LCB File No. R048-99

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Health Division will hold public hearing and act on amendments to Nevada Administrative Code (NAC) 445A, 449, 450B and 652. **The hearing is scheduled to begin at 9:00 a.m. on Friday, September 10, 1999, at the Grant Sawyer Building, Room 4410, 555 E. Washington Avenue, Las Vegas, Nevada.**

THIS HEARING IS TO MAKE TEMPORARY REGULATIONS PERMANENT.

RESIDENTIAL FACILITIES FOR GROUPS

In September of 1997 the Temporary Regulations for Residential Facilities for Groups were presented to the Board of Health as a Legislative Counsel Bureau file, for permanent adoption. Between the changes bureau staff proposed to the temporary regulations (after using them for almost one year) and changes that LCB made to the temporary regulations (during their preparation for permanent adoption) some language mistakes occurred and became evident during the past year. In addition the BOH has requested that we modify language at NAC 449.226.4 concerning call systems in large facilities in order to eliminate the need for variances to this particular requirement. The bureau decided it would wait until the regulations were codified by LCB before attempting to change any language.

We have established new language and modifications to existing language in the following areas:
NAC 449.0168, NAC 449.193, NAC 449.200, NAC 449.209, NAC 449.226, NAC 449.229, NAC 449.2704, NAC 449.2742, NAC 449.2744, NAC 449.2746, NAC 449.2749, NAC 449.275, NAC 449.2756, and NAC 449.2764

The changes are not substantial and are designed to clarify issues rather than create more requirements.

The changes present no anticipated effect to the public.

There is no anticipated additional cost to the agency for enforcement of the proposed regulation changes.

The regulations proposed for change will not effect changes to other governmental agencies and do not overlap/duplicate other regulations.

The regulations proposed for change do not overlap/duplicate federal regulations.

The regulations do not have a counterpart in the code of federal regulations.

The regulations will add two new fees to the fee schedule at NAC 449.0168.1, 1) one for addition or change of facility type endorsements on a license and 2) one for change to the category on a license.

RESIDENTIAL FACILITIES FOR GROUPS - FEES

In September of 1997, the Temporary Regulations for Residential Facilities for Groups were presented to the Board of Health as a Legislative Counsel Bureau file, for permanent adoption. Between the changes bureau staff proposed to the temporary regulations (after using them for almost 1 year) and changes that LCB made to the temporary regulations (during their preparation for permanent adoption) it was identified that some language modification was required in the general provisions section of NAC Chapter 449. The Bureau decided it would wait until the regulations were codified by LCB before attempting to change any language.

In July the bureau received a copy of the codified regulations. The bureau subsequently drafted proposed changes to the regulations and will present these changes before the December BOH meeting.

We have established new language and modifications to existing language in the following areas:

NAC 449.0168

The changes are designed to establish standards for processing applications to change license endorsements, whereas currently there is no authority nor mechanism for the bureau to receive applications for the changes discussed. If the language is modified as presented the industry will benefit from the ability to apply for changes through the formal application process, rather than the current informal process.

The changes present no anticipated effect to the public. There is no anticipated additional cost to the agency for enforcement of the proposed regulation changes.

The regulations proposed for change will not effect changes to other governmental agencies and do not overlap/duplicate other regulations.

The regulations proposed for change do not overlap/duplicate federal regulations.

The regulations do not have a counterpart in the code of federal regulations.

The regulations will add two new fees to the fee schedule at NAC 449.0168.1, 1) a fee for addition or change of facility type endorsements on a license and 2) a fee for change to the category indicated on a license.

SURGICAL CENTERS FOR AMBULATORY PATIENTS

The proposed amendments are needed to update the current regulations originally adopted in 1988 relating to the licensing of surgical centers for ambulatory patients. The amendments also update the construction standards relating to ambulatory surgical centers.

The proposed regulations affect all services/departments in ambulatory surgical centers.

The proposed regulations will have a beneficial effect, recognized by the ambulatory surgical centers industry, on the ambulatory surgical centers because they were developed by utilizing current standards of care that are defined by the Medicare/Medicaid reimbursement participation standard. All currently licensed hospitals meet these standards at this time because all the hospitals participate in the Medicare/Medicaid reimbursement program.

The proposed regulations will have a beneficial effect on the public/consumer by assuring the public, through the state licensure process, that ambulatory surgical centers are meeting current standards of care.

There will be no change in cost to the facilities or to the Bureau of Licensure and Certification (BLC) for the change in the regulations for the licensing of ambulatory surgical centers. The current fee for initial and annual renewal of licenses will cover the cost to BLC.

The proposed regulations state that the facility must be in compliance with Nevada Revised Statutes (NRS) 449.700-449.730, NRS 453, NRS 652.217, and Nevada Administrative Code (NAC) 441 A and NAC 459. The duplication was necessary to assure certain statutes that affect the health and safety of residents and visitors to Nevada are being implemented by ambulatory surgical centers licensed by BLC.

The proposed regulations parallel the federal Medicare/Medicaid reimbursement participatory regulations governing ambulatory surgical centers (42 Code of Federal Regulations (CFR) Part 416, subpart A, B, and C) in certain sections and 42 CFR 489.24, Clinical Laboratory Improvement Amendment of 1988, Public Health Service Act (42 USC 274) and Life Safety Code, Standard 101.

The regulations are more stringent than the Federal regulations governing ambulatory surgical centers in certain areas: regulations for tuberculosis screening in employees, patient rights, and construction standards.

The regulations do not establish new fees or increase an existing fee.

POINT OF CARE TESTING

Proposed changes to Chapter 652 Medical Laboratories are necessary to allow healthcare professionals to perform waived and moderate complexity testing at the bedside in medical facilities licensed pursuant to Chapter 449.

Point of Care testing is defined and point of care device is described with limitations of use. Qualifications and activities of the point of care analyst are identified and certification fees are established. Continuing education requirements apply to the point of care analyst.

Anticipated benefits to both laboratories regulated by NAC 652 and the public (the patients) will be an overall cost reduction as a result of decreased length of stay due to rapid return of results to

the physician. These benefits are both immediate and long term. There are no adverse effects anticipated.

The increased cost to the agency will be funded by establishing a certification fee issued for point of care testing analyst.

NAC 652 and CLIA regulations (42 CFR Part 493 of the Code of Federal Regulations) have established requirements for the performance of laboratory testing, however, with the recent availability of small portable hand-held analyzers, bedside testing by healthcare professionals other than traditional laboratory technical staff required changes to existing regulations.

HOSPITALS

The proposed amendments are needed to update the current regulations originally adopted in 1969 relating to the licensing of hospitals. The amendments also update the construction standards relating to hospitals.

The proposed regulations affect all services/departments in acute hospitals. Current standards of care for those departments were addressed in the regulations.

The proposed regulations will have little if any effect on the acute hospitals because they were developed by utilizing current standards of care that are defined by the Medicare/Medicaid reimbursement participation standards. All currently licensed hospitals meet these standards at this time because all the hospitals participate in the Medicare/Medicaid reimbursement program.

The proposed regulations will have a beneficial effect on the public/consumer by assuring the public, through the state licensure process, that hospitals are meeting current standards of care.

There will be no change in cost to the facilities or to the Bureau of Licensure and Certification (BLC) for the change in the regulations for the licensing of hospitals. The current fee for initial and annual renewal of licenses will cover the cost to BLC.

The proposed regulations state that the facility must be in compliance with Nevada Revised Statutes (NRS) 449.700 – 449.730, NRS 439B.410, NRS 652.217, NRS 632, and Nevada Administrative Code (NAC) 441 A and NAC 459. The duplication was necessary to assure certain statutes that affect the health and safety of residents and visitors to Nevada are being implemented by hospitals licensed by BLC.

The proposed regulations parallel the federal Medicare/Medicaid reimbursement participatory regulations governing acute hospitals (42 Code of Federal Regulations (CFR) Part 482, Subpart A, B, C, and D) in certain sections and 42 CFR 489.24, Clinical Laboratory Improvement Amendment of 1988, Public Health Service Act (42 USC 274) and Life Safety Code, Standard 101.

The regulations are more stringent than the Federal regulations governing hospitals in certain areas: regulations for tuberculosis screening in employees, certain patient care areas, patient rights, and construction standards.

SKILLED NURSING REGULATIONS

The proposed amendments are needed to update the current regulations originally adopted in 1969 relating to the licensing of skilled nursing facilities. The amendments also update the construction standards relating to skilled nursing facilities.

The proposed amendments will incorporate resident rights, resident behavior and facility practices, quality of life, resident assessment, and quality of care requirements not included in the current regulations. Additionally, general requirements such as physician, nursing and dietary services will be addressed, as well as construction and design requirements.

The adoption of the proposed amendments should not create an economic or operational impact on licensed facilities because the proposed regulations parallel federal regulations the facilities have been following since 1990.

The proposed amendments are considered to provide a beneficial impact for the public by providing licensing standards for the care, safety and quality of life for nursing home residents consistent with current standards of practice.

The adoption of the proposed amendments should have no economic impact on the Bureau of Licensure and Certification because the proposed regulations parallel federal regulations that the agency has surveyed under contract with the Health Care Financing Administration.

These regulations do not duplicate the regulations of other state or local government entities. The regulations parallel federal regulations of the Health Care Financing Administration 42 C.F.R. 483.1 through 483.75, inclusive.

The proposed amendments include several sections that are more stringent than the federal regulations: Requirements for design and construction of skilled nursing facilities that are not addressed in federal regulation; requirements for TB testing of personnel.

The proposed amendments do not change existing fees or impose any new fees.

CONSTRUCTION STANDARDS

The proposed amendments are needed to update the current regulations originally adopted in 1969 relating to the construction standards of skilled nursing facilities and hospitals.

The proposed regulations affect all services/departments in acute hospitals.

The proposed regulations will have little effect on existing structures. All new construction and remodeling projects will be required to comply with the guidelines. The guidelines are used nationwide and will be beneficial to facilities in that architects or other design professionals are currently using the same guidelines in other states.

The proposed regulations will be beneficial to the general public by providing a nationally recognized standard for constructing a health care facility in a safe fashion.

There will be no change in cost to the facilities or to the Bureau of Licensure and Certification (BLC) for the change in the regulations for the licensing of hospitals. The current fee for initial and annual renewal of licenses will cover the cost to BLC.

The proposed regulations state that there are satisfactory assurances that the facility meets all applicable Federal, State and local laws and complies with all applicable life safety, environmental health, building and fire codes and zoning ordinances. If there are any differences between the State and local codes, the more restrictive standards apply. This is necessary to inform the facility that they are required to meet other codes or laws to pass the building inspection and zoning or certificate of occupancy requirements.

The proposed regulations reference the National Fire Protection Association (NFPA) as the basic codes of reference, in particular, the Life Safety Code NFPA 101, and the NFPA 99. These particular references and several others are included in "The Guidelines for Design and Construction of Hospitals and Health Care Facilities" on pages 3, 4 and 5.

The proposed regulations are more stringent than the federal regulations at 42 CFR 482.41 Condition of Participation – Physical Environment. This is necessary because the federal regulations do not address design and construction of facilities.

The proposed regulations do not establish new fees or increase an existing fee.

CERTIFICATION OF ENVIRONMENTAL TESTING LABORATORIES

The Administrative Code Chapter 445A pertaining to Certification of Environmental Laboratories analyzing drinking water in accordance with the Federal Safe Drinking Water Act as presently constituted has some defects that require resolution. The United States Environmental Protection Agency along with stakeholders throughout the nation has developed a consensus standard called the National Environmental Laboratory Accreditation Conference (NELAC) standard. The Bureau of Licensure and Certification has participated in the development of this standard. A program for laboratories to certify according to this nationally accepted standard has been put forth. It is called the National Environmental Laboratory Accreditation Program (NELAP). States may adopt the standard and they may participate in NELAP if they so choose.

Participation in NELAP necessitates subscribing to the NELAC standard which is organized in four distinct tiers, namely: 1.) Legal Identity and Mission; 2.) Testing Capability;
3.) Regulatory Program; 4.) Test Methods.

Each of these "tiers" are addressed in the current NAC but are not organized efficiently and items referenced therein create areas of confusion due to conflicting instructions or protocols. At one juncture the authority to revoke or downgrade certification based upon information obtained from site surveys was denied the Bureau because not all of the pertinent chapters of the referenced standard were included.

Some of the material included in the current NAC, though important, does not apply to laboratory certification. It should be separated from the certification portion of the code.

It is proposed that a completely new version of Chapter 445A pertaining to Environmental Laboratory Certification be adopted in accordance with a template provided by NELAC. This code follows the organizational pattern established by the NELAC standard and includes changes that are required for NELAP participation. Standards that are unique to Nevada will be retained. Since this version is new, the section identification numbers will not coincide with or relate to those of the current code. It is proposed to eliminate the current code and replace it with the new wording. Section numbers can be changed to fit into the surrounding code.

