

CHAPTER 459 - HAZARDOUS MATERIALS

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- [459.9695](#) Adoption by reference of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846*.
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- [459.96954](#) Adoption of certain ASTM standards and other publications related to calibration and testing laboratories, and examination of water and wastewater.
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Loans From Fund

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[459.9993](#) Application for subgrant: Submission; form and contents; consideration for approval.

[459.99931](#) Duties of recipient upon completion of cleanup.

Recipients of Financial Assistance

[459.99932](#) Conditions for payment and repayment of financial assistance.

[459.99933](#) Use of money received as financial assistance.

[459.99934](#) Cleanup by recipient enrolled in program for voluntary cleanup.

[459.99935](#) Cleanup by recipient not enrolled in program for voluntary cleanup.

[459.99936](#) Certification of compliance with federal requirements; maintenance of records and accounts; audit of financial records.

[459.99937](#) Contracts for remedial services.

[459.99938](#) Compliance with certain labor laws; participation of disadvantaged businesses.

Miscellaneous Provisions

[459.99939](#) Liability of certain bona fide prospective purchasers or innocent purchasers for response actions or cleanup of site.

PRACTICE BEFORE STATE ENVIRONMENTAL COMMISSION

[459.9995](#) Appeal of final decision of State Department of Conservation and Natural Resources.

GENERAL PROVISIONS

NAC 459.010 Definitions. ([NRS 459.030](#), [459.201](#)) As used in [NAC 459.010](#) to [459.950](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.012](#) to [459.116](#), inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification; A by Bd. of Health, 4-27-84; 10-22-93; 1-18-94; 1-21-94; 7-7-94; 11-1-95; R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R149-03, 12-3-2003; R085-06, 11-13-2006)

NAC 459.012 “Absorbed dose” defined. ([NRS 459.030](#), [459.201](#)) “Absorbed dose” means the energy imparted to matter by ionizing radiation per unit mass of irradiated material at the place of interest. The special units of absorbed dose are the rad and the gray.

[Bd. of Health, Radiation Control Reg. § 1.2.9.2, eff. 2-28-80]—(NAC A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.014 “Accelerator produced material” defined. ([NRS 459.201](#)) “Accelerator produced material” means any material made radioactive by exposing it in a particle accelerator.

[Bd. of Health, Radiation Control Reg. § 1.2.1, eff. 2-28-80]

NAC 459.0145 “Activity” defined. ([NRS 459.030](#), [459.201](#)) “Activity” means the rate of disintegration or decay of radioactive material. The units of activity are the curie and the becquerel.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.0147 “Address of use” defined. ([NRS 459.201](#)) “Address of use” means the building or buildings that are identified on the license and where radioactive materials may be received, used or stored.

(Added to NAC by Bd. of Health, eff. 11-1-95)

NAC 459.015 “Adult” defined. ([NRS 459.201](#)) “Adult” means any person who is 18 years of age or older.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.016 “Agreement state” defined. ([NRS 459.201](#)) “Agreement state” means any state with which the Nuclear Regulatory Commission has entered into an effective agreement under section 274(b) of the Atomic Energy Act of 1954, as amended, 73 Stat. 689.

[Bd. of Health, Radiation Control Reg. § 1.2.2, eff. 2-28-80]

NAC 459.018 “Airborne radioactive material” defined. ([NRS 459.201](#)) “Airborne radioactive material” means any radioactive material dispersed in the air in the form of dust, fumes, mists, particulates, vapors or gases. [Bd. of Health, Radiation Control Reg. § 1.2.3, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.0185 “Annual limit on intake” defined. ([NRS 459.201](#)) “Annual limit on intake” means the limit for the amount of radioactive material taken into the body of an adult worker during the course of his employment, by inhalation or ingestion, in 1 year. The annual limit on intake is equal to the lesser of:

1. The intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 5 rems; or

2. A committed dose equivalent of 50 rems to any individual organ or tissue.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.019 “Appendix A” defined. ([NRS 459.201](#)) “Appendix A” means Appendix A to 10 C.F.R. §§ 20.1001 to 20.2402, inclusive, as those provisions existed on October 13, 1999.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R085-06, 11-13-2006)

NAC 459.0192 “Appendix B” defined. ([NRS 459.201](#)) “Appendix B” means Appendix B to 10 C.F.R. §§ 20.1001 to 20.2402, inclusive, as those provisions existed on October 13, 1999.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R085-06, 11-13-2006)

NAC 459.0194 “Appendix C” defined. ([NRS 459.201](#)) “Appendix C” means Appendix C to 10 C.F.R. §§ 20.1001 to 20.2402, inclusive, as those provisions existed on October 13, 1999.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R085-06, 11-13-2006)

NAC 459.0196 “Appendix G” defined. ([NRS 459.201](#)) “Appendix G” means Appendix G to 10 C.F.R. §§ 20.1001 to 20.2402, inclusive, as those provisions existed on November 16, 2005.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.020 “Area of airborne radioactivity” defined. ([NRS 459.201](#)) “Area of airborne radioactivity” means any room, enclosure or area in which airborne radioactive material exists in concentrations:

1. In excess of the derived air concentrations specified in Appendix B; or

2. To such a degree that a person present in the area without a respiratory protective device could receive in the hours he works in 1 week, an intake of radiation that is greater than 0.6 percent of the annual limit on intake or 12 derived air concentration hours.

[Bd. of Health, Radiation Control Reg. § 1.2.4, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.0203 “Area of use” defined. ([NRS 459.201](#)) “Area of use” means a portion of an address of use that has been set aside for the purpose of receiving, using and storing radioactive materials.

