

Industry Training for 2018 Aquatic Health Regulations

Chapter 5 – Compliance and
Enforcement



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Training Materials

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New Regulations- General Information

The Nevada Administrative Code Sections 444.010 - 444.546 is being replaced with a 117-page document which is based on the CDC's Model Aquatic Health Code (MAHC). The contents of the MAHC were modified in some places to accommodate the unique needs of aquatic health venues in Clark County.

New Regulations – Implementation and Orientation



The complete set of Aquatic Health Regulations can be found on the SNHD website at www.southernnevadahealthdistrict.org.

Implementation for **new** facilities under construction and orientation for **existing** facilities will begin August, 2018.

After the one-year orientation period, enforcement of new regulations will begin July 1, 2019.

New Regulations -History

The Nevada Administrative Code Sections 444.010 - 444.546 served as SNHD's governing document to regulate the operation of public bathing places. Due to changes to industry and safety standards, SNHD developed and proposed regulations based on the CDC's Model Aquatic Health Code.

Following more than 3 years of collaboration with industry groups including HOAs, resort representatives, pool companies and other interested parties, the 2018 Aquatic Facility Regulations were approved by the Board of Health in April 2018 and approved by the Nevada State Board of Health on June 8, 2018.

New Regulations - Overview

Chapter 1: Glossary, Acronyms and Initialisms, Definitions

Chapter 2: Facility Design and Construction

Chapter 3: Facility Operation and Maintenance

Chapter 4: Policies and Management

Chapter 5: Compliance and Enforcement

Appendix A: Residential Facility Self-Management Program

This presentation only covers Chapter 5 revisions.

Scope of Training Materials

- This presentation covers major changes from the NAC. Regulations that have not changed may not be mentioned, but are still required. Not all revised language is included. The complete set of regulations can be found here: www.southernnevadahealthdistrict.org
- Your management has the right to be more strict than the regulations. If the information in this presentation contradicts your operational practices, please see your management for guidance.

Scope of Training Materials

- Words in CAPITAL LETTERS in the regulations (and items copied from the regulations) have definitions specified in [Chapter 1](#).
- Where possible, links to sections in other chapters are provided.
- Meanings of acronyms used in this presentation are provided on the next slide.

Acronyms use in this presentation

CYA	Cyanuric Acid		
GFCI	Ground Fault Circuit Interrupter		
NRS	Nevada Revised Statutes		
PPM	Parts per Million		

5-2 Prerequisites for Operation

5-202 Permit Application, Renewals, Transfers, Submission, Conditions, and Content

5-202.1 Application and Submission

- A. For new construction and SUBSTANTIAL ALTERATION submittals, documents will be reviewed and a written response outlining any additional information or corrections needed for the plan approval will be provided within 30 business days from the most recent date of submission.
- B. If construction has not been initiated within one (1) calendar year from the date of plan approval or if construction halts for one (1) calendar year, the application for PERMIT may be deleted and require the resubmission of plans and PERMIT application with associated fees prior to resuming construction.
- C. WAIVER applications will be reviewed and a written response, outlining any additional information or corrections needed, will be provided within 3 business days from the most recent date of submission.
 - (1) The applicant must provide requested information within two business days;
 - (2) A final determination will be provided within a total of 10 business days.

5-2 Prerequisites for Operation

5-202 Permit Application, Renewals, Transfers, Submission, Conditions, and Content

5-202.2 Conditions

To qualify for a PERMIT, an applicant shall:

- A. Be an OWNER, prospective OWNER, or person legally in charge OWNER designee, or an officer of the legal ownership of the AQUATIC FACILITY;
- B. Pay the applicable PERMIT fees at the time the application is submitted;
- C. Comply with the requirements of these Regulations.

5-2 Prerequisites for Operation

5-202 Permit Application, Renewals, Transfers, Submission, Conditions, and Content

5-202.3 Application, Renewal, and Submission

- A. Applications for an initial, new, or renewal PERMIT must be made on an application form furnished by the HEALTH AUTHORITY.
- B. All applications must be submitted at least 30 days before:
- C. The opening date of any aquatic venue or aquatic facility;
- D. The expiration of any PERMIT; and/or
- E. The effective date of a change of ownership.

Cont'd....