Anticipated effects on the environmental laboratory business are beneficial and immediate. Adoption of this revision will affect environmentally sensitive businesses in the following ways:

1. EPA involvement with the Performance Testing program has been changed. The NAC will reflect these changes.
2. Nevada will be able to participate in the NELAP program if it elects to do so.
3. Ambiguous language will be replaced so consistency in agency action will be assured.
4. Laboratories electing to participate in NELAP accreditation may do so with Nevada as their sponsoring authority.
5. NELAP accredited laboratories will have automatic reciprocity among all NELAP participation states. (So far twenty states have applied for NELAP participation and several more have committed.) *Nevada laboratory certification officers recommend that Nevada participate*.
6. NELAP participating laboratories will be held to a common standard.
7. NELAP participating laboratories will be able to participate in Federal contracts.
8. NELAP participating laboratories will not suffer a competitive disadvantage relative to participants.
9. NELAP participating laboratories will be assured a level playing field nationally.
10 NELAP participating laboratories will produce data of known, consistent and comparable quality.
11. Laboratories not electing NELAP accreditation will not be required to do so, but will be held to the NELAC standard in so far as it is appropriate.
12. Agencies and businesses requiring analyses of regulated parameters will be assured that data meet a rigorous nationally accepted standard.

Anticipated effects on the public are beneficial and long-term. The changes will assist in maintaining quality laboratory analytical capacity to ensure that measurements that affect the public health will be trustworthy.

The estimated cost to the agency for enforcement of the proposed regulation will not be any different than for the current regulation. In the event Nevada elects to have Bureau of Licensure and Certification Laboratory Certification Officers trained to become NELAP assessors, the cost will be limited to the training expense. The training is required every four years.

The regulations do not overlap or duplicate any federal regulations.

The regulations will maintain the existing fee structure.

DEFIBRILLATION - 450B.900-.936 (This regulation does not apply to EMS providers under the authority of Clark County Health District.)

These amendments are to repeal the existing regulations concerning defibrillation, add defibrillation to the authorized practices of emergency medical technicians, and add the definitions currently listed in sections .900 thru .914 to the "General Provisions" section of 450B.

This section of NAC 450B was placed in regulation because the use of automatic and semi-automatic defibrillation was introduced as a pilot program for emergency medical technicians and has since become a normal part of the emergency medical technician's scope of practice.

The National Highway Traffic Safety Administration of the United States Department of Transportation has adopted in the EMT Basic program training for the use of automatic and semi-automatic defibrillators. This eliminates the need for further training and certification in defibrillation for the EMT, as currently required in NAC 450B.918-.936.

This section of NAC 450B has generated unnecessary costs and training time for EMS services and personnel.

There are no anticipated effects on the business which NAC 450B regulates.

There are no anticipated effects on the public.

There are no anticipated additional costs to the Health Division for enforcement of the proposed regulation.

There are no existing regulations of other state or local governmental agencies which the proposed amendments to the regulations overlap or duplicate.

DO NOT RESUSCITATE - 450B.955

These amendments are to implement a fee for issuance of a Do Not Resuscitate Identification bracelet. This fee would cover the cost of the bracelet, including engraving and shipping the bracelet to the patient.

There are no anticipated effects on the business which NAC 450B regulates.

There are no anticipated effects on the public.

Estimated cost to the Health Division for enforcement of the proposed regulation:

Expenditure of $1,575.00 for purchasing an initial inventory of bracelets. This expenditure will be recouped in full through a fee to be determined by the health authority.

The amendment establishes a fee determined by the health authority not to exceed the actual cost of obtaining the medallion from a manufacturer, including the cost of engraving, shipping and handling.

There are no existing regulations of other state or local governmental agencies which the proposed amendments to the regulations overlap or duplicate.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary by August 26, 1999.

Secretary, State Board of Health
Nevada State Health Division
Capitol Complex
505 E. King Street, Room 201
Carson City, NV 89701-4797

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

Members of the public who are disabled and require special accommodations or assistance at the meeting are required to notify Yvonne Sylva, Secretary, Board of Health, in writing at the Nevada State Health Division, 505 E. King Street, Room 201, Carson City, NV 89701, or by calling (702) 687-4740.

A copy of this notice and the proposed regulation amendments are on file for inspection at the following locations during normal business hours:

Bureau of Licensure and Certification, 1550 E. College Pkwy, Suite 158, Carson City, Nevada (702) 687-4475).

Bureau of Licensure and Certification, 4220 S. Maryland Parkway, Suite 810, Las Vegas, Nevada (702) 486-6515.

Bureau of Licensure and Certification, 1755 E. Plumb Lane, Suite 241, Reno, Nevada
(702) 688-2888

Emergency Medical Services, 850 Elm Street, Elko, Nevada (702) 753-1154.

Emergency Medical Services, 100 Frankie, Tonopah, Nevada (702) 482-3722.

Copies may be obtained in person, by mail, or by calling (702) 687-4475. Copies are also available for review at all physical locations of program offices (see above) or the following main public libraries in each county:

- Carson City Library, 900 North Roop St.
  Carson City, NV 89701
- Churchill County Library, 533 S. Main St.
  Fallon, NV 89406
- Clark County Library, 4020 Maryland Parkway,
  Las Vegas, NV 89119
- Douglas County Library, 1625 Library Lane, (PO Box 337)
  Minden, NV 89423
- Elko County Library, 720 Court St.
  Elko, NV 89801
- Goldfield Public Library (Esmeralda Co.), Corner of Crook and Ramsey, (PO Box 430)
  Goldfield, NV 89013
- Eureka Branch Library, 10190 Monroe St.,
  Eureka, NV 89316
- Humboldt County Library, 85 East 5th St.,
  Winnemucca, NV 89445
- Battle Mountain Branch Library (Lander Co.), 6255 Broad St.,
  Battle Mountain, NV 89820
- Lincoln County Library, 63 Maine St., (PO Box 330)
  Pioche, NV 89043
- Lyon County Library, 20 Nevin Way,
  Yerington, NV 89447
- Mineral County Library, 125 A St., (PO Box 1390)
  Hawthorne, NV 89415
- Pershing County Library, 125 Central, (PO Box 781)
  Lovelock, NV 89419
- Storey County Library, 95 South R St., (PO Box 14)
  Virginia City, NV 89440
- Tonopah Public Library (Nye Co.), 171 Central, (PO Box 449)
  Tonopah, NV 89049
- Washoe County Library, 301 South Center St., (PO Box 2151)
  Reno, NV 89505
- White Pine County Library, 950 Campton St.,
  Ely, NV 89301

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

To be published in the Las Vegas Review-Journal, Reno Gazette-Journal and Elko Daily Free Press on or before August 11, 1999.

Richard J. Panelli, Chief
July 27, 1999

PROPOSED REULATION OF THE STATE BOARD OF HEALTH

CERTIFICATION OF ENVIRONMENTAL TESTING LABORATORIES

EXPLANATION – ***Italicized*** material is new; material in brackets [-] is to be deleted

NOTE: Only those sections being changed are provided in this document.

NEW SECTIONS TO BE ADDED TO CHAPTER 445A OF NAC

CERTIFICATION OF ENVIRONMENTAL TESTING LABORATORIES

Section 1 Policy and Intent.

(1) The responsibility of ensuring the availability of safe drinking water to the people of Nevada has been entrusted to the Nevada State Health Division through NRS 439.200 and 445A.863.

(2) The availability of laboratories capable of performing reliable analyses is an essential factor in conducting a successful environmental monitoring program.

(3) The Nevada State Health Division has been given the responsibility, pursuant to NRS 439.200 and 445A.863 for ensuring the acceptable quality, reliability and validity of test results from environmental samples through establishing criteria for laboratories to be certified to perform such analysis.

(4) Analysis of drinking water samples from all the water supply systems in the state may require the utilization of commercial or the state public health laboratories. Data provided by laboratories other than those certified by the United States Environmental Protection Agency (US EPA) can be accepted only after such laboratories have been evaluated and certified by the Nevada State Health Division, Bureau of Licensure and Certification (BLC). Certification

of the state public health laboratories is subject to on-site survey by the US EPA and continuing acceptable performance on semi-annual performance evaluations monitored by the BLC.

(5) Laboratories seeking certification to perform analyses of environmental samples shall satisfy the minimum criteria expressed in this Rule Chapter.

(6) The purpose of these Rules is to provide regulations for the evaluation and certification of laboratories seeking to analyze environmental samples to satisfy the requirements of NRS 439.200 and 445 A.863.

(7) Having established such criteria for evaluation and certification, the Nevada State Health Division has been delegated as the Accrediting Authority for the State of Nevada and has the responsibility for implementing and administering such laboratory certification, pursuant to NRS 439.200 and 445 A.863.

(8) If any section, subsection, provision, clause, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction or in any proceeding, the remainder of this chapter shall not be affected thereby.

(9) The approved and recommended sample collection procedures, analytical methodologies, and certification requirements are contained in the following documents, which are adopted herein by reference into these Rules:

(a) "National Environmental Laboratory Accreditation Conference – Constitution, Bylaws, and Standards," EPA 600/R-97/139, July 1998, or most recently approved and accepted revision, incorporated by reference into Rules Section 2 (16) and Section 5 (11). This reference may be obtained free from United States Environmental Protection Agency,

Office of Research and Development, Washington, D.C. 20460 or from the Internet @http://www.epa.gov/ttn/nelac.

Section 1.9.1 and Figure 1 – 3 of this document are incorporated by reference into Rule Section 2 (10).

Sections 1.9.3 and 4.1.1 of this document are incorporated by reference into Rules Section 2 (13) and Section 5 (1).

Section 1.9.4 of this document is incorporated by reference into Rule Section 5 (2).

Sections 1.9.5 through 1.9.10 of this document are incorporated by reference into Rule Section 5 (3).

Chapter 2 of this document is incorporated by reference into Rule Section 8 (1).

Sections 2.4, 2.5, and 2.7 of this document are incorporated by reference into Rule Section 8(9).

Section 3.3 of this document is incorporated by reference into Rule Section 10 (5).

Sections 3.4 through 3.7 of this document are incorporated by reference into Rule Section 10(4).

Sections 4.1.4(d) and 4.4 of this document are incorporated by reference into Rules Section 14 (1)(u) and Section 16.

Sections 4.1.7 and 4.1.9 of this document are incorporated by reference into Rule Section 6(1).

Sections 4.1.8 and 4.3.2 of this document are incorporated by reference into Rule Section 6(3).

Section 4.3.3 of this document is incorporated by reference into Rule Section 11 (5).

Chapter 5 of this document is incorporated by reference into Rules Section 5 (1), Section 10 (7), and Section 13 (1).

Section 5.5 of this document is incorporated by reference into Rule Section 9 (2).

Section 5.13 of this document is incorporated by reference into Rule Section 13 (2).

Section 5.14 of this document is incorporated by reference into Rule Section 13 (3).

Chapter 5, Appendix A of this document is incorporated by reference into Rule Section 2.

Chapter 5, Appendix D of this document is incorporated by reference into Rules Section 5 (3) and Section 13 (1).

Chapter 5, Appendix E of this document is incorporated by reference into Rules Section 3(4)(b).

(b) 40 CFR Parts 141.21(c) and (f), 141.23(k), 141.24(e), 141.24(f)(17) and (20), 141.24(h)(13) and (19), 141.25, 141.27, 141.30(e), 141.40(g), 141.40(n)(11) and (12), 141.74(a), 141.86(b), 141.89, 141.142(b), and 141.143(b), all revised as of July 1, 1997, or most recently approved and accepted revision, incorporated by reference into Rules Section 3 (4)(a), Section 3 (4)(b), Section 5 (6)(a), Section 5 (6)(b), Section 5 (5), and Section 9 (2). A copy of these regulations may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the price of $41.

(c) 40 CFR Part 143.4(b), revised as of July 1, 1997, or most recently approved and accepted revision, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(d) 40 CFR Part 146.68(a), revised as of July 1, 1997, or most recently approved and accepted revision, incorporated by reference into Rule Section 9 (2).

(e) "Standard Methods for the Examination of Water and Wastewater," 18th Edition, or most recently approved and accepted revision, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1991, incorporated by reference into Rules Section 3 (4)(a), and Section 5 (5).

(f) "Methods for the Chemical Analysis of Water and Wastes," EPA-600/4-79-020, revised March 1983, or most recently approved and accepted revision, incorporated by

reference into Rules Section 3 (4)(a), and Section 5 (5).

(g) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," November 1986; Update I, July 1992; Update II, September 1994; Update IIA, August 1993; Update IIB, January 1995; and Update III, December 1996; SW-846, 3rd Edition, Volumes 1A-1C and 2, incorporated by reference into Rule and Section 5 (5).

(h) "Annual Book of ASTM Standards," Section 5 – Petroleum Products, Lubricants, and Fossil Fuels, and Section 11 – Water and Environmental Technology, American Society for Testing and Materials, 1994, or most recently approved and accepted revision, incorporated by reference into Rules Section 3 (4)(a), and Section 5 (5).

(i) "Methods for the Determination of Metals in Environmental Samples," EPA/600/4-91/010, June 1991, incorporated by reference into Rules Section 3 (4)(a), and Section 5 (5).

(j) "Methods for the Determination of Metals in Environmental Samples – Supplement I," EPA/600/R-94/111, May 1994, incorporated by reference into Rules Section 3 (4)(a), and Section 5 (5).

(k) "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600/R-93-100, August 1993, incorporated by reference into Section 3 (4)(a), and Section 5 (5).

(l) "Methods for the Determination of Organic Compounds in Drinking Water," EPA/600/4-88/039, revised July 1991, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(m) "Methods for the Determination of Organic Compounds in Drinking Water, Supplement I," EPA/600/4-90/020, July 1990, incorporated by reference into Rules Section 3

(4)(a) and Section 5 (5).