(Added to NAC by Bd. of Health, eff. 11-1-95)

NAC 459.0205 “As low as is reasonably achievable” defined. ([NRS 459.030](#), [459.201](#)) “As low as is reasonably achievable” means making every reasonable effort to maintain exposures to radiation as far below the applicable limits as is practical, in a manner that is consistent with the purpose for which the licensed or registered activity is undertaken, taking into account:

1. The state of the technology;

2. The costs of improving the technology, including a consideration of the extent to which any improvements would benefit the health and safety of the public;

3. The utilization of licensed or registered sources of radiation in the public interest; and

4. Any other societal and socioeconomic considerations, including, without limitation, the potential for death or other harm that could reasonably be expected to result from transportation accidents that occur during the

process of decontamination and waste disposal.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.02055 “Assigned protection factor” defined. ([NRS 459.201](#)) “Assigned protection factor” means the expected level of respiratory protection in a workplace that would be provided by a properly functioning respirator or class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the assigned protection factor.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.02065 “Atmosphere-supplying respirator” defined. ([NRS 459.201](#)) “Atmosphere-supplying respirator” means a respirator that supplies the user with breathing air from a source independent of the ambient atmosphere, and includes, without limitation, a supplied-air respirator and a self-contained breathing apparatus unit.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.0207 “Authorized nuclear pharmacist” defined. ([NRS 459.201](#)) “Authorized nuclear pharmacist” has the meaning ascribed to it in 10 C.F.R. § 35.2, as adopted by reference pursuant to [NAC 459.3062](#).

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99; A by R085-06, 11-13-2006)

NAC 459.0208 “Authorized user” defined. ([NRS 459.201](#)) “Authorized user” has the meaning ascribed to it in 10 C.F.R. § 35.2, as adopted by reference pursuant to [NAC 459.3062](#).

(Added to NAC by Bd. of Health, eff. 11-1-95; A by R084-98, 1-26-99; R085-06, 11-13-2006)

NAC 459.021 “Background radiation” defined. ([NRS 459.030](#), [459.201](#))

1. “Background radiation” means:

- (a) Radiation from cosmic sources;
- (b) Naturally occurring radioactive materials, including radon, except as a product of decay from source or special nuclear materials; and
- (c) Global fallout as it exists in the environment from the testing of nuclear explosive devices, or past nuclear accidents, that contributes to background radiation and is not under the control of the licensee.

2. The term does not include sources of radiation from any radioactive material regulated by the Division pursuant to [NAC 459.010](#) to [459.950](#), inclusive.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.0212 “Becquerel” defined. ([NRS 459.030](#), [459.201](#)) “Becquerel” means a unit of measurement of radioactivity. One becquerel is that quantity of radioactive material which decays at the rate of one disintegration per second. One becquerel is equivalent to 2.7×10^{-11} curie.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.0214 “Bioassay” defined. ([NRS 459.201](#)) “Bioassay” means the determination of the kinds, quantities or concentrations and, in some cases, the locations, of radioactive material in the human body, whether by direct measurement, in vivo counting or an analysis of materials excreted or removed from the human body.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0216 “Boundary of a site” defined. ([NRS 459.201](#)) “Boundary of a site” means the boundary beyond which the land or property is not owned, leased or otherwise controlled by a licensee.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0218 “Brachytherapy source” defined. ([NRS 459.201](#)) “Brachytherapy source” has the meaning ascribed to it in 10 C.F.R. § 35.2, as adopted by reference pursuant to [NAC 459.3062](#).

(Added to NAC by Bd. of Health, eff. 11-1-95; A by R085-06, 11-13-2006)

NAC 459.022 “By-product material” defined. ([NRS 459.201](#)) “By-product material” has the meaning ascribed to it in subsection 1 of [NRS 459.010](#).

[Bd. of Health, Radiation Control Reg. § 1.2.5, eff. 2-28-80]

NAC 459.024 “Calendar quarter” defined. ([NRS 459.201](#)) “Calendar quarter” means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year begins in January. Subsequent calendar quarters are arranged so that no day is included in more than 1 calendar quarter and no day in any 1 year is omitted from inclusion within a calendar quarter.

[Bd. of Health, Radiation Control Reg. part § 1.2.6, eff. 2-28-80]

NAC 459.0241 “Category 1 irradiator” defined. ([NRS 459.201](#)) “Category 1 irradiator” means an irradiator in which the sealed sources for the irradiation of materials are not removed from the shield of the irradiator.

(Added to NAC by Bd. of Health by R149-03, eff. 12-3-2003)

NAC 459.0243 “Chemical description” defined. ([NRS 459.201](#)) “Chemical description” means a description of the principal chemical characteristics of low-level radioactive waste.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.0245 “Class” defined. ([NRS 459.201](#)) “Class” means a system of classification for inhaled radioactive material based on its rate of clearance from the pulmonary region of the lung, whereby radioactive materials are classified as either D, W or Y according to the following ranges of clearance half-times:

1. Class D, less than 10 days;
2. Class W, from 10 to 100 days; and
3. Class Y, more than 100 days.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.025 “Collective dose” defined. ([NRS 459.201](#)) “Collective dose” means the sum of the individual doses received in a given period by a specified population from exposure to a specified source of radiation.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0252 “Collimator” defined. ([NRS 459.201](#)) “Collimator” means a device used to limit the size, shape and direction of a primary radiation beam.

(Added to NAC by Bd. of Health, eff. 1-21-94)

NAC 459.0254 “Committed dose equivalent” defined. ([NRS 459.201](#)) “Committed dose equivalent” means the dose equivalent to organs or tissues of reference that will be received from an intake of radioactive material by a person during the 50-year period following the intake.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0256 “Committed effective dose equivalent” defined. ([NRS 459.201](#)) “Committed effective dose equivalent” means the sum of the products of the weighting factors applicable to each of the organs or tissues that are irradiated and the committed dose equivalent to each of those organs or tissues.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0258 “Consignee” defined. ([NRS 459.201](#)) “Consignee” means the designated receiver of a shipment of low-level radioactive waste.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.0259 “Constraint” defined. ([NRS 459.201](#)) “Constraint” means a value above which specified licensee actions are required.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.026 “Curie” defined. ([NRS 459.030](#), [459.201](#)) “Curie” means a unit of measurement of

radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} disintegrations per second (dps). One curie is equivalent to 37 gigabecquerels.

[Bd. of Health, Radiation Control Reg. § 1.2.7, eff. 2-28-80]—(NAC A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.027 “Decommission” defined. ([NRS 459.030, 459.201](#)) “Decommission” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

1. Release of the property for unrestricted use and termination of the license of the licensee; or
2. Release of the property under restricted conditions and termination of the license of the licensee.