5-2 Prerequisites for Operation

5-202 Permit Application, Renewals, Transfers, Submission, Conditions, and Content

5-202.3 Application, Renewal, and Submission cont'd

- F. For new construction and SUBSTANTIAL ALTERATIONS, plans will be reviewed and a written response outlining any additional information or corrections needed for the plan approval will be provided to the applicant within 30 business days from the most recent submission date.
 - (1) If from the date of plan approval, construction has not been initiated within one (1) calendar year, or construction halts for one (1) calendar year, the HEALTH AUTHORITY may, in its sole discretion, delete the PERMIT and require the resubmission of plans and a PERMIT application with associated fees prior to resuming construction.

5-2 Prerequisites for Operation

5-202 Permit Application, Renewals, Transfers, Submission, Conditions, and Content

5-202.4 Contents of the Application

The application must include:

- A. The name, mailing address, telephone number, and signature of the person applying for the PERMIT.
 - B. The name, mailing address, and physical location of the AQUATIC FACILITY.
 - C. If an application is made by a corporation, an LLC, association or partnership, the names of the members or officers and signature of at least one managing member or officer, a contact telephone number, and address shall be provided.
 - D. Information specifying whether an association, corporation, individual, partnership, or other legal entity owns the AQUATIC FACILITY.
- Cont'd...

5-2 Prerequisites for Operation

5-202 Permit Application, Renewals, Transfers, Submission, Conditions, and Content

5-202.4 Contents of the Application cont'd

- E. The name, title, address, and telephone number of the RESPONSIBLE PERSON for the AQUATIC FACILITY.
- F. The name, title, address, and telephone number of the person who functions as the immediate supervisor of the RESPONSIBLE PERSON including but not limited to the zone, district, or regional supervisor.
- G. Proof of ownership, lease agreement, or other legal document that establishes the standing of the applicant's authority to use the land for the PERMIT purpose.

Cont'd...

5-2 Prerequisites for Operation

5-202 Permit Application, Renewals, Transfers, Submission, Conditions, and Content

5-202.4 Contents of the Application cont'd

H. The names, titles, and business addresses of:

(1) The legal owners of the physical location of the AQUATIC FACILITY.

(2) The local authorized applicant, if one is required, based on the type of legal ownership.

Authorization shall be in writing and shall be signed by the OWNER or corporate officer, managing member, or other authorized person.

I. A statement signed by the applicant that:

(1) Attests to the accuracy of the information provided in the application; and

(2) Affirms that the applicant will:

(a) Comply with these Regulations.

(b) Allow the HEALTH AUTHORITY access to the establishment and to any records needed to establish compliance with these Regulations.

J. Other information as required by the HEALTH AUTHORITY.

5-2 Prerequisites for Operation

5-202 Permit Application, Renewals, Transfers, Submission, Conditions, and Content

5-202.5 Denial of Application for Permit, Notice

If an application for a PERMIT to operate is denied, the HEALTH AUTHORITY shall provide the applicant with a notice which includes the:

- A. Specific reasons and regulatory citations for denial of the PERMIT.
- B. Actions the applicant must take to qualify for a PERMIT.
- C. Applicant's right of appeal and appeal process.

5-3 Waivers

5-301 Conditions of Waiver

The HEALTH AUTHORITY may grant a WAIVER by modifying or waiving the requirements of these Regulations if, in the opinion of the HEALTH AUTHORITY, public health and safety will not be impacted as a result from the WAIVER.

5-301.1 The HEALTH AUTHORITY may impose conditions relating to the prevention of IMMINENT HEALTH HAZARDS, as referenced in [Section 5-6](#).

5-301.2 If the WAIVER is granted, the PERMIT HOLDER shall comply with all operational plans, procedures, and conditions stipulated in the WAIVER.

5-301.3 If a WAIVER is granted, the HEALTH AUTHORITY shall retain the information.

5-301.4 Presence of any IMMINENT HEALTH HAZARD may result in an immediate closure

5-301.5 Failure to meet any WAIVER condition may result in immediate closure pending revocation of the WAIVER.

5-3 Waivers

5-303 Change of Ownership of an Existing Aquatic Facility

5-303.1 An existing AQUATIC FACILITY, at the time of change of ownership, shall meet the requirements of the following Section prior to issuance of a PERMIT.

5-303.2 The HEALTH AUTHORITY may issue a PERMIT to a new OWNER of an existing AQUATIC FACILITY after a properly completed application is submitted, reviewed, and APPROVED, fees are paid, and an inspection is passed.

5-303.3 A facility may be required to bring any aspect of the AQUATIC VENUE or AQUATIC FACILITY into compliance with the current Regulations when ownership changes.