(n) "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA/600/R-92/129, August 1992, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(o) "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA/600/R-95/131, August 1995, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(p) EPA Method 1613, "Tetra- through Octa- Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS," Revision B, EPA 821-B-94-005, October 1994, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(q) "Methods for the Determination of Nonconventional Pesticides in Municipal and Industrial Waters," Volume I, EPA-821-R-93-010-A, August 1993, Revision 1, incorporated by reference into Rule Section 5 (5).

(r) EPA Method 100.1, "Analytical Method for Determination of Asbestos Fibers in Water," EPA-600/4-83-043, September 1983, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(s) EPA Method 100.2, "Determination of Asbestos Structures over 10 μm in Length in Drinking Water," EPA/600/R-94/134, June 1994, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(t) "Test Methods for Escherichia Coli in Drinking Water," EPA/600/4-91/016, July 1991, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(u) "Consensus Method for Determining Groundwaters Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)," EPA 910/9-92-029, October

1992, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(v) "ICR Sampling Manual," EPA 814-B-96-001, April 1996, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(w) "DBP/ICR Analytical Methods Manual," EPA 814-B-96-002, April 1996, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(x) "ICR Microbial Laboratory Manual," EPA 600/R-95/178, April 1996, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(y) "EPA Method 1600: Membrane Filter Test Method for Enterococci in Water," EPA-821-R-97-004, May 1997, incorporated by reference into Rule Section 5 (5).

(z) "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," EPA/600/4-90/027F, August 1993, incorporated by reference into Rule Section 5 (5).

(aa) "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms," EPA/600/4-91/002, July 1994, 3rd Edition, incorporated by reference into Rule Section 5 (5).

(bb) "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms," EPA/600/4-91/003, July 1994, 2nd Edition, incorporated by reference into Rule Section 5 (5).

(cc) "Interim Radiochemical Methodology for Drinking Water," EPA 600/4-75-008 (Revised), March 1976, incorporated by reference into Rules Section 3 (4)(a) and Section 5(5).

(dd) "Prescribed Procedures for Measurement of Radioactivity in Drinking Water," EPA-600/4-80-032, August 1980, incorporated by reference into Rules Section 3 (4)(a) and

Section 5 (5).

(ee) "Manual for the Certification of Laboratories Analyzing Drinking Water, Criteria and Procedures, Quality Assurance," 4th Edition, EPA 815-B-97-001, March 1997, or most recently approved and accepted revision, incorporated by reference into Rules Section 2 (11), Section 2 (13), Rules Section 3 (4)(a) and Section 5 (5).

(ff) "Technical Notes on Drinking Water Methods," EPA-600/R-94-173, October 1994, or most recently approved and accepted revision, incorporated by reference into Rules Section 3 (4)(a) and Section 5 (5).

(gg) 63 FR 18504, 4-15-98, incorporated by reference into Rule Section 5 (5).

(hh) "US EPA Contract Laboratory Program – Statement of Work for Organics Analysis," Document OLM01.0 plus Revisions OLM01.1, December 1990; OLM01.2, January 1991; OLM01.3, February 1991; OLM01.4, March 1991; OLM01.5, April 1991; and OLM01.6, June 1991; incorporated by reference into Rule Section 5 (5).

(ii) "US EPA Contract Laboratory Program – Statement of Work for Inorganics Analysis," Document ILM02.0, incorporated by reference into Rule Section 5 (5).

(jj) "Requirements for Nationwide Approval of New and Optionally Revised Methods for Inorganic and Organic Parameters in National Primary Drinking Water Regulations Monitoring," Revision 1.0, July 7, 1992, incorporated by reference into Rules Section 3 (4)(b) and Section 5 (5).

(kk) "Requirements for Nationwide Approval of New or Optionally Revised Methods for Total Coliforms, Fecal Coliforms, and/or E. Coli, in National Drinking Water Monitoring,"

Revision 1.2, June 30, 1992, incorporated by reference into Rules Section 3 (4)(b) and Section 5(5).

(ll) "Guidance on the Evaluation of Safe Drinking Water Act Compliance Monitoring Results from Performance-Based Methods," EPA Draft, January 14, 1994, incorporated by reference into Rules Section 3 (4)(b) and Section 5 (5).

(mm) "Guidelines Establishing Test Procedures for the Analysis of Pollutants: Flexibility in Existing Test Procedures and Streamlined Approach for Approving New Test Methods," 62 FR 14975, 3-28-97, incorporated by reference into Rule Section 5 (5).

(nn) "Performance Based Measurement System," 62 FR 52098, 10-6-97, incorporated by reference into Rule Section 5 (5).

(oo) ISO Guide 25, "General Requirements for the Competence of Calibration and Testing Laboratories," 1990, incorporated by reference into Rule Section 5 (1).

(pp) "National Environmental Laboratory Accreditation Program Analyte Sheet," Form AS0001, (revision date) , or most recently approved and accepted revision, incorporated by reference into Rule Section 12 (2).

(qq) "Application for Certification of Environmental Testing Laboratories," Form AP0001, (revision date), or most recently approved and accepted revision, incorporated by reference into Rules Section 6 (1) and Section 7 (2)(b).

(rr) "NELAP Testing Laboratory Certificate," Form NPC0001, (revision date), or most recently approved and accepted revision, incorporated by reference into Rule Section 12 (1).

(ss) "Renewal Attestation of Compliance," Form R0001, (revision date), or most recently approved and accepted revision, incorporated by reference into Rule Section 11 (1).

(tt) "Environmental Testing Laboratory Renewal Invoice," Form INV0001, (revision date), or most recently approved and accepted revision, incorporated by reference into Rule

Section 11 (1).

(uu) "Statement of Deficiencies and Plan of Correction," Form SOD/POC 0001, (revision date), or most recently approved and accepted revision, incorporated by reference into Rules Section 10 (8) and Section 14 (1)(n).

(vv) "Handbook for Analytical Quality Control in Water and Wastewater Laboratories," EPA/600/4-79/019, March 1979, incorporated by reference into Rule Section 10 (4).

(ww) "EPA Method 1664: N-Hexane Extractable Material (HEM) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM) by Extraction and Gravimetry (Oil and Grease and Total Petroleum Hydrocarbons)," EPA-821-B-94-004b, April 1995, incorporated by reference into Rule Section 5 (5).

In the event specific considerations written in this document conflict with any of the referenced documents, this document and reference a) will take precedence. If any reference, other than 40 CFR 141 through 40 CFR 149, adopted by reference in these rules is revised, the state board of health will review the revision to determine its suitability for this state. If the board determines that the revision is not suitable for this state, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the board does not revise its determination, the board will give notice that the revision is not suitable for the state within 30 days after the hearing. If the board does not give such notice, the revision becomes part of the publication adopted by reference in these rules. Revisions of 40 CFR 141 through 40 CFR 149 are accepted in accordance with the Safe Drinking Water Act.

Specific Authority: _____

Law Implemented: _____

History: New_____

Section 2 Definitions.

In addition to the definitions set forth in NRS 439.200 and 445A.863 in NAC 445A.450, and in Chapter 5, Appendix B of the National Environmental Laboratory Accreditation Conference (NELAC) Standards adopted by reference herein, as used in this Rule, the following terms shall mean:

(1) EPA – means the United States Environmental Protection Agency.

(2) (a) Environmental Sample – means a sample from any natural source, or a source that reasonably may be expected to contribute pollution to or receive pollution from the atmosphere, drinking water supplies, groundwaters, surface waters, soils and sediments, or ecosystem biota of the state.

(b) This environmental sample includes, for example: ambient air, air emissions from point sources, drinking water, receiving waters, waters used to define natural background conditions, soils, sediments, industrial, domestic, or municipal discharge effluents, samples from chemical storage or handling facilities, waste disposal facilities or areas, and industrial or agricultural chemical handling or application areas (such as hazardous waste), surface water runoff, and samples from facilities for handling or applying of chemicals for weed or insect control.

(3) Principal State Laboratory – means the primary laboratory that has been certified by the US EPA for performance of chemical, microbiological, and radiochemical analyses of drinking water.

(4) Local Laboratory – means any federal, state, county, city, utility or commercial laboratory certified under this rule for performance of chemical, microbiological or

radiochemical analyses of environmental samples.

(5) Commercial Laboratory – means a local laboratory which is not operated by a federal, state, county, city or public utility that performs environmental sample analyses on a fee or contract basis.

(6) Certification – means regulatory recognition given to local laboratory that performs analyses pursuant to various environmental monitoring regulations, meets minimum analytical performance standards, and meets other requirements as set forth in this rule.

(7) Decertification – means revocation or suspension of certification for one or more of the reasons indicated in Rule 445A – 1.014.

(8) Recertification – means reinstatement of certification following correction of the deficiencies for which the laboratory was decertified.

(9) Renewal – means reissuing of certification to a local laboratory.

(10) Category of Certification – means the collection and organization within successive tiers of testing as defined in Section 1.9.1 and Figure 1-3 of the NELAC Standards, which are adopted by reference herein. The laboratory must select at least one method and analyte from Tiers IV and V in Rule 445A – 1.003, in order to attain certification that is nationally recognized. The categories are organized such that the Nevada State Health Division may collect fees sufficient to meet the costs of administering the certification program and may administer the certification criteria as consistently, efficiently, and inexpensively as possible.

(11) Analyst – means a chemist, microbiologist, physicist, or technician qualified by academic training and experience as stated in the "Manual for the Certification of Laboratories Analyzing Drinking Water, Criteria and Procedures, Quality Assurance," 4th Edition, US EPA, 815-B-97-001, March 1997 or most recently approved and accepted edition,

adopted by reference herein, who actually performs tests or participates in testing with other qualified personnel.

(12) Analyte – means the particular compound, element, radical, isotope, characteristic, contaminant, mixture, organism, species, or condition for which the environmental sample is being tested.

(13) Director, Supervisor, or Consultant – means the responsible party of record qualified according to Section 4.1.1 of the NELAC Standards, adopted herein by reference, or a chemist, microbiologist, physicist or professional scientist qualified by academic training and experience as stated in the "Manual for the Certification of Laboratories Analyzing Drinking Water, Criteria and Procedures, Quality Assurance," 4th Edition, EPA, 815-B-97-001, March 1997, or most recently approved and accepted edition, also adopted herein by reference, to administer the technical and scientific operations of the laboratory, including the supervising of testing procedures and reporting of results.

(14) Approved Testing Methods – means the laboratory or field procedures in Tier IV that have been approved for testing environmental samples and that shall be required for certification under these rules.

(15) Field Testing – means the sampling, analysis, or other testing operation occurring in the same premises as where the environmental sample is obtained.

(16) NELAC Standards – means the consensus standards developed for testing laboratory performance and accrediting authority decisions, adopted at the National Environmental Laboratory Accreditation Conference and contained within the document EPA 600/R-97/139, July 1998, which is adopted by reference herein.

(17) Quality Control Sample – means an uncontaminated environmental sample type spiked with known amounts of analytes and analyzed to assess laboratory performance of a particular test method.

The NELAC Standards are adopted by reference herein.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 3 Scope of Accreditation.

Under the NELAC Standards, the tiers of laboratory testing and field sampling are described below. The first tiers contain more general requirements for accreditation, and each successive tier contains additional requirements to demonstrate capability in more specific fields of sampling or testing.

(1) Tier I: Legal Identity and Mission

(a) Laboratory Testing

(b) Field Sampling

(2) Tier II: Testing Capability – the general scientific discipline of testing within each business Mission identified in Tier I.

(a) Chemistry

(b) Biology

(c) Radiochemistry

(d) Field Testing

(e) Microscopy and Microbiology

(3) Tier III: Regulatory Program – the sampling and testing protocols and Quality

Assurance procedures for each Testing Capability identified in Tier II, which are required for compliance with the specified environmental monitoring regulations. The following Regulatory Program is addressed:

(a) Safe Drinking Water Act (SDWA) – 40 CFR Parts 141 through 149.

(4) Tier IV: Test Methods – the approved laboratory testing procedures within the Regulatory Programs identified in Tier III, as follows:

(a) SDWA – The approved test methods are found or referenced in:

1. 40 CFR Parts 141.21(f), 141.23(k)(1), 141.24(e), 141.25(a), and (b), 141.40(n)(11), 141.74(a), 141.142(b), and 141.143(b), all revised as of July 1, 1997, or most recently approved and accepted revision,

2. 40 CFR Part 143.4(b), revised as of July 1, 1997, or most recently approved and accepted revision,

3. "Methods for the Determination of Organic Compounds in Drinking Water," EPA/600/4-88/039, revised July 1991,

4. "Methods for the Determination of Organic Compounds in Drinking Water, Supplement I," EPA/600/4-90/020, July 1990,

5. "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA/600/R-92/129, August 1992,

6. "Test Methods for Escherichia Coli in Drinking Water," EPA/600/4-91/016, July 1991,

7. "Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, revised March 1983,

8. "Standard Methods for the Examination of Water and Wastewater," 18th Edition, or most recently approved and accepted revision, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1991,

9. "Consensus Method for Determining Groundwaters Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)," EPA 910/9-92-029, October 1992,

10. "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA/600/R-95/131, August 1995,

11. EPA Method 1613, "Tetra- through Octa- Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS," Revision B, EPA 821-B-94-005, October 1994,

12. "Methods for the Determination of Metals in Environmental Samples," EPA/600/4-91/010, June 1991,

13. "Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA/600/R-94/111, May 1994,

14. "Interim Radiochemical Methodology for Drinking Water," EPA 600/4-75-008 (Revised), March 1976,

15. "Prescribed Procedures for Measurement of Radioactivity in Drinking Water," EPA-600/4-80-032, August 1980,

16. "Annual Book of ASTM Standards," Section 5 – Petroleum Products, Lubricants, and Fossil Fuels, and Section 11 – Water and Environmental Technology, American Society for Testing and Materials, 1994, or most recently approved and accepted revision,

17. "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600/R-93-100, August 1993,

18. EPA Method 100.1, "Analytical Method for Determination of Asbestos Fibers in Water," EPA-600/4-83-043, September 1983,

19. EPA Method 100.2, "Determination of Asbestos Structures Over 10-μm in Length in Drinking Water," EPA/600/R-94/134, June 1994,

20. "Technical Notes on Drinking Water Methods," EPA-600/R-94-173, October 1994, or most recently approved and accepted revision,

21. "Manual for the Certification of Laboratories Analyzing Drinking Water, Criteria and Procedures, Quality Assurance," 4th Edition, EPA 815-B-97-001, March 1997, or most recently approved and accepted revision,

22. "ICR Sampling Manual," EPA 814-B -96-001, April 1996,

23. "DBP/ICR Analytical Methods Manual," EPA 814-B-96-002, April 1996, and

24. "ICR Microbial Laboratory Manual," EPA 600/R-95/178, April 1996.