(Added to NAC by Bd. of Health, eff. 10-22-93; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.0275 “Deep-dose equivalent” defined. ([NRS 459.201](#)) “Deep-dose equivalent” means the dose equivalent that is measured at a depth of 1 centimeter in a tissue of the body.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0278 “Demand respirator” defined. ([NRS 459.201](#)) “Demand respirator” means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.028 “Department of Energy” defined. ([NRS 459.201](#)) “Department of Energy” means the department established by P.L. 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. §§ 7101 et seq., to the extent that the Department exercises functions formerly vested in the Atomic Energy Commission, its Chairman, members, officers and components, and transferred to the Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (P.L. 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (P.L. 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. § 7151, effective October 1, 1977).

[Bd. of Health, Radiation Control Reg. § 1.2.49, eff. 2-28-80]

NAC 459.029 “Derived air concentration” defined. ([NRS 459.201](#)) “Derived air concentration” means the concentration of a given radionuclide in air which, if breathed by the reference man for 2,000 hours under conditions in which the inhalation rate is 1.2 cubic meters of air per hour, results in an intake of one annual limit on intake.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0292 “Derived air concentration-hour” defined. ([NRS 459.201](#)) “Derived air concentration-hour” means the product of the concentration of a radionuclide in air and the time of exposure to that radionuclide, in hours. Two thousand derived air concentration-hours are equal to one annual limit on intake or a committed effective dose equivalent of 5 rems.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0296 “Disposal container” defined. ([NRS 459.201](#)) “Disposal container”:

1. Means a container that is used to confine low-level radioactive waste for disposal at a land disposal facility.
2. May include the container used to transport the low-level radioactive waste to the land disposal facility.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.030 “Division” defined. ([NRS 459.201](#)) “Division” means the Health Division of the Department of Health and Human Services.

[Bd. of Health, Radiation Control Reg. § 1.2.8, eff. 2-28-80]

NAC 459.032 “Dose” defined. ([NRS 459.201](#)) “Dose” means an absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent or total effective dose equivalent, as appropriate.

[Bd. of Health, Radiation Control Reg. § 1.2.9.1, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.034 “Dose equivalent” defined. ([NRS 459.030](#), [459.201](#)) “Dose equivalent” means the product of the absorbed dose in a tissue, quality factor and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and the sievert.

[Bd. of Health, Radiation Control Reg. § 1.2.9.3, eff. 2-28-80]—(NAC A 1-18-94; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.0345 “Dosimetry processor” defined. ([NRS 459.201](#)) “Dosimetry processor” means a person who processes and evaluates personnel monitoring equipment in order to determine the dose of radiation delivered to such equipment.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.035 “Effective dose equivalent” defined. ([NRS 459.201](#)) “Effective dose equivalent” means the sum of the products of the dose equivalent to an organ or tissue and the weighting factors applicable to each of the organs or tissues that are irradiated.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0352 “Electron source” defined. ([NRS 459.201](#)) “Electron source” means an assemblage of components for the controlled production of electrons without conversion into X-radiation.

(Added to NAC by Bd. of Health by R149-03, eff. 12-3-2003)

NAC 459.0354 “Embryo” defined. ([NRS 459.201](#)) “Embryo” means a developing human organism from conception until the time of birth.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0356 “Entrance” defined. ([NRS 459.201](#)) “Entrance” means any location through which a person may gain access to radiation areas or to radioactive materials.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.036 “Exposure” defined. ([NRS 459.201](#)) “Exposure” means being exposed to radiation or to radioactive material.

[Bd. of Health, Radiation Control Reg. § 1.2.10 + § 6.2.19, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.038 “Exposure rate” defined. ([NRS 459.201](#)) “Exposure rate” means the exposure per unit of time, such as R/min or mR/h.

[Bd. of Health, Radiation Control Reg. § 1.2.11, eff. 2-28-80]

NAC 459.0382 “External dose” defined. ([NRS 459.201](#)) “External dose” means that portion of a dose equivalent received from sources of radiation outside the body.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0384 “Extremity” defined. ([NRS 459.201](#)) “Extremity” means a hand, an elbow, that portion of an arm below the elbow, a foot, a knee or that portion of a leg below the knee.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0387 “Fit factor” defined. ([NRS 459.201](#)) “Fit factor” means a quantitative estimate of the fit of a particular respirator to a specific person, and typically includes an estimate of the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.0388 “Fit test” defined. ([NRS 459.201](#)) “Fit test” means the use of a protocol which involves a qualitative fit test or quantitative fit test to evaluate the fit of a respirator on a person.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.039 “Form regarding history of cumulative occupational exposure” defined. ([NRS 459.201](#))

“Form regarding history of cumulative occupational exposure” means a form provided by the Division regarding the history of the cumulative occupational exposure of a person, or an equivalent form.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0395 “Generator” defined. ([NRS 459.030](#)) “Generator” means:

1. A waste generator; or
2. An entity that operates pursuant to a license issued by the Nuclear Regulatory Commission or an agreement state and to which waste is attributed pursuant to the Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. §§ 2021b et seq.

(Added to NAC by Dep’t of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.0397 “Gray” defined. ([NRS 459.030](#)) “Gray” means a special unit of absorbed dose. One gray equals an absorbed dose of 1 joule per kilogram of material. One gray is equivalent to 100 rads.

(Added to NAC by Dep’t of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.040 “Healing arts” defined. ([NRS 459.201](#)) “Healing arts” means any system, treatment, operation, diagnosis, prescription or practice for the diagnosis, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition.

[Bd. of Health, Radiation Control Reg. § 1.2.12, eff. 2-28-80]

NAC 459.042 “High radiation area” defined. ([NRS 459.030](#), [459.201](#)) “High radiation area” means any area, accessible to persons, in which radiation from a source of radiation external to the body exists at such levels that a person could receive a dose equivalent in excess of 0.1 rem (1 millisievert) in 1 hour at 30 centimeters from:

1. The source of radiation; or
2. Any surface that the radiation penetrates.

[Bd. of Health, Radiation Control Reg. § 1.2.13, eff. 2-28-80]—(NAC A 1-18-94; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.044 “Human use” defined. ([NRS 459.201](#)) “Human use” means the internal or external administration of radiation or radioactive material to human beings.

