications of each applicant for a full certificate to determine whether the minimum requirements for experience *in operating* set forth in NAC 445A.633 have been satisfied.

Sec. 15. NAC 445A.633 is hereby amended to read as follows:

445A.633 1. The health division shall issue a full certificate to an applicant who qualifies for a full certificate. Except as otherwise provided in this section, to qualify for a full certificate, an applicant must, in addition to passing the examination for certification for his specific classification, have a high school diploma or a general equivalency diploma and have the following experience in operating a public water system of that classification:

Classification	Years Experience
Class Distribution-1.....	6 months
Class Distribution-2.....	1 year
Class Distribution-3.....	2 years
Class Distribution-4.....	3 years
Class Treatment-1	6 months
Class Treatment-2	1 year
Class Treatment-3	2 years

Class Treatment-43 years

2. Except as otherwise provided in this subsection, the health division may credit experience *in operating* gained in the field of waste water treatment or in a related field toward the experience *in operating* required ~~in~~ *pursuant to* subsection 1. Not more than one-half of the experience *in operating* required pursuant to subsection 1 may come from credit *issued* pursuant to this subsection.

3. The health division may credit all or a portion of the experience *in operating* gained at a lower classified facility toward the experience *in operating* required at a higher classified facility if:

(a) The higher classified facility is not more than one classification higher than the highest classified facility for which the applicant is currently certified; and

(b) The health division determines that experience *in operating* gained at the lower classified facility is equivalent to or is a satisfactory substitute for experience *in operating* at the higher classified facility.

4. Except as otherwise provided in this subsection, 2 days of education in engineering at the college level, or the equivalent thereof *in a related field at a vocational school or* as determined by the health division, may be substituted for each day of experience in operating required ~~in~~ *pursuant to* subsection 1. Not more than one-half of the required experience in operating may be satisfied by such substitution.

5. Experience *in operating* or relevant training may be substituted for a high school diploma or general equivalency diploma upon approval of the health division. Education, training or

experience *in operating* that is substituted for a high school diploma or general equivalency diploma may not be counted toward the experience *in operating* required in subsection 1.

~~[6.—As used in this section, “experience in operating” means having been actively engaged in the operation and maintenance activities of a water treatment or water distribution system.]~~

Sec. 16. NAC 445A.634 is hereby amended to read as follows:

445A.634 1. The health division shall issue a full certificate in the same classification to an operator who has obtained certification in another state if the health division determines, upon review of his application for certification and supporting material, that the applicant has:

(a) Passed an examination that is equivalent to the examination administered by the health division pursuant to NAC 445A.631; and

(b) The experience *in operating* required by NAC 445A.633.

2. The health division shall issue a full certificate in the same classification to an operator who holds a current certification by the California/Nevada section of the American Water Works Association ~~[:]~~ *if the health division determines, upon review of his application for*

certification and supporting material, that the applicant has:

(a) Passed an examination that is equivalent to the examination administered by the health division pursuant to NAC 445A.631; and

(b) The experience in operating required by NAC 445A.633.

Sec. 17. NAC 445A.635 is hereby amended to read as follows:

445A.635 1. The health division shall issue a certificate as an operator-in-training to a person who:

~~[:]~~ (a) Has passed the examination for certification; and

~~2.~~ (b) Does not have the experience *in operating* required for a full certificate pursuant to NAC 445A.633.

2. Upon payment of the fee set forth in NAC 445A.651, the health division shall issue a full certificate to an operator who, after being issued a certificate as an operator-in-training, has fulfilled the *requirement for* experience ~~requirement~~ *in operating* set forth in NAC 445A.633. The full certificate expires on December 31 of the first calendar year after the calendar year in which it is issued.

Sec. 18. NAC 445A.636 is hereby amended to read as follows:

445A.636 1. Upon payment of the fee set forth in NAC 445A.651, the health division shall issue to an applicant a provisional certificate if:

(a) The applicant is an owner and operator of a public water system or is employed by a public water system that is not designated by the health division as being supplied by surface water or ground water under the direct influence of surface water;

(b) A statement is submitted to the health division from the governing board or owner of the public water system that the applicant was in a position of responsible charge of the public water system on January 1, 2000;

(c) The applicant was in a position of responsible charge of the public water system before January 1, 2000, and was not required to obtain a full certificate before that date;

(d) The applicant has completed at least 2 days of training that is designed to provide the applicant with basic information on the operation of a public water system; and

(e) The application is submitted not later than December 31, 2000.