Each of these documents is incorporated by reference into this Rule.

(b) Alternate test methods for SDWA may be used if they are documented; evaluated for satisfactory performance according to:

1. Chapter 5, Appendix E of the NELAC Standards, revised as of July 1, 1998, or most recently approved and accepted revision,

2. "Requirements for Nationwide Approval of New and Optionally Revised Methods for Inorganic and Organic Parameters in National Primary Drinking Water Regulations

Monitoring," Revision 1.0, July 7, 1992,

3. "Requirements for Nationwide Approval of New or Optionally Revised Methods for Total Coliforms, Fecal Coliforms, and/or E. Coli, in National Drinking Water Monitoring," Revision 1.2, June 30, 1992,

4. "Guidance on the Evaluation of Safe Drinking Water Act Compliance Monitoring Results from Performance-Based Methods," EPA Draft, January 14, 1994, or

5. 40 CFR Part 141.27, revised as of July 1, 1997, or most recently approved and accepted revision; and listed in the Federal Register as equally effective to the approved test methods. Each of these documents is adopted by reference herein.

(5) Tier V: Analytes – the specific contaminants within each Test Method identified in Tier IV, which are determined in order to assess process efficacy, environmental or health impacts, regulatory compliance, or the general condition of defined systems. The analyte must be listed in the approved test method, for a testing laboratory to be certified for the analyte with that method.

Specific Authority: _____

Law Implemented: _____

History: New_____

Section 4 Categories of Certification.

The categories of certification covered by this rule include those parameters outlined in Section 3. The analytes are grouped in the following categories for billing and performance evaluations:

(1) Primary Inorganic Contaminants (parameters for which enforceable standards have been given).

(2) Secondary Inorganic Contaminants (parameters for which guidelines regarding aesthetic effects have been given).

(3) Regulated and Unregulated Volatile Organic Contaminants, including Trihalomethanes.

(4) Regulated and Unregulated Synthetic Organic Contaminants.

(5) Radiochemical Contaminants.

(6) Individual Primary or Secondary Inorganic Contaminants.

(7) Microbiology Parameters

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 5 Laboratory Certification Criteria.

(1) To be certified for Laboratory Testing (Tier I), a laboratory shall meet the general requirements specified in the following NELAC Standards:

Section 1.9.3 – General Laboratory Requirements

Section 4.1.1 – Personnel Qualification

Section 5.0 – Introduction

Section 5.1 – Scope (of Quality System)

Section 5.4 – Organization and Management

Section 5.5 – Quality System

Section 5.6 – Personnel

Section 5.7 – Physical Facilities

Section 5.8 – Equipment and Reference Materials

Section 5.9 – Measurement Traceability and Calibration

Section 5.10 – Test Methods and Standard Operating Procedures

Section 5.11 – Sample Handling, Acceptance Policy, and Receipt

Section 5.12 – Records

Section 5.13 – Report Format and Contents

Section 5.14 – Subcontracting Samples

Section 5.15 – Outside Support Services and Supplies

Section 5.16 – Complaints

The above NELAC standards are adopted by reference herein and patterned after ISO Guide 25, which is also adopted by reference herein.

(2) To be certified for Field Sampling (Tier I), a laboratory must meet the requirements specified in Section 1.9.4 of the NELAC Standards, which is adopted herein by reference.

(3) To be certified for the Chemistry, Microbiology and Microscopy, Biology, Radiochemistry, or Field Measurement Testing Capabilities (Tier II), a laboratory shall meet the requirements specified in the following NELAC standards, adopted herein by reference:

(a) Section 1.9.5 and Chapter 5, Appendix D.1 for Chemistry testing.

(b) Section 1.9.7 and Chapter 5, Appendix D.3 for Microbiology testing.

(c) Section 1.9.8 and Chapter 5, Appendix D.4 for Radiochemistry testing.

(d) Section 1.9.9 for Microscopy Testing.

(e) Section 1.9.10 for Field Measurement Testing

(4) To be certified under the SDWA Regulatory Program (Tier III):

(a) A laboratory must comply with method detection limit, sample container, holding time, proficiency, testing according to approved methods, and other quality assurance

requirements in 40 CFR Parts 141.21(c), 141.21(f), 141.23(k), 141.24(e), 141.24(f)(17) and (20), 141.24(h)(13) and (19), 141.25, 141.30(e), 141.40(g), 141.40(n)(11) and (12), 141.74(a), and 141.89, all revised as of July 1, 1997, or most recently approved and accepted revision, and adopted by reference herein.

(b) Field sampling organizations must collect tap water samples for Lead and Copper according to the requirements in 40 CFR Part 141.86(b), revised as of July 1, 1997 and adopted by reference herein.

(5) To be certified for specific approved Test Methods (Tier IV), the laboratory shall comply with the requirements in each approved test method and the corresponding NELAC standards. The NELAC Standards shall take precedence in those cases where conflicting requirements exist. The laboratory shall also comply with the manufacturer's instructions for maintaining and tuning each test equipment, optimizing test performance, and demonstrating measurement system performance. However, the corresponding test methods and NELAC standards take precedence and shall be followed where conflicts exist. All approved Test Methods and NELAC Standards plus provisions for allowing the use of Alternate Test Procedures or Performance-Based Measurement Systems, are contained within the documents cited in Rule Section 3 and adopted herein by reference.

(6) A laboratory using an Alternate Test Procedure or Performance-Based Measurement System in Tier IV shall submit to the Nevada Division of Health, Bureau of Licensure and Certification a written copy of the alternate test method prior to the on-site inspection of that laboratory. An alternate test method can be approved only if it is equivalent to or better than the approved Test Method in meeting defined objectives for accuracy, precision, completeness and comparability, in relation to the determining compliance with any regulatory

concentration levels or system conditions, or if no approved Test Method is available for the requested sample analysis. Use of alternate methods may require written approval from the EPA or publication in the Federal Register.

(7) To be certified for specific Analytes (Tier V) within each approved Test Method, the laboratory shall comply with the test method requirements and corresponding NELAC standards for initial and on-going test equipment calibrations and analyst demonstrations of precision, accuracy, and sensitivity for each analyte. The NELAC standards shall take precedence in those cases where conflicting requirements exist.

(8) The lack of requirements for analytical testing to be performed only by laboratories certified pursuant of these Rules does not diminish or negate requirements in other Rules regarding personnel, methodology, proficiency testing, quality assurance, or other requirements for data acceptability as promulgated therein.

(9) Each laboratory may at its own discretion elect to participate or not participate in the NELAP certification program. The two types of environmental laboratory certification are as follows:

(a) Nevada State Certification

1) This certification requires all aspects of the certification program outlined in this rule. It requires on-site survey by Nevada Certification Officers unless the laboratory is located within another state with which Nevada shares a reciprocity agreement.

2) Laboratories obtaining Nevada State Certification may provide analytical data of environmental samples originating in Nevada for certified regulated analytes.

3) Fees related to the certification of these laboratories are presented in the fee schedule in section 17.

(b) NELAP Certification

1) This certification requires all aspects of the certification program outlined in this rule and further requires the participation of NELAC approved certification officer(s) at site surveys.

2) Laboratories obtaining NELAP certification will have automatic reciprocity with other States which participate in NELAP certification.

3) Laboratories participating in NELAP certification will require site survey(s) by Nevada State Certification and NELAP certification officers, but they will not be required to have site surveys from other NELAP participating states. If Nevada certification officers are NELAP accredited, a single site survey will satisfy the NEVADA and NELAP certification requirement.

4) Nevada fees related to the certification of these laboratories are presented in the fee schedule in section 17. Other states in which the laboratory may wish to do business may also charge participation fees. Nevada will charge a participation fee for out-of-state laboratories according to the schedule presented in Section 17.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 6 Certification Requirements.

(1) An application for certification shall be made in writing to the Bureau of Licensure and Certification, accompanied by the application fee, and shall contain at least the information listed in Sections 4.1.7 and 4.1.9 of the NELAC Standards, adopted by reference herein. Laboratories desiring NELAP certification will use the NELAC Form AP0001 ,

"Application for Accreditation of Environmental Testing Laboratories under NELAP," (revision date), or most recently approved and accepted revision, which is also adopted by reference herein. Laboratories desiring Nevada State certification will use the Nevada State application form.

(2) Separate application and certification shall be required for all laboratories maintained on separate premises even though operated under the same management; however, separate certification is not required for separate buildings on the same or adjoining grounds or within the same city if it can be demonstrated to the certification officer that each section of the facility works upon the same sample sets and reports from a common office.

(3) The laboratory shall report in writing to the Bureau of Licensure and Certification within 30 days all changes in laboratory name, ownership, location, personnel, methodology or any other factor consistent with the information in Sections 4.1.8 and 4.3.2 of the NELAC Standards, adopted herein by reference, that significantly affect the performance of analyses for which the laboratory was originally certified.

(4) Not withstanding any other errors or omissions, an application is not completed until the laboratory has fulfilled all of the following requirements:

(a) The application reviewed by the Bureau of Licensure and Certification was found to request approved methods as required in Rule Section 3.

(b) Proficiency samples are successfully analyzed, if available, from a NELAC-compliant proficiency test sample provider, as required in Rule Section 8.

(c) A written Quality Assurance Manual has been prepared as required in Rule Section 9.

(d) An on-site laboratory inspection has been conducted for the test methods and analytes for which the laboratory is seeking certification, as required in Rule Section 10.

(e) Certification fees are paid as required in Rule Section 17.

(f) The laboratory's Director, Supervisor, or Consultant was found to be qualified according to Rule Section 2 (13).

(g) The laboratory responds in writing to each deficiency noted in the on-site inspection report with an acceptable plan of correction and completion date, as required in Rule Section 10.

(5) Applications for certification not completed within one year from the date received by the Bureau of Licensure and Certification shall expire, and certification shall be denied unless extenuating circumstances are communicated in writing and an extension is granted.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 7 Certification of Out-Of-State Laboratories.

(1) The Bureau of Licensure and Certification shall certify an out-of-state laboratory to perform SDWA analyses provided that the laboratory complies with all the requirements in this rule.

(2) An out-of-state laboratory may be eligible for reciprocal certification to perform SDWA sample analyses provided:

(a) The laboratory is certified by a state recognized as a NELAP Accrediting Authority for those scientific disciplines and regulatory programs in which the laboratory is requesting certification pursuant to this Rule.

(b) The laboratory submits to the Bureau of Licensure and Certification an application on Form AP0001, which is adopted herein by reference, copies of the laboratory's three most

recent proficiency test results demonstrating compliance with Rule Section 8, and the fees required by Rule Section 17.

(c) The laboratory complies with the requirements of Rule Section 5, and

(d) The laboratory submits to the Bureau of Licensure and Certification a copy of its most recent (less than 2 years old) on-site inspection report from the Accrediting Authority or from the Accrediting Authority's delegated Assessor Body, the laboratory's response to the audit report, together with a current copy of the laboratory's certification; a listing of the categories, analytes, and test methods certified; and the Accrediting Authority's rules and regulations regarding laboratory certification.

(3) If upon review of the documents listed in section (2) above the Bureau of Licensure and Certification determines that the out-of-state certification program is equivalent to the requirements of this Rule, the Bureau of Licensure and Certification will not require an on-site survey by its inspectors and certification may be granted; providing the home state is either participating in NELAP certification or will accept analytical data from Nevada laboratories upon the same basis, and after the assessed certification fees are paid.

(4) If upon review of the documents listed in section (2) above the Bureau of Licensure and Certification is unable to determine that the out-of-state certification program is equivalent to the requirements of this Rule, then, in addition to the requirements in paragraphs (2)(b) and (2)(c) above, the Bureau of Licensure and Certification shall conduct an on-site inspection of the laboratory. The laboratory will be responsible for the cost of the on-site inspection.

(a) The Bureau of Licensure and Certification may grant certification if the results of the inspection verify compliance with this Rule and after the invoiced certification fees and

on-site inspection expenses are paid.

(b) If the results of the on-site survey do not indicate the laboratory's compliance with the requirements of this Rule, the laboratory's application for certification will be denied.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 8 Proficiency Testing Requirements.