[Bd. of Health, Radiation Control Reg. § 1.2.14, eff. 2-28-80]

NAC 459.0445 “Industrial radiography” defined. ([NRS 459.030](#), [459.201](#)) “Industrial radiography” has the meaning attributed to it in 10 C.F.R. § 34.3.

[Bd. of Health, Radiation Control Reg. § 5.3.2, eff. 2-28-80]—(NAC A by Dep’t of Human Resources by R137-01, 5-30-2003)—(Substituted in revision for NAC 459.688)

NAC 459.046 “Inspection” defined. ([NRS 459.201](#)) “Inspection” means an official examination or observation, including, but not limited to, tests, surveys and monitoring to determine compliance with regulations, orders, requirements and conditions of the Division.

[Bd. of Health, Radiation Control Reg. § 1.2.15, eff. 2-28-80]

NAC 459.047 “Internal dose” defined. ([NRS 459.201](#)) “Internal dose” means that portion of the dose equivalent received from radioactive material taken into the body.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0475 “Land disposal facility” defined. ([NRS 459.201](#)) “Land disposal facility” means the land, buildings, structures and equipment that are intended to be used for the disposal of radioactive waste.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.0477 “Lens dose equivalent” defined. ([NRS 459.030](#), [459.201](#)) “Lens dose equivalent” means the dose equivalent from a source of radiation external to the body that is measured at a depth of 0.3 centimeter in the lens of the eye.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep’t of Human Resources by R137-01, 5-30-2003)—(Substituted in revision for NAC 459.0386)

NAC 459.048 “License” defined. (NRS 459.201) “License” means a license issued by the Division in accordance with the provisions of [NAC 459.010](#) to [459.950](#), inclusive, and [chapter 459](#) of NRS.

[Bd. of Health, Radiation Control Reg. § 1.2.16, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.049 “Licensed radioactive material” defined. (NRS 459.201) “Licensed radioactive material” means any radioactive material that is possessed under a specific or general license issued by the Division pursuant to this chapter.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.050 “Licensee” defined. (NRS 459.201) “Licensee” means any person who is licensed by the Division in accordance with the provisions of [NAC 459.010](#) to [459.950](#), inclusive, and [chapter 459](#) of NRS.

[Bd. of Health, Radiation Control Reg. § 1.2.17, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.0504 “Limit” defined. (NRS 459.201) “Limit” means the highest permissible dose of radiation.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0506 “Lost or missing sources of radiation” defined. (NRS 459.201) “Lost or missing sources of radiation” means radioactive material or a radiation machine whose location is unknown. The term includes a source of radiation that has been shipped but has not reached its destination, and whose location cannot be readily traced.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0508 “Medical use of radioactive material” and “medical use” defined. (NRS 459.201)

“Medical use of radioactive material” or “medical use” means the intentional internal or external administration of:

1. Licensed radioactive material or radiation therefrom, as described in 10 C.F.R. Part 35; or
2. Radiation from a machine that produces radiation,

to patients or human research subjects under the supervision of an authorized user.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99; A by R085-06, 11-13-2006)

NAC 459.051 “Member of the public” defined. (NRS 459.201) “Member of the public” means any natural person except during any period in which that natural person receives an occupational dose.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.0512 “Minor” defined. (NRS 459.201) “Minor” means a person who is under 18 years of age.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0516 “Monitoring” defined. (NRS 459.201) “Monitoring” means the measurement of levels of radiation, concentrations of radioactive materials, or surface area activities or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.052 “Natural radioactivity” defined. (NRS 459.201) “Natural radioactivity” means radioactivity of naturally occurring nuclides.

[Bd. of Health, Radiation Control Reg. § 1.2.18, eff. 2-28-80]

NAC 459.0525 “Naturally occurring or accelerator-produced radioactive material” defined. (NRS 459.030) “Naturally occurring or accelerator-produced radioactive material” includes naturally occurring radioactive material, including materials generated by accelerators used in subatomic particle physics research, and accelerator-produced radioactive material. The term does not include by-product, source or special nuclear material.

(Added to NAC by Dep’t of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.0527 “Negative pressure respirator” defined. ([NRS 459.201](#)) “Negative pressure respirator” means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.053 “Nonstochastic effect” defined. ([NRS 459.201](#)) “Nonstochastic effect” means the effects on health from exposure to radiation, the severity of which varies with the dose of radiation and for which it is believed that a threshold exists.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.054 “Occupational dose” defined. ([NRS 459.030](#), [459.201](#)) “Occupational dose” means the dose received by a natural person in the course of employment in which the natural person’s duties involve exposure to radiation or radioactive material from licensed and unlicensed sources of radiation, whether in the possession of a licensee or registrant or any other person. The term does not include a dose received by a natural person:

1. From background radiation;
2. From any medical administration of radiation to the person;
3. From exposure to other natural persons who have been administered radioactive material and have been released pursuant to 10 C.F.R. § 35.75;
4. From voluntary participation in medical research; or
5. As a member of the public.

[Bd. of Health, Radiation Control Reg. § 1.2.19, eff. 2-28-80]—(NAC A 1-18-94; R084-98, 1-26-99; A by Dep’t of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.055 “Occupational exposure” defined. ([NRS 459.201](#)) “Occupational exposure” means exposure of a person:

1. In a restricted area; or
2. In the course of employment in which the person’s duties involve exposure from sources of radiation, whether in the possession of the licensee, registrant or any other person.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0555 “Package” defined. ([NRS 459.201](#)) “Package” means the assembly of the components necessary to comply with the regulations of the United States Department of Transportation relating to packaging and the radioactive contents of the package, as presented for transport.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.056 “Particle accelerator” defined. ([NRS 459.201](#)) “Particle accelerator” means any machine capable of accelerating electrons, protons, deuterons or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV.