2. Except as otherwise provided in subsection 3, a provisional certificate issued pursuant to subsection 1:

(a) Expires on December 31 of the first calendar year after the calendar year in which the certification is issued.

(b) May be renewed for 2 years if the applicant completes the process for renewal as set forth in NAC 445A.638.

3. Except as otherwise provided in subsection 4, a provisional certificate is only valid:

(a) During the period that the operator remains employed in that position of responsible charge of the public water system ~~is~~ *for which the operator received the provisional certificate;* and

(b) At the public water system where the operator is employed on January 1, 2000.

4. A provisional certificate is not valid if the classification of the *treatment* plant or distribution system changes to a level which is higher than the level for which the certificate ~~is~~ *was* issued.

5. The health division shall sponsor and pay for the training required pursuant to paragraph (d) of subsection 1. Such training must include, without limitation, training in well design, safety, water quality, monitoring, reporting, the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., drinking water standards, health effects of chemical and bacterial contamination, and the Total Coliform Rule.

Sec. 19. NAC 445A.639 is hereby amended to read as follows:

445A.639 1. ~~Except as otherwise provided in NAC 445A.642, the~~ *The* holder of a full certificate, provisional certificate or certificate as an operator-in-training must comply with the requirements of continuing education set forth in this section to qualify for renewal of the certificate.

2. The holder of a certificate for certification in the classification of class distribution-1, class distribution-2, class treatment-1 or class treatment-2, must earn one-half credit of continuing education during the 2 years immediately preceding the date of application for renewal.

3. The holder of a certificate for certification in the classification of class distribution-3, class distribution-4, class treatment-3 or class treatment-4, must earn one credit of continuing education during the 2 years immediately preceding the date of application for renewal.

4. As used in this section:

(a) "One credit of continuing education" means 10 hours of participation in a course of training approved by the health division pursuant to NAC 445A.641 or 445A.643.

(b) "One-half credit of continuing education" means 5 hours of participation in a course of training approved by the health division pursuant to NAC 445A.641 or 445A.643.

Sec. 20. NAC 445A.640 is hereby amended to read as follows:

445A.640 ~~[Except as otherwise provided in NAC 445A.642, an]~~ **An** operator who holds a full certificate and a certificate as an operator-in-training at a higher classification than the full certificate must comply with the requirements of continuing education for each certificate to qualify for the renewal of both certificates.

Sec. 21. NAC 445A.641 is hereby amended to read as follows:

445A.641 The health division shall not grant any credit of continuing education to the holder of a certificate for participation in training unless:

1. The course of training is approved by the health division.
2. The course of training is relevant to the subject matter of the particular certificate held by him.

3. The subject matter of the training is relevant to the operation or maintenance of a water treatment plant or a water distribution system. The subject matter may include, but is not limited to, state and federal regulations concerning drinking water, the mechanics for the operation and maintenance of a water *treatment* plant or water *distribution* system and the machinery of a water *treatment* plant or water *distribution* system, including the electrical systems of a water *treatment* plant or water *distribution* system, the hydraulics of a water *treatment* plant or water *distribution* system, the chemical treatment of water, the biological testing of water, the disinfection of water and any relevant applications of mathematics and chemistry to the operation or maintenance of a public water system. ~~[As used in this subsection, “disinfection” means a process that inactivates pathogenic organisms in water by using chemical oxidants or equivalent agents.]~~

Sec. 22. NAC 445A.643 is hereby amended to read as follows:

445A.643 1. A public water system may request the written approval of the health division ~~[of]~~ *for* the public water system ~~[providing]~~ *to provide* a course of training for its employees which is intended to comply with any part of the requirement of continuing education. The *health division must approve the* request ~~[must be approved]~~ in writing before *an employee will be credited with continuing education for* the course . ~~[of training is begun.]~~

2. The health division shall not approve a course of training pursuant to subsection 1 unless the request meets the following criteria:

- (a) ~~[Instruction must be provided by an instructor approved by the health division.~~
- ~~—(b)]~~ An outline of the course of training must be submitted with the request for written approval and must state the subjects to be included in the instruction and the time to be allotted for each subject of instruction.

~~(e)~~ (b) A list of the objectives of the instructor must be submitted with the request for written approval and must specify the essential points of the instruction and the methods of instruction to be used to illustrate these points.