(1) Applicant and certified laboratories shall participate in a proficiency testing program from a provider approved as being compliant with Chapter 2 of the NELAC standards, which is adopted by reference herein. Participation means that the laboratory will analyze and report to the approved provider the results of all proficiency test samples contained in the approved program for those categories and analytes with which the laboratory desires and maintains certification. Certified laboratories shall participate in proficiency testing at least twice per year for all categories and analytes certified, if available.

(2) Laboratories shall bear the cost of any subscription to a proficiency testing program required by the Bureau of Licensure and Certification for certification purposes.

(3) All analytes within each regulatory program that are certified or pending certification must be satisfactorily analyzed, if available, on two of the most recent three proficiency testing rounds attempted. A laboratory may participate in successive testing rounds where the closing dates for reporting results are greater than 30 days but less than 6 months apart. The laboratory must authorize the approved provider, prior to the testing round closing date, to submit the proficiency testing results to the Bureau of Licensure and Certification concurrently with the submittal of these results to the laboratory' otherwise, the Bureau may

refuse to consider the proficiency test results from that round for fulfilling the requirements of this Rule.

(4) Proficiency test sample results shall be considered satisfactory when they are within the acceptance limits establish by the approved proficiency test sample provider, according to one of the scoring options listed in Chapter 2, Appendix C of the NELAC Standards, which is herein adopted by reference.

(5) A laboratory that meets the requirements of subsection (3) above for a particular analyte is eligible for certification for all pending test methods for that analyte provided validation data are available for each method used. If validation data are not available for any of the test methods associated with the analyte, certification shall be denied or revoked for that method..

If the two failed proficiency results do not occur on consecutive testing round attempts, then certification shall be reinstated for the same test methods revoked when the laboratory has analyzed one follow-up proficiency test sample, approved beforehand by the Bureau of Licensure and Certification, for each affected analyte and produced results within the acceptance limits established by the approved provider.

(6) If a laboratory loses certification for an analyte because it failed proficiency samples on two consecutive testing round attempts, the laboratory must satisfactorily analyze the analyte in the next two testing round attempts and submit another application and application fee to the Bureau of Licensure and Certification. If these requirements are fulfilled, the Bureau will reinstate certification for the analyte with the same test methods that were previously revoked. Otherwise, an on-site laboratory inspection will be required prior to reinstating certification, as would be required for any other pending test method and analyte.

(7) An applicant or certified laboratory shall establish and maintain the accuracy and reliability of its testing procedures for analytes not available in an approved proficiency testing program through a system of internal quality management.

(8) A certified laboratory shall comply with the other requirements for enrollment, testing, proper conduct, and successful participation in the approved proficiency testing program, as specified in Sections 2.4, 2.5, and 2.7 of the NELAC Standards, which are all adopted by reference herein.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 9 Quality Manual Requirements.

(1) The laboratory shall prepare and follow a written quality assurance plan. This Quality Manual shall be submitted to the Bureau of Licensure and Certification for review prior to the on-site inspection of the laboratory.

(2) All Quality Manuals submitted to the Bureau of Licensure and Certification for review shall comply with the specifications in Section 5.5 of the NELAC Standards and in the regulations referenced in Rules Section 5 (3) and Section 4 for Regulatory Programs, which are incorporated by reference herein. The Quality Manual must cite the laboratory's objectives for sensitivity, precision, and accuracy for each pending and certified analyte and test method. Additionally the Quality Manual must address the laboratory's policy concerning improper data manipulation or fraudulent activity.

(3) A copy of the written Quality Manual, analytical methods, quality control data, proficiency test data, and other records documenting compliance with these Rules shall be

available at the laboratory during the on-site inspection.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 10 On-Site Laboratory Assessments.

(1) The Bureau of Licensure and Certification is authorized to inspect the premises and operations of any certified laboratory or any laboratory seeking certification or change in certification under this Rule. After completion of all prerequisites specified in Rules Section 6 (4)(a) through Section 6 (4)(c), the Bureau of Licensure and Certification shall conduct the on-site inspection of the laboratory to determine compliance with all the requirements in this Rule.

(2) The Bureau of Licensure and Certification shall inspect the premises and operations of laboratories certified or seeking certification to perform analyses pursuant to this Rule. Such inspections shall occur at least once every 2 calendar years and at such other times as the Bureau of Licensure and Certification deems necessary to determine continued compliance with this Rule. Inspections may be unannounced and may include the on-site analysis of proficiency test samples as well as the photocopying, photographing, or videotaping of any portion of the laboratory, equipment, activity, samples in custody, records, test results, or other information related to certification under this Rule.

(3) Inspections will be announced except in those cases in which the Bureau of Licensure and Certification determines an alternate approach necessary to establish compliance. Factors such as past record, proficiency test performance, personnel, overall laboratory performance, and complaints from the public or other regulatory agencies will be considered

in making this determination.

(4) On-site inspections shall be conducted in accordance with Sections 3.4 – 3.7 of the NELAC Standards, which are adopted herein by reference. Laboratories analyzing drinking water samples shall be inspected according to the criteria in the Manual for the certification of Laboratories Analyzing Drinking Water, Criteria and Procedures, Quality Assurance," 4th Edition, EPA 815-B-97-001, March 1997, or most recently approved and accepted revision, adopted by reference herein. Inspections will include the review of quality control data. The laboratory shall analyze at least one Quality Control Sample annually for each certified analyte and methodology.

(5) Inspections of a laboratory may occur more frequently than once every two calendar years when there are complaints about the laboratory quality, questions of fraud, numerous or serious deficiencies from the previous on-site inspection, any of the changes noted in Rule Section 6 (3), or any other criteria in Section 3.3 of the NELAC Standards, which is adopted by reference herein.

(6) Inspections will include the on-site analysis of proficiency test samples when the Bureau of Licensure and Certification is unable to determine compliance using more conventional methods.

(7) The laboratory shall ensure that its documented Quality System, analytical methods, quality control data, proficiency test data, laboratory standard operating procedures, and other records needed to verify compliance with Chapter 5 of the NELAC Standards, adopted by reference herein, and this Rule are available for review during the on-site laboratory inspection. The laboratory shall allow the Department's authorized personnel to examine records; observe the laboratory's procedures, facilities, and equipment; and interview staff as

necessary to determine such compliance.

(8) The laboratory shall submit to the Bureau of Licensure and Certification a Plan of Correction for each deficiency noted during the on-site evaluation. Form SOD/POC0001, "Statement of Deficiencies and Plan of Correction," (revision date) , or most recently approved and accepted revision, is herein incorporated by reference. This submittal is due within 30 days of the laboratory receiving the inspection report, Form SOD/POC0001 must be returned to the Bureau within this timeframe with the date and original signature of the laboratory responsible official, and each Plan of Correction must have an estimated completion date. If the Bureau determines that a Plan of Correction will not correct the deficiency cited, the laboratory will be notified in writing and will have 30 days to submit a revised Plan of Correction. If this revised Plan of Correction is unacceptable, or if the next on-site inspection of the laboratory shows that the deficiency has not been corrected, the Bureau of Licensure and Certification shall revoke or deny certification for the affected tiers of accreditation.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 11 Renewal of Annual Certification.

(1) The Bureau of Licensure and Certification will renew a laboratory's certification after return of a renewal invoice on Form R0001 and receipt of the renewal certification fee, provided the laboratory is maintaining compliance with these Rules, attests to such compliance on Form R0001, and has reported acceptable proficiency test values for the categories and analytes certified within the 12 months prior to July 1 of each calendar year.

The Renewal Attestation of Compliance, Form R0001, (revision date), or most recently approved and accepted revision, and Environmental Testing Laboratory Renewal Invoice, Form INV0001, (revision date), or most recently approved and accepted revision, are both herein adopted by reference.

(2) A laboratory's certification shall expire on June 30 of each calendar year, unless its certification has been renewed.

(3) The Bureau of Licensure and Certification will mail the renewal invoices and attestation forms at least 30 days prior to June 30. Failure to receive a renewal invoice does not exempt laboratories from paying the renewal certification fee.

(4) A laboratory whose certification has expired may reapply for certification in accordance with Rule Section 6 (1).

(5) The certified laboratory shall maintain all key accreditation elements, such as facilities, equipment, quality system documents, personnel qualifications, standards, sample handling procedures, and other elements in Section 4.3.3 of the NELAC Standards, herein adopted by reference, that originally served as the basis for the laboratory's initial certification.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 12 Display of Certificate.

(1) A current certificate shall be displayed at all times in a prominent place in each

certified laboratory where it may be viewed by the public. Depending upon the program in which the laboratory elects to participate, the certificate may be the Nevada State Environmental Laboratory Certification Form or Form NPC0001, "NELAP Testing Laboratory Certificate," which is adopted by reference herein. The certificate is the property of the Bureau of Licensure and Certification and must be returned to the Bureau if the laboratory's certification is revoked, if the laboratory withdraws from the certification program, or if the Bureau's status as a NELAP Accrediting Authority changes.

(2) The certified laboratory shall also receive an Analyte Sheet that shows all categories, analytes, and test methods for which the laboratory is certified. The Analyte Sheet will be updated each time the laboratory's scope of certification has changed. Form AS0001, (revision date), or most recently approved and accepted revision, "National Environmental Laboratory Accreditation Program Analyte Sheet," is adopted by reference herein.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 13 Contractual Agreements, Records, and Reports.

(1) Laboratories performing analytical work under certification auspices shall guarantee analytical performance according to Chapter 5, Appendix D of the NELAC Standards, adopted by reference herein, for those analytes and test methods with which they have been certified. Each certified laboratory shall maintain the documentation required in Chapter 5 of the NELAC Standards, adopted by reference herein, for at least 5 years.

(2) For reporting of results, the laboratory shall comply with the laboratory report format and content requirements in Section 5.13 of the NELAC Standards, herein adopted by

reference.

(3) A laboratory may subcontract analytical work for those analytes, categories, and test methods which the laboratory is not certified to perform, provided that it advises the client in writing of its intention to subcontract a portion of the testing and fulfills the requirements of Section 5.14 of the NELAC Standards, adopted by reference herein. The primary laboratory is responsible for determining that the contracted laboratory has been certified pursuant to these Rules for the appropriate categories, test methods, and analytes for which it is being contracted to perform. Records at the primary laboratory shall include the sample analysis reports issued from each subcontract laboratory. All data reports issued by the primary laboratory that contain results reported by one or more contract laboratories shall include the certification number of each contract laboratory. The primary laboratory shall unambiguously identify in its reports which test results were produced from its laboratory analyses and the results obtained from each contract laboratory.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 14 Denial or Revocation of Certification.

(1) The Bureau of Licensure and Certification is authorized to deny, suspend, limit, or revoke the certification of any laboratory on any of the following grounds:

(a) Making false statements on an application, sample analysis report, or on any document associated with certification in violation of Rules Section 6, Section 7, and Section 13.

(b) Making consistent errors in field sampling or laboratory testing, or erroneous reporting, in violation of Rules Section 5 and Section 13.

(c) Falsifying the results of laboratory testing, or misrepresenting any information from field sampling that is critical for demonstrating regulatory compliance, in violation of Rules Section 5 and Section 13.

(d) Failing to employ approved sampling protocols or testing methods in the performance of laboratory activities for which certification is required, or failing to notify clients of method modifications, in violation of Rules Section 3 and Section 5.

(e) Failing to maintain facilities or equipment according to the laboratory's quality assurance plan, documented Quality System, approved test methods, or regulatory program mandates, in violation of Rules Section 5 and Section 9.

(f) Failing to report analytical test results in the required format, reporting results without using appropriate data qualifiers and without disclaiming certification auspices, or not maintaining required records of test results, in violation of Rules Section 5 and Section 13.

(g) Failing to participate successfully in an approved proficiency testing program when available, in violation of Rule Section 8.

(h) Failing to comply with the required quality assurance program, in violation of Rules Section 5 and Section 9.

(i) Violating or assisting in the violation of any provision of Rules Section 1 through Section 17.

(j) Falsely claiming certification credentials for those test methods and analytes with which the laboratory is not certified, in violation of Rule Section 13.

(k) Failing to correct deficiencies within the time indicated in the approved plan of correction, in violation of Rule Section 10 (8).

(l) Failing to pay initial certification or renewal certification fees or expenses incurred by the Bureau of Licensure and Certification as a result of inspecting an out-of-state laboratory as stipulated in Rule Section 17 (2,3,6) and in violation of Rule Section 7 (4).

(m) Failing to indicate clearly when analyses were subcontracted to a certified laboratory in violation of Rule Section 13 (2).

(n) Failing to respond with a plan of correction to deficiencies noted by the Bureau of Licensure and Certification on Form SOD/POC0001 within 30 days, in violation of Rule Section 10 (8). The Statement of Deficiencies and Plan of Correction, Form SOD/POC0001, (revision date), is herein adopted by reference.

(o) Failing to report to the Bureau of Licensure and Certification any of the changes stipulated in Rule Section 6 (3).

(p) Failing to analyze Quality Control Samples for each certified analyte and methodology annually in violation of Rule Section 10 (4).

(q) Permitting unqualified personnel to perform analyses in violation of Section 5 (1).

(r) Communicating and receiving communication about proficiency test sample results from any other participating laboratory of facility, prior to the closing date of the relevant study, in violation of Rule Section 8 (9).