[Bd. of Health, Radiation Control Reg. § 1.2.20, eff. 2-28-80]

NAC 459.058 “Person” defined. ([NRS 459.201](#)) “Person” has the meaning ascribed to it in subsection 5 of [NRS 459.010](#).

[Bd. of Health, Radiation Control Reg. § 1.2.21, eff. 2-28-80]

NAC 459.059 “Personnel monitoring” defined. ([NRS 459.201](#)) “Personnel monitoring” means:

1. The assessment of dose equivalent by the use of equipment designed to be worn by a person;
2. The assessment of committed effective dose equivalent by bioassay or derived air concentration-hours; or
3. The assessment of dose equivalent by the use of data from a survey.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.060 “Personnel monitoring equipment” defined. ([NRS 459.030](#), [459.201](#)) “Personnel monitoring equipment” means devices designed to be worn by a natural person for the assessment of dose equivalent, including, but not limited to, film badges, thermoluminescence dosimeters, pocket ionization chambers and personal devices for sampling air.

[Bd. of Health, Radiation Control Reg. § 1.2.22, eff. 2-28-80]—(NAC A 1-18-94; A by Dep’t of Human

Resources by R137-01, 5-30-2003)

NAC 459.062 “Pharmacist” defined. ([NRS 459.201](#)) “Pharmacist” has the meaning ascribed to it in 10 C.F.R. § 35.2, as adopted by reference pursuant to [NAC 459.3062](#).
(Bd. of Health, Radiation Control Reg. § 1.2.23, eff. 2-28-80)—(NAC A by R085-06, 11-13-2006)

NAC 459.063 “Physical description” defined. ([NRS 459.201](#)) “Physical description” means the items required to be indicated on NRC Form 541 to describe low-level radioactive waste.
(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.064 “Physician” defined. ([NRS 459.201](#)) “Physician” has the meaning ascribed to it in 10 C.F.R. § 35.2, as adopted by reference pursuant to [NAC 459.3062](#).
(Bd. of Health, Radiation Control Reg. § 1.2.24, eff. 2-28-80)—(NAC A by R085-06, 11-13-2006)

NAC 459.0645 “Planned special exposure” defined. ([NRS 459.201](#)) “Planned special exposure” means an infrequent exposure to radiation pursuant to [NAC 459.329](#), separate from and in addition to the annual limits specified in [NAC 459.325](#).
(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0646 “Positive pressure respirator” defined. ([NRS 459.201](#)) “Positive pressure respirator” means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.
(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.06485 “Pressure demand respirator” defined. ([NRS 459.201](#)) “Pressure demand respirator” means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.
(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.06495 “Principal activities” defined. ([NRS 459.201](#)) “Principal activities” means the activities authorized by a license which are essential to achieving the purpose for which the license was issued or amended. The term does not include:

1. Storage during which no licensed material is accessed for use; or
2. Disposal and activities incidental to decontamination or decommissioning.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.065 “Public dose” defined. ([NRS 459.030](#), [459.201](#)) “Public dose” means the dose received by a member of the public from exposure to radiation or radioactive material that is released by a licensee, or from another source of radiation under the control of a licensee or registrant. The term does not include a dose received by a natural person from:

1. Background radiation;
2. Any medical administration of radiation to the person;
3. Exposure to other natural persons who have been administered radioactive material and have been released pursuant to 10 C.F.R. § 35.75;
4. An occupational dose; or
5. Voluntary participation in medical research.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; A by Dep’t of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.0653 “Qualitative fit test” defined. ([NRS 459.201](#)) “Qualitative fit test” means a fit test that relies on the response of a person to the test agent to assess on a pass or fail basis the adequacy of the fit of a respirator.
(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.0655 “Quality factor” defined. ([NRS 459.201](#)) “Quality factor” means the applicable modifying

factor that is specified in [NAC 459.3235](#).

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.0657 “Quantitative fit test” defined. ([NRS 459.201](#)) “Quantitative fit test” means a fit test that relies on numerically measuring the amount of leakage into a respirator to assess the adequacy of the fit of the respirator.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.066 “Rad” defined. ([NRS 459.030](#), [459.201](#)) “Rad” means the special unit of absorbed dose. One rad equals one hundredth of a joule per kilogram of material; for example, if tissue is the material of interest, 1 rad equals 100 ergs per gram of tissue. One rad is equivalent to 10 milligrays.

[Bd. of Health, Radiation Control Reg. § 1.2.25, eff. 2-28-80]—(NAC A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.068 “Radiation” defined. ([NRS 459.201](#)) “Radiation” means ionizing radiation, that is, gamma rays and X rays, alpha and beta particles, high speed electrons, neutrons and other nuclear particles.

[Bd. of Health, Radiation Control Reg. § 1.2.26, eff. 2-28-80]

NAC 459.070 “Radiation area” defined. ([NRS 459.201](#)) “Radiation area” means any area accessible to any person in which there exists radiation at a level which could result in a person receiving a dose equivalent in excess of 0.005 rem in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

[Bd. of Health, Radiation Control Reg. § 1.2.27, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.072 “Radiation machine” defined. ([NRS 459.201](#)) “Radiation machine” means any device capable of producing radiation except one which produces radiation only from radioactive material.

[Bd. of Health, Radiation Control Reg. § 1.2.28, eff. 2-28-80]

NAC 459.074 “Radiation safety officer” defined. ([NRS 459.201](#)) “Radiation safety officer” has the meaning ascribed to it in 10 C.F.R. § 35.2, as adopted by reference pursuant to [NAC 459.3062](#).

[Bd. of Health, Radiation Control Reg. § 1.2.29, eff. 2-28-80]—(NAC A by R085-06, 11-13-2006)

NAC 459.075 “Radiation symbol” defined. ([NRS 459.201](#)) “Radiation symbol” means the radiation symbol specified in [NAC 459.355](#).

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.076 “Radioactive material” defined. ([NRS 459.201](#)) “Radioactive material” means any solid, liquid or gaseous material which emits radiation spontaneously.

[Bd. of Health, Radiation Control Reg. § 1.2.30, eff. 2-28-80]

NAC 459.078 “Radioactivity” defined. ([NRS 459.201](#)) “Radioactivity” means the disintegration of unstable atomic nuclei by the emission of radiation.