Sec. 23. NAC 445A.644 is hereby amended to read as follows:

445A.644 1. ~~(An)~~ *Except as otherwise provided in subsections 3 and 4, a holder of an expired full certificate may ~~be reinstated and renewed~~ request, within 6 months ~~of~~ after its date of expiration, that the full certificate be reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.651 ~~and verification that all requirements of continuing education have been satisfied.~~ To obtain a full certificate, an operator who has not ~~renewed~~ requested reinstatement and renewal of his full certificate within 6 months ~~of~~ after the date of its expiration must file a new application for a full certificate accompanied by the required fee set forth in NAC 445A.651.*

2. The health division shall not reinstate a provisional certificate or a certificate as an operator-in-training.

3. *If the holder of an expired full certificate provides documentation of health problems that made the holder unable to meet the requirements of continuing education for renewal of his full certificate in the time provided pursuant to NAC 445A.639, the holder of the expired full certificate may request, within 2 years after its date of expiration, that the full certificate be reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.651 and verification that all requirements of continuing education have been satisfied. To obtain a full certificate, an operator who has not requested reinstatement and renewal of his full certificate within 2 years after the date of its expiration must file a new application for a full certificate*

and comply with the requirements set forth in NAC 445A.630 to 445A.633, inclusive, and pay the fee for the issuance of a full certificate set forth in NAC 445A.651.

4. If the holder of a full certificate provides documentation of military duty that made the holder unable to meet the requirements of continuing education for renewal of his full certificate in the time provided pursuant to NAC 445A.639, the holder of the expired full certificate may request, within 4 years after its date of expiration, that the full certificate be reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.651 and verification that all requirements of continuing education have been satisfied. To obtain a full certificate, an operator who has not requested reinstatement and renewal of his full certificate within 4 years after the date of its expiration must file a new application for a full certificate and comply with the requirements set forth in NAC 445A.630 to 445A.633, inclusive, and pay the fee for the issuance of a full certificate set forth in NAC 445A.651.

Sec. 24. NAC 445A.66285 is hereby amended to read as follows:

445A.66285 “Public water system” ~~means any system, regardless of ownership, which provides the public with piped water for human consumption, if the system has 15 or more service connections used by residents throughout the year or regularly serves 25 or more persons for 60 or more days a year. A public water system includes:~~

~~—1.— Any facility for the collection, pumping, treatment, storage or distribution of water which is under the control of the operator of the system and used primarily in connection with the system; and~~

~~—2.— Any facility for the collection or pretreatment storage of water which is not under the control of the operator of the system but used primarily in connection with the system.]~~ *has the meaning ascribed to it in NRS 445A.840.*

Sec. 25. NAC 445A.6335 and 445A.642 are hereby repealed.

TEXT OF REPEALED SECTIONS

445A.6335 Appropriate titles for operators in various classifications.

1. The holder of a certificate in the classification of class distribution-1 or class treatment-1 may be referred to as an entry-level operator.

2. The holder of a certificate in the classification of class distribution-2 or class treatment-2 may be referred to as a journeyman operator.

3. The holder of a certificate in the classification of class distribution-3 or class treatment-3 may be referred to as a journeyman operator or supervising operator.

4. The holder of a certificate in the classification of class distribution-4 or class treatment-4 may be referred to as a journeyman operator, supervising operator or managing operator.

445A.642 Continuing education: Waiver of requirements; deemed compliance.

1. The health division may waive compliance with the requirements of continuing education for renewal of a certificate if the holder of the certificate is unable to attend approved courses of training because of undue hardship or other extenuating circumstances beyond his control, including limitations imposed as a result of his health, if documented.

2. In the discretion of the health division, the holder of a certificate may be deemed to have complied with the requirements of continuing education during any period that he:

- (a) Serves honorably on active duty in the military services.
- (b) Is a resident of another state that imposes a requirement of continuing education on operators of public water systems and he has met the requirement of continuing education imposed in that state.
- (c) Is employed by a governmental agency as an operator of a public water system and is assigned to duty outside of the United States.
- (d) Is active as an operator of a public water system and is absent from the state for any other reason.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R021-02

The State Board of Health adopted regulations assigned LCB File No. R021-02 which pertain to chapter 445A of the Nevada Administrative Code on August 16, 2002.