(s) Knowingly receiving any portion of another participant's proficiency test sample, or sending any portion of a proficiency test sample to another laboratory or facility, prior to the closing date of the relevant proficiency study, in violation of Rule Section 8 (9).

(t) Failing to admit authorized Bureau of Licensure and Certification personnel into the laboratory facility for the on-site inspection, or failing to provide the information necessary to

determine compliance with all the requirements of these Rules, in violation of Rule Section 10.

(u) Committing other violations specified in Sections 4.1.4(d) and 4.4 of NELAC Standards, which are adopted by reference herein, or misrepresenting any material fact pertinent to receiving or maintaining certification.

(2) In determining the denial, revocation, suspension or limitation, the Bureau of Licensure and Certification will consider such factors as the gravity of the offense, the danger the offense poses to the public, the intent of the violation, the extent of the violation, and the proposed correction of the problem.

Specific Authority: _____

Law Implementation: _____

History: New _____

Section 15 Administrative Hearings.

(1) The Bureau of Licensure and Certification shall take agency action in accordance with NRS 439.200 and 445A.863 and shall afford a person whose substantial interests are affected an opportunity for an administrative hearing in accordance with NAC 439.

(2) The Bureau of Licensure and Certification is authorized to issue an emergency order immediately suspending the certification of a laboratory when it determines that any condition in the certified laboratory presents a clear and present danger to public health and safety.

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 16 Recertification.

(1) Recertification shall require submission of a new application as required for initial certification in Rule Section 6 (1), after the designated time period specified in Section 4.4 of the NELAC Standards, which is adopted herein by reference

Specific Authority: _____

Law Implemented: _____

History: New _____

Section 17 Fees.

(1) NRS 439.200 and 445A.863 authorizes the Bureau of Licensure and Certification to charge and collect fees for the evaluation and certification of laboratories pursuant to this rule.

(2) A nonrefundable application fee of $500 shall accompany each application. The Bureau of Licensure and Certification shall not retain this fee in circumstances where the application is not processed. A nonrefundable application/certification fee of $600 shall accompany each application for Microbiology Certification.

(3) In addition to the application processing fee, each laboratory shall pay to the Bureau of Licensure and Certification the following fees for the initial certification and annual renewal for each category of certification as follows:

Application to renew certification	***$ 500***
Initial fee or annual renewal fee for certification to analyze primary inorganic contaminants	***545***
Initial fee or annual renewal fee for certification to analyze secondary inorganic contaminants	***545***
Initial fee or annual renewal fee for certification	

to analyze regulated and unregulated volatile	
organic contaminants, including trihalomethanes	*545*
Initial fee or annual renewal fee for certification	
to analyze regulated and unregulated synthetic	
organic contaminants	*1,090*
Initial fee or annual renewal fee for certification	
to analyze Radiochemical contaminants	*545*
Annual fee for certification to analyze individual	
primary or secondary inorganic contaminants, or both	*200*
Annual renewal fee for Microbiology certification	*600*

(4) The initial or annual renewal fee for certification to analyze any chemical contaminant not listed in subsection (3) is $400 plus the per diem allowance and travel expenses provided for state officers generally for the persons who conduct the evaluations at the site of the laboratory that are required for certification.

(5) If an application for certification is received during the fiscal year, the fee required to be paid for analytical parameters will be prorated using the following formula:

Fee x 0.083 x (number of months remaining in the fiscal year)

The month in which the application is submitted will not be counted as a month remaining in the fiscal year. The prorated fee will be rounded to the next highest dollar. The Nevada fiscal year starts July 1 and ends June 30 of the following calendar year.

(6) The Bureau of Licensure and Certification shall assess the expenses it incurs as a

result of on-site inspection to the out-of-state laboratories, in addition to the application and certification fees in subsections (2) and (3).

(7) A fee for certification to analyze a particular contaminant must be paid before a certificate may be issued.

(8) Fees paid pursuant to this section are nonrefundable.

(9) (These fees are sufficient to meet the costs incurred by the Bureau of Licensure and Certification in administering this certification program under the NELAC Standards adopted by reference herein.)

Specific Authority: _____

Law Implemented: _____

History: New _____

PUBLIC WATER SYSTEMS

Water Quality

NAC 445A.452 Construction.

1. Nothing contained in NAC 445A.450 to ~~[445A.492]~~ ***445A.459 or NAC 445A.485 to*** 445A.492, inclusive, may be interpreted to circumvent any of those sections to make them less effective.

2. If more than one interpretation exists for a section, the more restrictive interpretation applies.

NAC 445A.4595 is hereby repealed

[**NAC 445A.4595 Certification of laboratories to analyze chemical contaminants: Maintenance and availability of information for certain samples.**

1. A laboratory certified to analyze chemical contaminants shall maintain the following information for any sample of a contaminant regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.:

(a) A log of those samples that includes, without limitation:

(1) The program under which a sample is submitted;

(2) The date and place for taking the sample;

(3) The analysis requested; and

(4) The person to whom the results of that analysis were reported;

(b) A log of the source and preparation of all reagents and the standards used to perform the approved methods of analysis;

(c) Information relating to the preparation of each sample that includes, without limitation, which reagents and standards were used to analyze a sample or batch of samples; and

(d) Information relating to the analysis of each sample that includes, without limitation:

(1) The laboratory and the names of the persons responsible for performing the analysis;

(2) The analytical techniques and methods performed;

(3) All data associated with the analysis, including data stored on a computer;

(4) All calculations associated with the analysis;

(5) All data relating to quality control associated with the analysis; and

(6) The final results reported.

2. The information required by subsection 1:

(a) May be kept at the site of the laboratory or may be retrievable through a central system for

maintaining records. If it is retrievable through such a system, it must be made available for review at the request of the Nevada laboratory certification officer.

(b) Must be made available for review at the laboratory at the request of the chemistry certification officer.

(c) Must be maintained and made available for review for at least 3 years.]

NAC 445A.460 is hereby repealed

[**NAC 445A.460 Certification of laboratories to analyze chemical contaminants: Bases.**

1. The certification of a laboratory to analyze chemical contaminants regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., must be based on:

(a) The laboratory's use of approved methods of analysis as set forth in the most recently published edition of 40 C.F.R. §§ 141.22 to 141.25, inclusive, 141.30, 141.40 to 141.42, inclusive, 141.74 and 141.89, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915;

(b) A satisfactory annual analysis of samples used to evaluate the laboratory's performance;

(c) The results of an evaluation conducted at the site of the laboratory pursuant to NAC 445A.469; and

(d) The payment of the applicable fees.

2. The state board of health hereby adopts by reference 40 C.F.R. §§ 141.22 to 141.25, inclusive, 141.30, 141.40 to 141.42, inclusive, 141.74 and 141.89. A copy of these regulations may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the price of $41. If any revision of these regulations is determined to be suitable for this state pursuant to NAC 445A.4915, a laboratory shall comply with the revised methods of analysis within 120 days after the effective date of the publication of

the revision.]

NAC 445A.461 is hereby repealed

[**NAC 445A.461 Certification of laboratories to analyze chemical contaminants: Submission and review of application; review of data used to evaluate performance of laboratory.**

1. For a laboratory to be certified to analyze chemical contaminants regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., the director of the laboratory must submit an application to the Nevada laboratory certification officer. The application must be submitted on a form provided by the Nevada laboratory certification officer.

2. The chemistry certification officer shall review each completed application that is received to determine whether the approved methods of analyzing drinking water are being used by the laboratory. Approved methods must be used for the analysis of a contaminant before certification may be granted.

3. The chemistry certification officer shall review data used to evaluate the performance of a laboratory using the criteria set forth in NAC 445A.462 to 445A.468, inclusive.

4. The chemistry certification officer may deny an application if it is not complete and may request verification of any information in the application, including, without limitation, the qualifications of persons employed by the laboratory and copies of school transcripts of those persons.]

NAC 445A.462 is hereby repealed

[**NAC 445A.462 Certification of laboratories to analyze certain primary organic and inorganic contaminants or trihalomethanes: Prerequisites.**

1. To be certified to analyze primary organic and inorganic contaminants, excluding volatile

organic contaminants, a laboratory must properly analyze the water supply performance evaluation samples provided by the Environmental Protection Agency for the evaluation of the laboratory's performance.

2. To be granted and maintain certification to analyze primary organic and inorganic contaminants, excluding volatile organic contaminants, a laboratory must analyze all levels of concentration of the contaminant provided pursuant to the acceptance criteria established by the Environmental Protection Agency in at least one sample set per 12-month period.

3. To be certified to analyze trihalomethanes, a laboratory must analyze chloroform and total trihalomethanes pursuant to the requirements set forth in subsection 2.]

NAC 445A.463 is hereby repealed

[**NAC 445A.463 Certification of laboratories to analyze certain primary organic and inorganic contaminants or trihalomethanes: Provisional certification; revocation.** If a laboratory that is certified to analyze a contaminant listed in NAC 445A.462 fails to analyze one or more levels of concentration for that contaminant in the current water supply performance evaluation samples pursuant to the acceptance criteria established by the Environmental Protection Agency, the laboratory's certification must be changed to a provisional certification for that contaminant. If, in the next available sample set, the laboratory fails to analyze one or more levels of concentration for that contaminant pursuant to the required acceptance criteria, the laboratory's certification for that contaminant must be revoked.]

NAC 445A.464 is hereby repealed

[**NAC 445A.464 Certification of laboratories to analyze volatile organic contaminants.**

1. To be certified to analyze volatile organic contaminants, a laboratory must properly

analyze the water supply performance evaluation samples provided by the Environmental Protection Agency for the evaluation of the laboratory's performance.

2. The board hereby adopts by reference the requirements for certification to analyze volatile organic contaminants as set forth in 40 C.F.R. § 141.24, as adopted pursuant to subsection 2 of NAC 445A.460.

3. To be issued and to maintain such certification, a laboratory must analyze the samples containing regulated volatile organic contaminants pursuant to the criteria established by the Environmental Protection Agency for all contaminants present, including those analyses reported pursuant to the criteria of the Environmental Protection Agency on the previous survey of the water supply performance evaluation samples.

4. If a laboratory that is certified fails to analyze the current water supply performance evaluation samples containing the regulated volatile organic contaminants pursuant to the criteria set forth in 40 C.F.R. § 141.24, as adopted pursuant to subsection 2 of NAC 445A.460, its certification must be changed to a provisional certification. If, in the next available sample set, the laboratory does not produce the data pursuant to the required criteria, the laboratory's certification to analyze volatile organic contaminants must be revoked.]

NAC 445A.465 is hereby repealed

[**NAC 445A.465 Certification of laboratories to analyze secondary contaminants: Prerequisites.**

1. To be certified to analyze secondary contaminants, a laboratory must properly analyze the water pollution performance evaluation samples provided by the Environmental Protection Agency for the evaluation of the laboratory's performance.

2. To be granted and maintain certification to analyze secondary contaminants, a laboratory

must analyze all levels of concentration of the contaminant pursuant to the warning limits criteria established by the Environmental Protection Agency in at least one sample set per 12-month period.]

NAC 445.466 is hereby repealed

[**NAC 445A.466 Certification of laboratories to analyze secondary contaminants: Provisional certification; revocation.** If a laboratory that is certified to analyze a secondary contaminant fails to analyze one or more levels of concentration for that contaminant pursuant to the warning limits criteria established by the Environmental Protection Agency, the laboratory's certification must be changed to a provisional certification for that contaminant. If, in the next available sample set, the laboratory fails to analyze one or more levels of concentration for that contaminant pursuant to the required criteria, the laboratory's certification for that contaminant must be revoked.]

NAC 445A.467 is hereby repealed

[**NAC 445A.467 Certification of laboratories to analyze radiochemical contaminants.**

1. To be certified to analyze radiochemical contaminants, a laboratory must properly analyze the intercomparison samples and blind samples provided by the Environmental Protection Agency for the evaluation of the laboratory's performance.

2. To be granted and maintain certification to analyze each radiochemical contaminant of interest, the laboratory must analyze two intercomparison samples and one blind sample pursuant to the acceptance criteria established by the Environmental Protection Agency per each 12-month period.

3. If a laboratory fails to evaluate a radiochemical contaminant pursuant to the requirements

set forth in this section, its certification for that contaminant must be changed to a provisional certification. If the laboratory fails to analyze the next available samples pursuant to the requirements set forth in this section, the laboratory's certification to analyze that contaminant must be revoked.]

NAC 445A.468 is hereby repealed

[**NAC 445A.468 Certification of laboratories to analyze chemical contaminants: Denial of application for or revocation of certification; recertification; appeal of action taken.**

1. In addition to the grounds set forth in chapter 445A of NRS and chapter 445A of NAC, an application for certification to analyze a chemical contaminant may be denied or the certification to analyze a chemical contaminant may be denied or the certification of a laboratory to analyze a chemical contaminant may be revoked if the laboratory:

(a) Fails or refuses to comply with any of the provisions of chapter 445A of NRS or NAC 445A.450 to 445A.682, inclusive;

(b) Submits a performance evaluation sample to another laboratory for analysis and reports the data received a its own;

(c) Falsifies data or engages in other deceptive practices;

(d) Reports data for a sample of a contaminant regulated by the Safe drinking Water Act, 42 U.S.C. §§ 300f et seq., for which the laboratory is not certified to analyze; or

(e) Operates or holds itself out as a properly certified laboratory after the certification of the laboratory has been revoked or before receiving certification to analyze a chemical contaminant.