5-4 Responsibilities

5-401 Responsibilities of the Health Authority

The responsibilities of the HEALTH AUTHORITY include:

5-401.1 At the time a PERMIT is first issued, the HEALTH AUTHORITY shall inform the PERMIT HOLDER where a copy of these Regulations may be obtained, and that the PERMIT HOLDER is responsible for compliance with these Regulations

5-401.2 Failure to provide the above information does not prevent the HEALTH AUTHORITY from taking authorized action, or seeking remedies, if the PERMIT HOLDER fails to comply with these Regulations or an order, warning, or directive of the HEALTH AUTHORITY.

5-4 Responsibilities

5-402 Responsibilities of the Permit Holder

To retain the PERMIT, the PERMIT HOLDER shall:

5-402.4 Immediately notify the HEALTH AUTHORITY if a drowning, near drowning or water rescue event occurs.

5-402.5 Allow representatives of the HEALTH AUTHORITY access to the AQUATIC VENUE or AQUATIC FACILITY upon request.

5-402.6 Comply with directives of the HEALTH AUTHORITY, including, but not limited to, time frames for corrective actions specified in inspection reports, supervisory conferences, compliance schedules, notices, orders, warnings, and other directives issued by the HEALTH AUTHORITY concerning the PERMIT HOLDER'S AQUATIC FACILITY or in response to community emergencies.

5-4 Responsibilities

5-402 Responsibilities of the Permit Holder cont'd

To retain the PERMIT, the PERMIT HOLDER shall:

5-402.7 Comply with all applicable federal, state and local governmental requirements as related to the operation of an AQUATIC VENUE or AQUATIC FACILITY. The responsibility of upholding these requirements falls solely on the PERMIT HOLDER, and failure to do so may result in PERMIT suspension or revocation.

5-402.8 Accept notices issued and served by the HEALTH AUTHORITY.

5-402.9 Be subject to the administrative, civil, injunctive, and criminal remedies as specified in NRS Chapter 444, for failure to comply with these Regulations or with a directive of the HEALTH AUTHORITY, including but not limited to time frames for corrective actions specified in inspection reports, supervisory conferences, compliance schedules, notices, orders, warnings, and other directives.

5-5 Enforcement, Inspections

5-501 Inspection Authority

5-501.1 Upon presenting proper identification, the HEALTH AUTHORITY, shall have the right of access, entrance, inspection, and investigation of any AQUATIC FACILITY permitted by these Regulations.

5-501.2 Unless a QUALIFIED OPERATOR is available onsite all day, keys must be provided to allow access the POOL, pump room, HYGIENE FACILITY, and any other related areas.

5-5 Enforcement, Inspections

5-501 Inspection Authority

5-501.3 The right of access pursuant to this section, includes, but, is not limited to access for the purpose of:

- A. Routine inspection;
- B. Inspect or investigate to determine if there has been a violation of NRS Chapter 444 or these Regulations;
- C. Verify compliance with previously written violation orders;
- D. Collect samples or specimens;
- E. Examine, review, and copy relevant documents and records;
- F. Obtain photographic or other evidence needed to enforce these Regulations; and
- G. Question any person

5-5 Enforcement, Inspections

5-501 Inspection Authority

5-501.4 If the HEALTH AUTHORITY is refused access, the HEALTH AUTHORITY shall provide details of the denial of access on an inspection report form and the AQUATIC FACILITY will be posted as closed.

5-5 Enforcement, Inspections

5-502 Inspection Frequency

5-502.1 An AQUATIC FACILITY'S inspection frequency may be amended based on a risk of recreational water injury and illness.

5-503 Posting Pool Closure

5-503.2 Closure signs shall be conspicuously posted at each entrance leading to the AQUATIC VENUE.

5-503.3 Closure signs must state that concealment, mutilation, alteration, or removal of it by any PERSON without permission of the HEALTH AUTHORITY shall constitute a violation of these Regulations.

5-5 Enforcement, Inspections

5-505 Appeal Process

5-505.1 A person aggrieved by an action taken by the HEALTH AUTHORITY may request a meeting with the employee responsible for the action and the program supervisor within 10 business days.

5-505.2 If the meeting does not resolve the issue, the aggrieved person may submit a written request for a meeting with the division director or section manager within 10 business days.