Notice date: 7/17/2002
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Date of adoption by agency: 8/16/2002
Filing date: 8/29/2002

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Initial proposed amendments to these regulations were reviewed and discussed at two publicly noticed meetings of the Advisory Board for the Certification of Operators (meetings held August 10, 2001 in Elko and on December 7, 2001 in Las Vegas). In early January 2002, notices of workshops were then provided through newspapers and public postings and provided to those individuals and businesses that requested direct service. Three workshops (Las Vegas, Elko and Carson City) were held to discuss the initial amendments in late January and early February. After these workshops, it was determined that all affected systems and individuals did not receive notice of the workshops. In order to correct this deficiency, notices were again published, sent out and posted for another workshop, which was held in March in Carson City. At the March workshop, several recommendations were made, which resulted in additional changes to the regulations. These changes were discussed again at a meeting of the Advisory Board for the Certification of Operators on March 28, 2002 in Reno. These changes were noticed again for another series of workshops in June 2002. These workshops were held in Las Vegas, Carson City and Elko.

As provided for in all notices, interested persons could and can obtain a list of the workshop attendees, comments and a copy of written responses to the solicited comments by contacting Galen D. Denio, Manager, BHPS, 1179 Fairview Dr., Ste 101, Carson City, NV 89701 or by calling (775) 687-4750, extension 229.

2. The number of persons who:
 - a. Attended the workshops and the hearing before the State Board of Health:

Workshops

At the January and February 2002 workshops, there were 5 attendees at the Las Vegas workshop, 1 person at the Elko workshop, and 5 persons at the Carson City workshop. There were no substantive comments at these first three workshops; however, after discussions with the Office of the Attorney General, it was determined that there might have been a deficiency in noticing for these first workshops.

Consequently, notice was issued for a fourth workshop to be held in Carson City in March.

Three persons attended this March 2002 workshop. After consideration of the comments received at this workshop, it was clear that substantive changes should be made to the proposed regulation, particularly as it related to better describing persons in responsible charge, duties expected of operators, and continuing education requirements. During the next two months, written comments were provided to BHPS by the commentors. Potential additional changes to the regulation were discussed with these commentors, and amendments to the regulations were finally developed that addressed most of the comments.

The third round of workshops held in June were well-attended. Fourteen persons attended the workshop in Las Vegas, five attended the Carson City workshop and eight attended the Elko workshop. In addition, eight small business owners submitted written comments pertaining to small business impact statements. Suggestions by others for other changes were also submitted prior to or during the workshop period.

State Board of Health Hearing

Two persons who expressed interest in the proposed regulation attended the State Board of Health meeting/hearing in Las Vegas on August 16, 2002.

- b. Testified at each workshop and at the hearing before the State Board of Health:

Workshops

There was no substantive testimony offered at the first workshops held in January and February 2002. At the March 8, 2002 workshop, three persons provided comments, which resulted in further changes to the proposed regulations. At the workshops held in June, there were questions asked, but no substantive comments offered to change the proposed regulations.

State Board of Health Hearing

One person spoke in support of the regulation and the amendments to the regulation recommended by Staff. He also indicated that he appreciated that Staff agreed to work with water systems through the Advisory Board for the Certification of Operators to address issues considered by Staff, but not recommended for adoption at this hearing.

- c. Submitted to the agency written statements:

Workshops

Six persons, including the March 8 workshop participants, offered written comments prior to or at the June workshops. These comments were considered and, for the most part, were incorporated into the new revised rule.

State Board of Health Hearing

Four letters containing recommendations for revisions to the proposed regulations were received prior to the State Board of Health hearing. One phone call was received on August 2. All comments were addressed either in the briefing memo or in written testimony submitted to the State Board of Health. All comments were considered; several were incorporated into the regulations and others will be considered at future meetings of the Advisory Board for the Certification of Operators.

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.

Initial proposed amendments to these regulations were reviewed and discussed at two publicly noticed meetings of the Advisory Board for the Certification of Operators (meetings held August 10, 2001 in Elko and on December 7, 2001 in Las Vegas). In early January 2002, notices of workshops were then provided through newspapers and public postings and provided to those individuals and businesses that requested direct service. Three workshops (Las Vegas, Elko and Carson City) were held to discuss the initial amendments in late January and early February. As a result of these workshops, it was found that all affected systems and individuals did not receive notice of the workshops. In order to correct this deficiency, notices were again published, sent out and posted for another workshop, which was held in March in Carson City. At the March workshop, several recommendations were made, which resulted in additional changes to the regulations. These changes were discussed again at a meeting of the Advisory Board for the Certification of Operators on March 28, 2002 in Reno. These changes were noticed again for another series of workshops in June 2002. Notices were sent to all community and non-transient, non-community public water systems, to water system operators and to persons who requested notification. In addition, cover letters accompanying the notice included 6 specific questions recommended by the Office of the Attorney General to solicit information on the impact of the proposed amendments to small businesses as required by NRS 233B.0608. Eight responses from persons from public water systems that were small businesses responded. A summary of these questions and the responses follows:

1. Do the proposed regulations provide a benefit to your water system? If so, please describe the benefits.

Five persons responded negatively, two persons provided affirmative responses and one (a phone call) did not have a comment. One negative response suggested that it was good to have additional information, but that it was difficult for seniors who were owners to comply and an operator might have to be employed as a result. The one verbal response indicated that the emergency provisions of the regulations and clarification of the continuing education requirements were good.

2. Do the proposed regulations impose a direct and significant economic burden on your public water system or business? If so, in what way?

Three of the responders indicated that there was no burden. Three indicated that employing an additional operator would be an additional cost. There was no comment from the verbal responder.

3. Do the proposed regulations restrict the formation, operation or expansion of your public water system or business? If so, how?

Six of the eight small business responders indicated “no” to this question. One indicated that “[F]ear of the future has caused me to look for alternate procedures. One method is to sell the park which could seriously effect [sic] my income.”

4. Please offer any suggestions for reducing the impact of these regulations, if any, on your business.

Three responders had no comment. One indicated that he felt that agencies always tried to work with him to comply with regulations. Another felt the regulations should not apply to his system.

5. Is your business a for profit business?

The responders included a farm, a care home, a resort/casino, a mobile home park and a transportation company for which operating a water system was not primary to the for-profit side of the businesses.

6. How many employees does your system employ?

The number of employees each small businesses reported ranged from 1 to 20 employees.

These workshops were held in Las Vegas, Carson City and Elko.

Interested persons may obtain a list of the commentors and a summary of written responses to the solicitation for comments by contacting Galen D. Denio, Manager, BHPS, 1179 Fairview Dr., Ste 101, Carson City, NV 89701 or by calling (775) 687-4750, extension 229, after June 14, 2002 and before August 9, 2002.

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.

The regulation was adopted with three amendments. One amendment was a technical correction to correct a reference to review periods. Another amendment, which was the subject of the phone call comment, removed an inappropriate reference. A third amendment, which was the subject of a letter from the City of Henderson, removed language that Staff recognized as being so specific that it created conflict with other sections of the regulations.

5. The estimated economic impact of the regulation on the business, which it is to regulate and on the public. These must be stated separately, and in each case include:
 - a. Both adverse and beneficial effects

A possible adverse effect may be that some small public water systems have difficulty certifying and/or employing qualified operators for their systems, especially in rural areas. The changes may increase security for a water system, but it may not

provide for foolproof services. Businesses such as small manufacturing plants that have their own water systems, which is ancillary to the plant, may experience increased costs due to the need to hire a person to specifically manage the water system. Contract services may be used to meet this requirement. The requirement for training and certification requirements should not come at the expense of the need to operate and/or expand a water system to meet needs.

A beneficial effect is to ensure that public water systems employ qualified and certified operators. The intended result of these regulatory amendments is to demonstrate to the public through a certification process that:

- 1) The qualifications of public water system operators are appropriate for the public water system on which they work;
- 2) Flexibility is provided to the public water systems for emergency situations in which interim operators can be qualified;
- 3.) Federal funds allocated to Nevada through the Drinking Water State Revolving Fund (DWSRF) program continue to be available to provide the kinds of technical assistance that small public water systems need.

The estimated direct and indirect beneficial economic effects of the proposed regulation on the small businesses cannot be quantified.

b. Both immediate and long-term effects.

Immediate: The Health Division will reexamine the classification of water systems in order to ensure that operators are correctly certified. The regulation also clarifies the responsibilities for persons in responsible charge, supervisory operators and will provide temporary and vacation relief of operators in temporary or emergency situations. It also clarifies the reinstatement of expired certificates.

Long-term: The regulations will provide for better protection of the health and safety of the public by decreasing the possibility of contamination of the public water supply, thereby decreasing associated medical costs, pain and suffering, and a negative impact on local economies that could result.

6. 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 absorbed by existing staff and appropriations, fees and federal grants.

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.

This rule does not overlap or duplicate the rules of any other local, state or federal government agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

This regulation complies with federal requirements for the public water system operator certification program and is not more stringent than a federal regulation.

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.

This regulation does not provide new fees or increase existing fees. Therefore this question is not applicable.