2. If a laboratory's certification to analyze a chemical contaminant is revoked or is changed to a provisional certification for a contaminant, the Nevada laboratory certification officer shall send a written notice of the revocation or change to the owner or director of the laboratory, by

certified mail, within 20 days after the date the Nevada laboratory certification officer revokes or changes the certification.

3. A laboratory whose certification is revoked may not apply for recertification for 6 months after the date of the revocation. The laboratory may be recertified to analyze a chemical contaminant if it analyzes the contaminant pursuant to the applicable requirements set forth in NAC 445A.462 to 445A.467, inclusive.

4. Any applicant for certification to analyze a chemical contaminant or a properly certified laboratory that is aggrieved by an action of the chemistry certification officer or the Nevada laboratory certification officer may appeal that action in accordance with chapter 439 of NAC.]

NAC 445A.469 is hereby repealed

[**NAC 445A.469 Certification of laboratories to analyze chemical contaminants: Evaluation of laboratory before certification; provisional certification.**

1. Upon the receipt of a completed application, the chemistry certification officer shall conduct an evaluation at the site of each laboratory in this state that applies for certification pursuant to NAC 445A.460 to 445A.470, inclusive. The evaluation may only be conducted after the laboratory has produced acceptable data from the appropriate samples of the contaminants for which certification is requested. If so requested by a laboratory, the chemistry certification officer shall mail a copy of the report of the evaluation to the laboratory within 30 calendar days after the date on which the evaluation is completed. The evaluation shall be deemed completed after all requested information is received by the chemistry certification officer.

2. The chemistry certification officer shall determine whether the laboratory is using required

methods of analysis in an acceptable manner, including all required procedures for controlling quality.

3. The chemistry certification officer shall evaluate the laboratory's facilities, equipment, personnel and protocols using the criteria established by the Environmental Protection Agency in chapter IV, regarding chemistry, and chapter VI, regarding radiochemistry, of its "Manual for the Certification of Laboratories Analyzing Drinking Water," in the form most recently published by the agency, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915. A copy of these chapters may be obtained from the Nevada laboratory certification officer free of charge and must be provided with the application for certification.

4. If data relating to performance evaluation samples are not available pursuant to NAC 445A.467, provisional certification to analyze a chemical contaminant may be granted to a laboratory based on the laboratory's analysis of a full-volume performance evaluation sample acquired by the chemistry certification officer at the laboratory's expense.]

NAC 445A.470 is hereby repealed

[**NAC 445A.470 Certification of laboratories to analyze chemical contaminants: Evaluations at site of laboratory after certification; submission of independent evaluations.**

1. An evaluation of a laboratory certified pursuant to NAC 445A.460 to 445A.472, inclusive, must be conducted at the site of the laboratory at least once every 2 years. The evaluations:

(a) Must be conducted in accordance with the requirements set forth in NAC 445A.469; and

(b) May be conducted without prior notice.

2. An evaluation at the site of the laboratory may be required if the laboratory's performance

indicates that the laboratory is having problems analyzing chemical or microbiological contaminants, requests to be certified to analyze additional contaminants are submitted, complaints have been brought against the laboratory, or other factors set forth in NAC 445A.473 are present which will impair the ability of the laboratory to analyze the contaminants for which it is certified. The laboratory certification officer shall maintain a log of any complaints received about the laboratory, written or oral, that includes, without limitation:

(a) The nature of each complaint received;

(b) The date on which the complaint was received;

(c) The action that was taken in response to the complaint; and

(d) The date on which that action was taken.

3. The certification of a laboratory must be revoked if the director of the laboratory refuses to allow an evaluation at the site of the laboratory.

4. A laboratory shall submit to the Nevada laboratory certification officer a copy of:

(a) Any evaluation conducted at the site of the laboratory pursuant to the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., if the evaluation is conducted by another state, a federal agency, or any independent organization that certifies laboratories, such as the American Association for Laboratory Accreditation or the National Sanitation Foundation. A copy of the evaluation must be provided within 30 days after the laboratory receives the evaluation.

(b) The laboratory's response to the evaluation. The response must be submitted at the time it is submitted by the laboratory to the agency that performed the evaluation.]

NAC 445A.4705 is hereby repealed

[**NAC 445A.4705 Certification of laboratories to analyze chemical contaminants: Period of validity; application for renewal.**

1. A certification to analyze chemical contaminants issued pursuant to NAC 445A.460 to 445A.472, inclusive, is valid for 1 year.

2. An application for renewal of that certification must be submitted on a form provided by the Nevada laboratory certification officer. The Nevada laboratory certification officer shall provide the form to the appropriate laboratories on or before May 15 of each year.

3. An application for renewal must be:

(a) Postmarked by June 30 of each year; and

(b) Accompanied by the fees required by NAC 445A.471.

4. A laboratory operated by the Federal Government or a state or local government may submit with its application for renewal a purchase order for the fees that are due that is approved by the Nevada laboratory certification officer.

5. The certification of a laboratory that fails to submit an application for renewal by June 30 of any year terminates on July 1 of that year.]

NAC 445A.471 is hereby repealed

[**NAC 445A.471 Certification of laboratories to analyze chemical contaminants: Fees; payment of certain expenses for persons who conduct evaluations.**

1. The fees related to the certification of laboratories pursuant to NAC 445A.460 to 445A.472, inclusive, to perform chemical analysis for contaminants that are regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., are:

For an initial application for certification $500

For an application to renew certification 500

Initial fee or annual renewal fee for certification to analyze primary inorganic contaminants 545

Initial fee or annual renewal fee for certification to analyze secondary inorganic contaminants 545

Initial fee or annual renewal fee for certification to analyze regulated and unregulated volatile organic contaminants, including trihalomethanes 545

Initial fee or annual fee for certification to analyze regulated and unregulated synthetic organic contaminants 1,090

Initial fee or annual renewal fee for certification to analyze radiochemical contaminants $545

Annual fee for certification to analyze individual primary or secondary inorganic contaminants, or both.....200

2. The initial or annual renewal fee for certification to analyze any chemical contaminant not listed in subsection 1 is $400 plus the per diem allowance and travel expenses provided for state officers generally for the persons who conduct the evaluations at the site of the laboratory that are required for certification.

3. If an application for certification is received during the fiscal year, the fee required to be paid by this section will be prorated using the following formula:

Fee X .083 X the number of months remaining in the fiscal year.

The month in which the application is submitted will not be counted as a month remaining in the fiscal year. The prorated fee will be rounded to the next highest dollar.

4. A laboratory that is located outside of this state must pay the actual travel and per diem expenses of the persons who conduct the evaluations at the site of the laboratory that are required for certification. The expenses must be paid in advance based on estimates of those expenses. Any payment made in excess of the actual expenses will be reimbursed to the laboratory when

the evaluations are completed.

5. The fee for an initial application for certification or for an application to renew certification must be submitted with the initial application or application to renew certification. A fee for certification to analyze a particular contaminant must be paid before a certificate may be issued.

6. The administrator of the health division may waive the requirement for the advance payment of fees set forth in subsection 4 or 5 for a laboratory operated by the Federal Government or a state or local government if the director of the laboratory submits a request for a waiver with the initial application for certification or the application to renew certification.

7. The fees paid pursuant to this section are nonrefundable.]

NAC 445A472 is hereby repealed

[**NAC 445A.472 Certification of laboratories to analyze chemical contaminants: Acceptance of data from laboratory located outside of state.** The Nevada laboratory certification officer shall accept data relating to the analysis of chemical contaminants regulated by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., that is submitted from a laboratory located outside of this state if:

1. The laboratory has otherwise complied with the requirements set forth in NAC 445A.460 to 445A.470, inclusive, including the payment of fees required by NAC 445A.471;

2. The laboratory is certified by the state in which it is located or the Environmental Protection Agency, and that state accepts the results of evaluations conducted by laboratory certification officers in this state;

3. The Nevada laboratory certification officer determines that the state in which the laboratory is located has adopted a certification program that is equivalent to the certification program adopted by this state; and

4. The laboratory files with the Nevada laboratory certification officer a copy of the report relating to the latest evaluation conducted at the site of the laboratory by the state in which the laboratory is located or by the Environmental Protection Agency. The evaluation must have been conducted within the 12 months immediately preceding the date of the laboratory's application for certification.]

NAC 445A.473 is hereby repealed

[**NAC 445A.473 Certification of laboratories to analyze chemical contaminants: Changes in personnel, location, facilities or equipment of laboratory.**

1. The director of a certified laboratory shall report to the Nevada laboratory certification officer any changes in:

(a) The personnel of the laboratory, as defined by the Environmental Protection Agency in section 1 of chapter IV or section 1 of chapter VI, or both, of its "Manual for the Certification of Laboratories Analyzing Drinking Water," in the form most recently published by the agency, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915;

(b) The location of the laboratory;

(c) The facilities of the laboratory; or

(d) Any equipment of the laboratory that has been replaced or has failed and is not being replaced. For the purposes of this paragraph, "equipment" has the meaning ascribed to it by the Environmental Protection Agency in section 3 of chapter IV or section 3 of chapter VI, or both,

of its “Manual for the Certification of Laboratories Analyzing Drinking Water,” in the form most recently published by the agency, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915.

The report must be made within 30 days after the change.

2. After the report is made, the Nevada laboratory certification officer shall determine whether the laboratory is able to analyze the contaminants for which it is certified and, if necessary, conduct an evaluation at the site of the laboratory. The Nevada laboratory certification officer may:

(a) Make no change in the certification of the laboratory;

(b) Change the laboratory’s certification to a provisional certification for the affected contaminants; or

(c) Revoke the certification of the laboratory to analyze the affected contaminants.

3. If the laboratory’s certification is changed to a provisional certification for the affected contaminants, the laboratory must be evaluated based on the criteria set forth in NAC 445A.462 to 445A.468, inclusive.

4. If the laboratory’s certification is revoked for the affected contaminants, the laboratory may reapply for certification when it is able to analyze properly the contaminant for which certification is requested.

5. If a change in the personnel, location, facilities or equipment of a laboratory is not reported pursuant to the requirements of this section, the certification of that laboratory must be revoked.

6. Sections 1 and 3 of chapter IV and sections 1 and 3 of chapter VI of the “Manual for the Certification of Laboratories Analyzing Drinking Water,” are hereby adopted by reference.

Copies of these sections may be obtained from the Nevada laboratory certification officer free of charge.]

NAC 445.4735 is hereby repealed

[**NAC 445A.4735 Certification of laboratories to analyze chemical contaminants: Proposed change in or new method of analysis.**

1. The director of a laboratory that is certified to analyze chemical contaminants pursuant to NAC 445A.461 shall report to the Nevada laboratory certification officer any proposed change in

the methods of analysis used by the laboratory for contaminants for which the laboratory is certified or any new methods of analysis proposed to be used by the laboratory.

2. The report must be accompanied by:

(a) Data from the initial demonstration of capability for the proposed method of analysis; and

(b) Performance evaluation data which is produced:

(1) Using the proposed method of analysis and which complies with the requirements of NAC 445A.462 to 445A.467, inclusive; or

(2) From an acceptable alternative source pursuant to NAC 445A.469.

3. Such a laboratory shall not change a method of analysis or use a new method of analysis unless it is first approved by the Nevada laboratory certification officer. The Nevada laboratory certification officer shall issue a written determination within 60 days after receipt of the report required by subsection 1. If necessary, the Nevada laboratory certification officer shall conduct an evaluation at the site of the laboratory to make his determination.

4. The certification of any laboratory that violates the provisions of subsection 3 must be revoked for the affected contaminants pursuant to NAC 445A.468]

NAC 445A.474 is hereby repealed

[**NAC 445A.474 Certification of laboratories to analyze microbiological contaminants: Prerequisites.** For a laboratory in this state to be certified to analyze microbiological contaminants regulated pursuant to NAC 445A.453, the laboratory must:

1. Submit a written request to the Nevada laboratory certification officer for an application. The application must be submitted on a form provided by the Nevada laboratory certification officer.

2. Obtain performance evaluation samples from a source that is acceptable to the Nevada laboratory certification officer for each category for which it is seeking certification and satisfactorily analyze 80 percent of the samples pursuant to the acceptance criteria of the provider of the samples.

3. Use methods of analysis authorized by NAC 445A.454.

4. Pay the applicable fees required by NAC 445A.483.]

NAC 445A.475 is hereby repealed

[**NAC 445A.475 Certification of laboratories to analyze microbiological contaminants: Procedure.**

1. The microbiology certification officer shall:

(a) Review each completed application that is received pursuant to subsection 1 of NAC 445A.474.

(b) Determine whether the laboratory is using methods of analysis authorized by NAC 445A.454, in an acceptable manner, for the microbiological analysis of drinking water, including all required quality assurance procedures.

(c) Conduct an evaluation at the site of the laboratory after the laboratory has complied with the provisions of subsection 2 of NAC 445A.474. The microbiology certification officer shall evaluate the laboratory's facilities, equipment, personnel, records and protocols, using the criteria established by the Environmental Protection Agency in chapter V of its "Manual for the Certification of Laboratories Analyzing Drinking Water," in the form most recently published by the agency, unless the state board of health gives notice that the most recent publication is not suitable for this state pursuant to NAC 445A.4915. A copy of this chapter may be obtained from the laboratory certification officer free of charge.

(d) Notify the Nevada laboratory certification officer of his conclusions and determinations made pursuant to paragraphs (a), (b) and (c).