5-6 Imminent Health Hazards

5-601 Violations Requiring Immediate Correction or Closure

Any of the following violations are IMMEDIATE HEALTH HAZARDS which shall require immediate correction or POOL closure until the condition is corrected:

5-601.1 Failure to provide adequate supervision and staffing of the AQUATIC FACILITY as prescribed in these Regulations;

5-601.2 Failure to provide DISINFECTANT residual levels within the minimum and maximum limits designated in these Regulations;

5-601.3 Failure to treat and achieve proper disinfection following a body fluid contamination event;

5-601.4 PH level below 6.5;

5-601.5 PH level above 8.0;

5-6 Imminent Health Hazards

5-601 Violations Requiring Immediate Correction or Closure cont'd

5-601.6 Failure to continuously operate the AQUATIC VENUE filtration and DISINFECTION equipment;

5-601.7 Failure to maintain CYA levels below 100 PPM;

5-601.8 Use of an unapproved or contaminated water supply source for potable water use;

5-601.9 Non-GFCI protected electrical receptacles within 20 feet of the inside wall of the AQUATIC VENUE;

5-601.10 Failure to maintain GFCI protection for underwater lighting as required;

5-601.11 Absence of all required lifesaving equipment on DECK;

5-6 Imminent Health Hazards

5-601 Violations Requiring Immediate Correction or Closure cont'd

5-601.12 AQUATIC VENUE bottom not clearly visible;

5-601.13 Total absence of or improper depth markings at an AQUATIC VENUE;

5-601.14 Plumbing CROSS-CONNECTIONs between the drinking water supply and AQUATIC VENUE water or between sewage system and the AQUATIC VENUE including filter backwash facilities;

5-601.15 Failure to provide and maintain an ENCLOSURE or BARRIER to inhibit unauthorized access to the AQUATIC FACILITY or AQUATIC VENUE when required;

5-601.16 Use of unapproved chemicals or the application of chemicals by unapproved methods to the AQUATIC VENUE water;

5-6 Imminent Health Hazards

5-601 Violations Requiring Immediate Correction or Closure cont'd

5-601.17 Broken, unsecured or missing submerged suction outlet covers in the AQUATIC VENUE;

5-601.18 Gates that are not self-closing and self-latching and/or enclosure breaches or gaps;

5-601.19 Broken glass or sharp objects in AQUATIC VENUE or on DECK area; or

5-601.20 Any other item determined to be an IMMINENT HEALTH HAZARD by the HEALTH AUTHORITY.

5-7 Issuing Report and Obtaining Acknowledgment of Receipt

5-701 Inspection Conclusion

5-701.1 At the conclusion of the inspection, the HEALTH AUTHORITY shall:

- A. Review a copy of the completed inspection report, and any corresponding notice to correct violations with the PERMIT HOLDER or the facility representative; and
- B. Obtain a signed acknowledgement of receipt on the report. If an electronic report, the acknowledgement may be by other means.

5-7 Issuing Report and Obtaining Acknowledgment of Receipt

5-701 Inspection Conclusion

5-701.2 Refusal to Sign Acknowledgement

- A. Should the PERMIT HOLDER or facility representative refuse to sign the acknowledgment, the HEALTH AUTHORITY shall inform the refusing party that:
 - (1) Refusal to sign an acknowledgment does not nullify the inspection report or the PERMIT HOLDER'S obligation to correct the violations noted in the inspection report within the time frames specified.
 - (2) An acknowledgment of receipt does not constitute an agreement with findings.
- B. The refusal will be documented on the report and placed in the AQUATIC VENUE'S file.
- C. Provide a copy of the inspection report to the PERMIT HOLDER or facility representative.

5-7 Issuing Report and Obtaining Acknowledgment of Receipt

5-702 Resuming Operations

5-702.3 Facilities documented by the HEALTH AUTHORITY to be operating under conditions of an IMMINENT HEALTH HAZARD and were issued an immediate closure, shall pay applicable fees and pass a reopening inspection with no additional closure violations remaining.

5-8 Summary Suspension, Reinstatement, and Revocation

5-801 Summary Suspension Reinstatement of Suspended Permit

5-801.6 The HEALTH AUTHORITY shall hold a hearing,

5-801.7 The HEALTH AUTHORITY will permanently revoke a PERMIT unless a request for a hearing is filed with the HEALTH AUTHORITY by PERMIT HOLDER within five (5) business days, the HEALTH AUTHORITY will permanently revoke a PERMIT after five (5) days following service of the notice.

5-8 Summary Suspension, Reinstatement, and Revocation

5-802 Suspension and Revocation

5-802.1 The PERMIT HOLDER may request a hearing within five (5) business days of the summary suspension.

5-802.2 The HEALTH AUTHORITY shall hold a hearing, if requested, within ten (10) business days of receipt of the request for hearing.

5-802.3 The HEALTH AUTHORITY will permanently revoke a PERMIT, unless a request for a hearing is filed with the HEALTH AUTHORITY by PERMIT HOLDER within five (5) business days.