[Bd. of Health, Radiation Control Reg. § 1.2.31, eff. 2-28-80]

NAC 459.0785 “Record of occupational exposure for a monitoring period” defined. ([NRS 459.201](#)) “Record of occupational exposure for a monitoring period” means a form provided by the Division to serve as a record of occupational exposure for a monitoring period, or an equivalent form.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.079 “Reference man” defined. ([NRS 459.201](#)) “Reference man” means a hypothetical aggregation of human physical and physiological characteristics established by international standards approved by the Board and used by researchers and public health workers to standardize the results of experiments and to relate biological effects to a common base.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.080 “Registrant” defined. (NRS 459.201) “Registrant” means any person who is registered with the Division and who is legally obligated to register with the Division pursuant to [NAC 459.010](#) to [459.950](#), inclusive, and [chapter 459](#) of NRS.

[Bd. of Health, Radiation Control Reg. § 1.2.32, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.082 “Registration” defined. (NRS 459.201) “Registration” means registration with the Division in accordance with the provisions of [NAC 459.010](#) to [459.950](#), inclusive, and [chapter 459](#) of NRS.

[Bd. of Health, Radiation Control Reg. § 1.2.33, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.084 “Regulations of the Department of Transportation” defined. (NRS 459.201) “Regulations of the Department of Transportation” means the regulations in 49 C.F.R. Parts 171 to 177, inclusive.

[Bd. of Health, Radiation Control Reg. § 1.2.34, eff. 2-28-80]—(NAC A 9-6-88)

NAC 459.085 “Released for unrestricted use” defined. (NRS 459.201) “Released for unrestricted use” means:

1. When applied to restricted areas on land or in facilities such as buildings, that all radioactive materials have been removed until the only radiation remaining is background radiation, and that after the Division has given its approval, the area is no longer restricted; or

2. When applied to equipment such as tools or vehicles in a restricted area, that all radioactive material has been removed from the equipment, so that the equipment may be released from the restricted area.

(Added to NAC by Bd. of Health, eff. 11-1-95)

NAC 459.086 “Rem” defined. (NRS 459.030, 459.201) “Rem” means the special unit of any of the quantities expressed as a dose equivalent that is equal to the absorbed dose in rads multiplied by the quality factor. One rem is equivalent to 10 millisieverts.

[Bd. of Health, Radiation Control Reg. § 1.2.35, eff. 2-28-80]—(NAC A 9-6-88; 1-18-94; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.088 “Research and development” defined. (NRS 459.201) “Research and development” means:

1. Theoretical analysis, exploration or experimentation; or

2. The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstrative purposes, including the experimental production and testing of models, devices, equipment, materials and processes. “Research and development” does not include the internal or external administration of radiation or radioactive material to human beings.

[Bd. of Health, Radiation Control Reg. § 1.2.36, eff. 2-28-80]

NAC 459.0885 “Residual waste” defined. (NRS 459.030, 459.201) “Residual waste” means low-level radioactive waste resulting from processing or decontamination that, because it cannot be easily separated into distinct batches attributable to individual waste generators, is attributed to the processor or decontamination facility, as applicable.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.089 “Respiratory protective device” defined. (NRS 459.201) “Respiratory protective device” means an apparatus used to reduce the intake of airborne radioactive material by a person.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.090 “Restricted area” defined. (NRS 459.201) “Restricted area” means any area to which access is limited by the licensee or registrant for the purpose of protecting persons from undue risks from exposure to radiation and radioactive material. The term does not include an area used for residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

[Bd. of Health, Radiation Control Reg. § 1.2.37, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.092 “Roentgen” defined. (NRS 459.201) “Roentgen” (R) means a special unit of exposure. One

roentgen equals 2.58×10^{-4} coulombs per kilogram of air.

[Bd. of Health, Radiation Control Reg. § 1.2.38, eff. 2-28-80]

NAC 459.093 “Sanitary sewerage” defined. (NRS 459.201) “Sanitary sewerage” means a system of public sewers for carrying off wastewater and refuse. The term does not include sewage treatment facilities, septic tanks or leach fields owned or operated by a licensee.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.094 “Sealed source” defined. (NRS 459.201) “Sealed source” means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

[Bd. of Health, Radiation Control Reg. § 1.2.39, eff. 2-28-80]

NAC 459.0945 “Self-contained breathing apparatus” defined. (NRS 459.201) “Self-contained breathing apparatus” means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.095 “Shallow-dose equivalent” defined. (NRS 459.201) “Shallow-dose equivalent” means the dose equivalent to the skin of the whole body or the skin of an extremity that is measured at a tissue depth of 0.007 centimeter (7 mg/cm^2).

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R085-06, 11-13-2006)

NAC 459.0955 “Shipper” defined. (NRS 459.201) “Shipper” means an entity, including, without limitation, a waste collector, waste generator or waste processor, that offers low-level radioactive waste for transportation by consigning the waste to a different waste collector or waste processor, or to a land disposal facility.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.0957 “Shipping papers” defined. (NRS 459.030) “Shipping papers” means Form 540 and, if necessary, Form 540A, published by the Nuclear Regulatory Commission.

(Added to NAC by Dep’t of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.0959 “Sievert” defined. (NRS 459.030) “Sievert” means the special unit of any of the quantities expressed as a dose equivalent that is equal to the absorbed dose in grays multiplied by the quality factor. One sievert is equivalent to 100 rems.

(Added to NAC by Dep’t of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.096 “Source material” defined. (NRS 459.201) “Source material” means:

1. Uranium or thorium, or any combination thereof, in any physical or chemical form; or
2. Ores which contain by weight one-twentieth of one percent (0.05 percent) or more of uranium or thorium, or any combination thereof. Source material does not include special nuclear material.

[Bd. of Health, Radiation Control Reg. § 1.2.40, eff. 2-28-80]

NAC 459.098 “Source of radiation” defined. (NRS 459.201) “Source of radiation” means any radioactive material, or any device or equipment emitting or capable of producing radiation.