2. The Nevada laboratory certification officer shall certify a laboratory that:

(a) Is in compliance with the provisions of NAC 445A.474; and

(b) Receives an evaluation which is satisfactory pursuant to paragraph (c) of subsection 1.]

NAC 445A.476 is hereby repealed

[**NAC 445A.476 Certification of laboratories to analyze microbiological contaminants: Period of validity; application for renewal; periodic evaluations at site of laboratory after certification.**

1. A certification to analyze microbiological contaminants issued pursuant to subsection 2 of NAC 445A.475 is valid for 1 year.

2. An application for renewal of that certification must be submitted on a form provided by the Nevada laboratory certification officer. The Nevada laboratory certification officer shall provide the form to the appropriate laboratories on or before May 15 of each year.

3. An application for renewal must be:

(a) Postmarked by June 30 of each year; and

(b) Accompanied by the appropriate fees required by NAC 445A.483.

4. The certification of a laboratory that fails to submit an application for renewal by June 30 of any year terminates on July 1 of that year.

5. An evaluation of a certified laboratory must be conducted at least once every 2 years. If such an evaluation is not conducted, the certification of the laboratory may not be renewed.

6. The certification of a laboratory must be revoked if the director of the laboratory refuses to allow an evaluation at the site of the laboratory.]

NAC 445A.477 is hereby repealed

[**NAC 445A.477 Certification of laboratories to analyze microbiological contaminants: Unannounced evaluations of laboratory.** The microbiology certification officer may conduct unannounced evaluations at the site of a laboratory that is certified to analyze microbiology contaminants if:

1. The laboratory fails to comply with the provisions of subparagraph (1) of paragraph (d) of subsection 1 of NAC 445A.478;

2. The laboratory fails to use methods of analysis authorized by NAC 445A.454;

3. The laboratory applies for certification to analyze additional microbiological contaminants regulated pursuant to NAC 445A.453;

4. Complaints have been brought against the laboratory; or

5. Other factors are present which may impair the ability of the laboratory to analyze the contaminants for which it is certified.]

NAC 445.478 is hereby repealed

[**NAC 445A.478 Certification of laboratories to analyze microbiological contaminants: Requirements for maintenance of certification; failure to comply with requirements.**

1. To maintain certification to analyze microbiological contaminants, a laboratory must:

(a) Notify the microbiological certification officer in writing within 30 days after a change in:

(1) The personnel of the laboratory, ad defined by the Environmental Protection Agency in section 1 of chapter V of its "Manual for the Certification of Laboratories Analyzing Drinking Water," as adopted pursuant to NAC 445A.475;

(2) The equipment used by the laboratory, as defined by the Environmental Protection Agency in chapter V of its "Manual for the Certification of Laboratories Analyzing Drinking Water," as adopted pursuant to NAC 445A.475;

(3) The methods of analysis used by the laboratory; or

(4) The location of the laboratory.

(b) Correct deviations identified during an evaluation conducted at the site of the laboratory within the time specified by the microbiology certification officer.

(c) Notify the health authority and the public water system which submitted the drinking water of any drinking water that tests positive for microbiological contaminants:

(1) Within 24 hours; or

(2) By the end of the next business day,

after such a determination is made, whichever is earlier.

(d) Every 6 months:

(1) Obtain performance evaluation samples from a source that is acceptable to the Nevada

laboratory certification officer for each category for which it is certified and satisfactorily analyze 80 percent of at least one set of samples in each category pursuant to the criteria of the provider of the samples.

(2) Report data to the microbiology certification officer on at least one set of performance evaluation samples obtained from a source that is acceptable to the Nevada laboratory certification officer in each category for which it is certified.

2. If a laboratory fails to comply with the requirements of paragraph (a), (b) or (c) of subsection 1:

(a) The microbiology certification officer shall notify the Nevada laboratory certification officer, in writing; and

(b) The Nevada laboratory certification officer shall change the laboratory's certification to provisional certification or revoke its certification for the affected contaminants.

3. If a laboratory fails to comply with the requirements of paragraph (d) of subsection 1:

(a) The microbiology certification officer shall notify the Nevada laboratory certification officer; and

(b) The Nevada laboratory certification officer shall change the laboratory's certification to provisional certification.]

NAC 445A.479 is hereby repealed

[**NAC 445A.479 Certification of laboratories to analyze microbiological contaminants: Provisional certification; revocation of certification.**

1. A laboratory's certification to analyze microbiological contaminants must be changed to provisional certification if the laboratory:

(a) Has deficiencies that may temporarily impair its ability to produce data for a contaminant;

or

(b) Fails to analyze in a satisfactory manner 80 percent of the samples of a contaminant in a performance evaluation sample obtained from a source that is acceptable to the certification officer. If, in the next available sample set, the laboratory fails to analyze the same microbiological contaminant in a satisfactory manner, its certification for that contaminant must be revoked.

2. A laboratory's certification must be revoked for affected contaminants if:

(a) The laboratory has provisional certification and fails to report data or analyze in a satisfactory manner 80 percent of the samples in the next set of performance evaluation samples obtained from a source that is acceptable to the Nevada laboratory certification officer; or

(b) The laboratory has deficiencies that impair its ability to produce data for a particular contaminant.

3. A laboratory's certification may be revoked if the laboratory:

(a) Falsifies data or engages in other deceptive practices; or

(b) Reports data on a microbiological contaminant for which it is not certified.]

NAC 445A.480 is hereby repealed

[**NAC 445A.480 Certification of laboratories to analyze microbiological contaminants: Effect of provisional certification; recertification.** If a laboratory's certification for a microbiological contaminant is changed to provisional certification, the health authority may continue to accept the laboratory's data for the contaminant. The laboratory may be recertified to analyze the microbiological contaminant if the laboratory obtains a set of performance evaluation samples from a source that is acceptable to the Nevada laboratory certification officer and

satisfactorily analyzes 80 percent of the samples provided in the category for the microbiological contaminant for which certification was changed to provisional certification.]

NAC 445A.481 is hereby repealed

[**NAC 445A.481 Certification of laboratories to analyze microbiological contaminants: Effect of revocation for particular contaminant; recertification.** If a laboratory's certification to analyze microbiological contaminants is revoked for a particular microbiological contaminant, the health authority shall not accept data from the laboratory for the microbiological contaminant for which the certification is revoked. The health authority may continue to accept data for the other microbiological contaminants for which the laboratory is certified. The laboratory may be recertified to analyze the microbiological contaminant for which the certification is revoked if the laboratory obtains a set of performance evaluation samples from a source that is acceptable to the Nevada laboratory certification officer and satisfactorily analyzes 80 percent of the samples provided in the category for that microbiological contaminant.]

NAC 445A.4815 is hereby repealed

[**NAC 445A.4815 Certification of laboratories to analyze microbiological contaminants: Denial of application for or revocation of certification; appeal of action taken; recertification.**

1. In addition to the grounds set forth in chapter 445A of NRS and chapter 445A of NAC, an application for certification to analyze microbiological contaminants may be denied or the certification of a laboratory to analyze microbiological contaminants may be revoked if the laboratory:

(a) Fails or refuses to comply with any of the provisions of chapter 445A of NRS or NAC

445A.450 to 445A.6731, inclusive; or

(b) Operates or holds itself out as a certified laboratory after the certification of the laboratory has been revoked or before receiving certification to analyze microbiological contaminants.

2. If an applicant's application for certification to analyze microbiological contaminants is denied or a laboratory's certification to analyze microbiological contaminants is revoked, the laboratory certification officer shall send a written notice of the denial or revocation to the director of the laboratory in accordance with the requirements of chapter 439 of NAC.

3. Any applicant for certification to analyze microbiological contaminants or a laboratory certified to analyze microbiological contaminants that is aggrieved by an action of the microbiology certification officer or the laboratory certification officer may appeal that action in accordance with chapter 439 of NAC.

4. A laboratory whose certification to analyze microbiological contaminants is revoked may not apply for recertification for 6 months after the date of the revocation. The laboratory may be recertified to analyze a microbiological contaminant by complying with the requirements of NAC 445A.474.]

NAC 445A.483 is hereby repealed

[**NAC 445A.483 Certification of laboratories to analyze microbiological contaminants: Fees.**

1. The fees related to the certification of laboratories pursuant to NAC 445A.474 to 445A.484, inclusive, to analyze microbiological contaminants regulated by NAC 445A.453, are:

Fee for an initial application for certification $600

Fee for an annual renewal of certification 600

2. The fees paid pursuant to this section are nonrefundable.]

NAC 445.484 is hereby repealed

[**NAC 445A.484 Certification of laboratories to analyze microbiological contaminants: Acceptance of data from laboratory located outside of state.** The health authority shall accept data relating to the analysis of microbiological contaminants regulated pursuant to NAC 445A.453, that is submitted from a laboratory located outside of this state if:

1. The laboratory has otherwise complied with the requirements set forth in NAC 445A.474 to 445A.484, inclusive, including the payment of fees required by NAC 445A.483;

2. The laboratory is certified by the state in which it is located or by the Environmental Protection Agency, and that state accepts the results of evaluations conducted pursuant to the certification program adopted by this state;

3. The Nevada laboratory certification officer determines that the state in which the laboratory is located has adopted a certification program that is equivalent to the certification program adopted by this state; and

4. The laboratory files with the Nevada laboratory certification officer a copy of the report relating to the latest evaluation conducted at the site of the laboratory by the state in which the laboratory is located or by the Environmental Protection Agency. The evaluation must have been conducted within the 12 months immediately preceding the date of the laboratory's application for certification.]

INFORMATIONAL STATEMENT PER NRS 233B.066

1. DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION OF HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Workshops were held on October 16, 1998, in Las Vegas and October 19, 1998, in Reno. Notice of public workshops was published in the Las Vegas Review Journal, Reno Gazette Journal, and the Elko Daily Free Press on or before October 1, 1998. The notice of public workshops, and proposed regulations were mailed to all county libraries in Nevada, environmental laboratories and all interested parties on September 28, 1998.

Notice of public hearing regarding adoption of the amendments to NAC 652 was published in the Las Vegas Review Journal, Reno Gazette Journal, and the Elko Daily Free Press on or before November 11, 1998. The notice public hearing, and proposed regulations were mailed to all county libraries in Nevada, environmental laboratories, and all interested parties on November 6, 1998.

Notice of public workshops held on August 19, 1999, in Las Vegas was published in the Las Vegas Review Journal, Reno Gazette Journal, and Elko Daily Free Press on or before August 2, 1999. Notices of public workshops and proposed regulations were mailed to all county libraries in Nevada, environmental laboratories, and interested parties.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal, Reno Gazette Journal, and Elko Daily Free Press on or before August 11, 1999. Notices of public hearing and proposed regulations were mailed to all county libraries in Nevada, environmental laboratories, and interested parties on July 30, 1999.

In addition, copies of the proposed regulations were available during normal office hours at:

Bureau of Licensure and Certification - Carson City
Bureau of Licensure and Certification - Las Vegas
Bureau of Licensure and Certification - Reno
Nevada State Library
Emergency Medical Services - Elko
Emergency Medical Services - Tonopah

For public response copies of the minutes of the Board of Health meetings may be obtained by calling the Health Division at 684-4200.

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 85 people attended the December 11, 1998, Board of Health hearing.
Approximately 37 people attended the September 10, 1999, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

There was nobody present to testify at the hearing.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

No written statement were submitted at the Board of Health meeting.

3. A DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY

Comment was solicited from affected or potentially affected businesses by mailing hospitals and all interested parties the proposed regulations and notice for the workshops and Board of Health hearing. Copies the workshop minutes and Board of Health hearing minutes may be obtained by calling the Bureau of Licensure and Certification at (775) 687-4475.

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.

None

5. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:
(A) BOTH ADVERSE AND BENEFICIAL EFFECTS; AND
(B) BOTH IMMEDIATE AND LONG TERM EFFECTS.

Anticipated effects on the environmental laboratory business are beneficial and immediate. Adoption of this revision will affect environmentally sensitive businesses in the following ways:

1. EPA involvement with the Performance Testing Program has been changed. The NAC will reflect these changes.
2. Nevada will be able to participate in the NELAP program if it elects to do so.
3. Ambiguous language will be replaced so consistency in agency action will be assured.
4. Laboratories electing to participate in NELAP accreditation may do so with Nevada as their sponsoring authority
5. NELAP accredited laboratories will have automatic reciprocity among all NELAP participation states. (So far twenty states have applied for NELAP participation and serveral more have committed.) Nevada laboratory certification officers recommend that Nevada

participate.
6. NELAP participating laboratories will be held to a common standard.
7. NELAP participating laboratories will be able to participate in Federal contracts.
8. NELAP participating laboratories will not suffer a competitive disadvantage relative to participants.
9. NELAP participating laboratories will be assured a level playing field nationally.
10. NELAP participating laboratories will produce data o known, consistent and comparable quality.
11. Laboratories not electing NELAP accreditation will not be required to do so, but will be held to the NELAC standard in so far as it is appropriate.
12. Agencies and businesses requiring analyses of regulated parameters will be assured that data meet a rigorous nationally accepted standard.
Anticipated effects on the public are beneficial and long-term. The changes will assist in maintaining quality laboratory analytical capacity to ensure that measurements that affect the public health will be trustworthy.

6. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

None

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.

None

8. IF THE REGULATION INCLUDES PROVISION WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY, A SUMMARY OF SUCH PROVISION.

None

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.

None