5-802.4 The HEALTH AUTHORITY may, after a hearing, suspend or revoke an AQUATIC FACILITY or AQUATIC VENUE PERMIT for violation of NRS Chapter 444, these Regulations, or an order issued by the HEALTH AUTHORITY

5-8 Summary Suspension, Reinstatement, and Revocation

5-802 Suspension and Revocation cont'd

5-802.5 Unless a hearing is requested as required herein, the suspension or revocation order shall take effect 15 calendar days after the date of issuance of the notice of suspension or revocation.

5-802.6 A notice of suspension or revocation must include the following:

- A. The reasons for the suspension or revocation with reference to the specific provisions of NRS Chapter 444 and these Regulations.
- B. The AQUATIC FACILITY has a right to request a hearing within 15 calendar days after issuance of the notice;
- C. The PERMIT shall be suspended or revoked fifteen (15) calendar days after receipt of the suspension or revocation notice and all operations shall cease at that time unless a hearing is requested.

5-9 Suspension or Revocation of Qualified Operator or Pool Company Registration

5-905 The HEALTH AUTHORITY will, after a hearing, suspend or revoke a pool company or QUALIFIED OPERATOR for violation of NRS Chapter 444, these Regulations, or an order issued by the HEALTH AUTHORITY.

5-906 Unless a hearing is requested as required herein, the suspension or revocation order shall take effect 15 calendar days after the date of issuance of the notice of suspension or revocation.

5-9 Suspension or Revocation of Qualified Operator or Pool Company Registration

5-907 A notice of suspension or revocation must include the following:

5-907.1 The reasons for the suspension or revocation with reference to the specific provisions of NRS Chapter 444 and these Regulations;

5-907.2 The pool company or QUALIFIED OPERATOR has a right to request a hearing within 15 calendar days after issuance of the notice

5-907.3 The registration shall be suspended or revoked fifteen (15) calendar days after receipt of the suspension or revocation notice and all operations shall cease at that time unless a hearing is requested.

5-10 Notice and Service of Notice

5-1001 A notice issued in accordance with these Regulations is considered properly served if it is served by one of the following methods:

5-1001.1 The notice is personally served by the HEALTH AUTHORITY to the QUALIFIED OPERATOR or RESPONSIBLE PERSON or the person in charge; and/or

5-1001.2 Sending the notice by registered or certified mail, return receipt requested, to the last known address of the AQUATIC FACILITY OWNER.

5-1001.3 The HEALTH AUTHORITY shall file a copy of the notice in the PERMIT holder's file.

5-10 Notice and Service of Notice

5-1002 Reinstatement

5-1002.1 When a PERMIT has been suspended or revoked, an application may be made for reinstatement. Such application must include a verified statement declaring that the reason for the suspension or revocation of the PERMIT has been eliminated.

5-1003 Post Revocation Action

Once the PERMIT has been suspended or revoked, as specified in Section 5-8 of these Regulations, the PERMIT holder shall discontinue all activity associated with the AQUATIC VENUE(s) in question. Failure to do so may result in the HEALTH AUTHORITY requesting an injunction from the District Court of Jurisdiction against continued operation by the PERMIT HOLDER.

5-10 Notice and Service of Notice

5-1004 Hearings and Appeals

5-1004.1 All hearings provided for in these Regulations shall be conducted in accordance with the Nevada Administrative Practice Act, NRS Chapter 233B and Health Authority Hearing Officer Regulations.

5-1004.2 Nothing herein contained shall be construed as denying the rights of appeal to the courts after administrative remedies as herein above have been exhausted.

5-11 Abandonment Process

5-1101 To remove an AQUATIC VENUE from regulatory oversight and have the associated HEALTH PERMIT deleted, all equipment associated with the circulation system must be removed and piping appropriately capped in addition to one of the following:

5-1101.1 The AQUATIC VENUE shell may be left in place provided it has been punctured to prevent the accumulation of water, an adequate BARRIER is in place and locked, and must be maintained clean, drained, and free of nuisance conditions;

5-1101.2 The AQUATIC VENUE is filled with gravel or other fill, the shell perforated to prevent water saturation and subsequent nuisance issues allowing for the BARRIER to be removed;
or

5-1101.3 The AQUATIC VENUE shell is demolished and removed allowing for the BARRIER to then be removed.

5-12 Public Information

The HEALTH AUTHORITY shall treat the inspection report as a public document and shall make it available for disclosure pursuant to NRS Chapter 239.