[Bd. of Health, Radiation Control Reg. § 1.2.41, eff. 2-28-80]

NAC 459.102 “Special nuclear material in quantities not sufficient to form a critical mass” defined. (NRS 459.201) “Special nuclear material in quantities not sufficient to form a critical mass” means uranium enriched in the isotope uranium 235 in quantities not exceeding 350 grams of contained uranium 235; uranium 233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula:

1. For each kind of special nuclear material, determine the ration between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material.
2. The sum of such ratios for all of the kinds of special nuclear material in combination must not exceed “1”

for example, unity. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175 \text{ (grams contained U 235)}}{350} + \frac{50 \text{ (grams U 233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1$$

[Bd. of Health, Radiation Control Reg. § 1.2.43, eff. 2-28-80]

NAC 459.103 “Stochastic effect” defined. ([NRS 459.201](#)) “Stochastic effect” means the effects on health that occur randomly and for which:

1. The probability of the effect occurring, rather than its severity, is assumed to be a linear function of the dose of radiation; and

2. It is believed that there is no threshold.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.1035 “Supplied-air respirator” defined. ([NRS 459.201](#)) “Supplied-air respirator” means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user, and includes, without limitation, an airline respirator.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.104 “Survey” defined. ([NRS 459.201](#)) “Survey” means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal or presence of radioactive material or other sources of radiation. When appropriate, the evaluation includes, but is not limited to, a physical survey of the location of radioactive material and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

[Bd. of Health, Radiation Control Reg. § 1.2.44, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.106 “Termination” defined. ([NRS 459.201](#)) “Termination” means the end of employment with the license or registrant or, in the case of persons not employed by the licensee or registrant, the end of a work assignment in the licensee’s or registrant’s restricted areas in a given calendar quarter, without expectation or specific scheduling of reentry into the restricted areas during the remainder of that calendar quarter.

[Bd. of Health, Radiation Control Reg. § 1.2.51, eff. 2-28-80]

NAC 459.108 “Test” defined. ([NRS 459.201](#)) “Test” means a method for determining the characteristics or condition of sources of radiation or components thereof.

[Bd. of Health, Radiation Control Reg. § 1.2.45, eff. 2-28-80]

NAC 459.109 “Threshold” defined. ([NRS 459.201](#)) “Threshold” means the dose of radiation below which there are no effects on the health of a person from that dose of radiation.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.1092 “Tight-fitting facepiece” defined. ([NRS 459.201](#)) “Tight-fitting facepiece” means a respiratory inlet covering that forms a complete seal with the face.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.1095 “Total effective dose equivalent” defined. ([NRS 459.201](#)) “Total effective dose equivalent” means the sum of the deep-dose equivalent and the committed effective dose equivalent.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.111 “Total organ dose equivalent” defined. ([NRS 459.201](#)) “Total organ dose equivalent” means the sum of the deep-dose equivalent and the committed dose equivalent for the organ receiving the highest dose.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.1115 “Uniform manifest” defined. ([NRS 459.201](#)) “Uniform manifest” means the combination of

NRC Forms 540, 541 and 542, and continuation sheets, as applicable.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.112 “Unrefined and unprocessed ore” defined. ([NRS 459.201](#)) “Unrefined and unprocessed ore” means ore in its natural form before any processing, such as grinding, roasting, beneficiating or refining.
[Bd. of Health, Radiation Control Reg. § 1.2.47, eff. 2-28-80]

NAC 459.114 “Unrestricted area” defined. ([NRS 459.201](#)) “Unrestricted area” means any area where access is not controlled or limited by the licensee or registrant.

[Bd. of Health, Radiation Control Reg. § 1.2.48, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.1142 “User-performed seal check” defined. ([NRS 459.201](#)) “User-performed seal check” means an action conducted by the user of a respirator to determine if the respirator is properly seated to the face. The term includes, without limitation, a negative pressure check, a positive pressure check, an irritant smoke check and an isoamyl acetate check.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.1145 “Very high radiation area” defined. ([NRS 459.030](#), [459.201](#)) “Very high radiation area” means an area, accessible to persons, in which radiation levels from a source of radiation external to the body could result in a person receiving an absorbed dose in excess of 500 rads (5 grays) in 1 hour at 1 meter from:

1. A radiation source; or
2. Any surface that the radiation penetrates.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.1146 “Waste collector” defined. ([NRS 459.201](#)) “Waste collector” means an entity that operates pursuant to a license issued by the Nuclear Regulatory Commission or an agreement state whose principal purpose is to:

1. Collect and consolidate waste generated by others; and
2. Transfer this waste without processing or repackaging the waste to another waste collector, waste processor or land disposal facility.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.1147 “Waste generator” defined. ([NRS 459.201](#)) “Waste generator” means:

1. An entity that operates pursuant to a license issued by the Nuclear Regulatory Commission or an agreement state that:

(a) Possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use; and

(b) Transfers this material or component to a land disposal facility, waste collector or waste processor for handling or treatment before disposal; or

2. An entity that operates pursuant to a license issued by the Nuclear Regulatory Commission or an agreement state that transfers residual waste from its facility to a land disposal facility, waste collector or waste processor for handling or treatment before disposal.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.1148 “Waste processor” defined. ([NRS 459.201](#)) “Waste processor” means an entity that operates pursuant to a license issued by the Nuclear Regulatory Commission or an agreement state whose principal purpose is to process, repackage or otherwise treat low-level radioactive material or waste generated by others before the waste is transferred to a licensed land disposal facility.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.1149 “Waste type” defined. ([NRS 459.030](#)) “Waste type” means a waste, within a disposal container, that has a unique physical description. The term includes, without limitation, a waste that has a specific descriptor code and a waste that is sorbed on or solidified in a specifically defined medium.

(Added to NAC by Dep’t of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.115 “Weighting factor” defined. ([NRS 459.201](#)) “Weighting factor” means the proportion that the risk of stochastic effects resulting from irradiation of an organ or tissue bears to the total risk of stochastic effects when the whole body is irradiated uniformly, calculated pursuant to the requirements set forth in [NAC 459.323](#).

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.1152 “Whole body” defined. ([NRS 459.201](#)) “Whole body” means, for the purposes of determining external doses, the head, that portion of an arm above the elbow, that portion of a leg above the knee, and the trunk, including the gonads.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.1156 “Woman who has declared her pregnancy” defined. ([NRS 459.030](#), [459.201](#)) “Woman who has declared her pregnancy” means a woman who has voluntarily informed the relevant licensee or registrant, in writing, of her pregnancy and the estimated date of conception.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.116 “Worker” defined. ([NRS 459.201](#)) “Worker” means a person engaged in work under a license or registration issued by the agency and controlled by a licensee or registrant.

[Bd. of Health, Radiation Control Reg. § 1.2.50, eff. 2-28-80]

RADIATION CONTROL

General Provisions

NAC 459.118 Applicability. ([NRS 459.030](#), [459.201](#)) The provisions of [NAC 459.010](#) to [459.950](#), inclusive, apply to all persons who receive, possess, use, transfer, own or acquire any source of radiation except as otherwise specifically provided in [NAC 459.010](#) to [459.950](#), inclusive. Nothing in [NAC 459.010](#) to [459.950](#), inclusive, applies to any person to the extent he is subject to regulation by the Nuclear Regulatory Commission. [Bd. of Health, Radiation Control Reg. § 1.1, eff. 2-28-80]—(NAC A 9-6-88; R084-98, 1-26-99; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.120 Exemptions. ([NRS 459.201](#))

1. The Division may, upon application or its own initiative, grant exemptions or exceptions from the requirements of [NAC 459.010](#) to [459.950](#), inclusive, as it determines will not result in undue hazard to public health and safety or property.

2. Common and contract carriers, freight forwarders and warehousemen who are subject to the regulations of the United States Department of Transportation or the United States Postal Service, 39 C.F.R. Parts 14 and 15, are exempt from [NAC 459.010](#) to [459.950](#), inclusive, to the extent that they transport or store sources of radiation in the regular course of their carriage for another or store the sources as an incident to such transportation. Private carriers who are subject to the regulations of the United States Department of Transportation are exempt from [NAC 459.010](#) to [459.950](#), inclusive, to the extent that they transport sources of radiation. Common, contract and private carriers who are not subject to the regulations of the United States Department of Transportation or the United States Postal Service are subject to applicable sections of [NAC 459.010](#) to [459.950](#), inclusive.

3. Any contractor or subcontractor of the United States Department of Energy or the Nuclear Regulatory Commission who is in one of the following categories and operating within this State is exempt from [NAC 459.010](#) to [459.950](#), inclusive, to the extent that, under his contract, he receives, possesses, uses, transfers or acquires sources of radiation:

(a) Any prime contractor performing work for the United States Department of Energy at sites owned or controlled by the United States Government, transporting sources of radiation to or from such sites, or performing contract services during temporary interruptions of such transportation.

(b) Any prime contractor of the United States Department of Energy performing research in, or development, manufacture, storage, testing or transportation of atomic weapons or components thereof.

(c) Any prime contractor of the United States Department of Energy using or operating a nuclear reactor or other nuclear device in a vehicle or vessel owned by the United States Government.

(d) Any other prime contractor or subcontractor of the United States Department of Energy or of the Nuclear

Regulatory Commission when the State and the Nuclear Regulatory Commission jointly determine that:

- (1) The exemption of the prime contractor or subcontractor is authorized by law; and
- (2) Under the terms of the contract or subcontract there is adequate assurance that the work thereunder can be accomplished without undue risk to public health or safety.

[Bd. of Health, Radiation Control Reg. §§ 1.3-1.3.3.4, eff. 2-28-80]—(NAC A 9-6-88; R084-98, 1-26-99)

NAC 459.122 Prohibited equipment. ([NRS 459.201](#)) The use of the following equipment is prohibited:

1. Handheld fluoroscopic screens; and
2. Fluoroscopic devices for the fitting of shoes.

[Bd. of Health, Radiation Control Reg. §§ 1.8-1.8.2, eff. 2-28-80]

NAC 459.124 Records. ([NRS 459.030](#), [459.060](#), [459.201](#))

1. In addition to other records required by [NAC 459.010](#) to [459.950](#), inclusive, each licensee and registrant shall maintain records showing his receipt, transfer and disposal of all sources of radiation.

2. A licensee authorized to possess, in an unsealed form, radioactive material with a half-life greater than 120 days shall:

(a) Before his license terminates, forward to the Division:

(1) All records of licensed radioactive material disposed of by the licensee pursuant to [NAC 459.3595](#) to [459.3615](#), inclusive, including burials authorized before January 28, 1981; and

(2) All records required by paragraph (d) of subsection 2 of [NAC 459.3645](#); and

(b) If the licensee transfers or assigns any licensed activities to another licensee, transfer to the other licensee:

(1) All records of licensed material disposed of by the licensee pursuant to [NAC 459.3595](#) to [459.3615](#), inclusive, including burials authorized before January 28, 1981; and

(2) All records required by paragraph (d) of subsection 2 of [NAC 459.3645](#).

3. A licensee to whom records are transferred pursuant to paragraph (b) of subsection 2 shall maintain the records until the termination of his license.

4. A licensee whose license is being terminated shall, before his license terminates, forward to the Division the records required by subsection 12 of [NAC 459.1955](#).

[Bd. of Health, Radiation Control Reg. § 1.4, eff. 2-28-80]—(NAC A 9-6-88; R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.126 Inspections. ([NRS 459.201](#))

1. Each licensee and registrant shall, at any reasonable time, permit the Division to inspect sources of radiation and the premises or facilities where sources of radiation are used or stored.

2. Each licensee and registrant shall make available to the Division for inspection, upon reasonable notice, his records maintained pursuant to these regulations.

[Bd. of Health, Radiation Control Reg. §§ 1.5-1.5.2, eff. 2-28-80]

NAC 459.128 Tests. ([NRS 459.201](#)) On instruction from the Division, each licensee and registrant shall perform or permit the Division to perform such reasonable tests as the Division deems appropriate or necessary, including, but not limited to, tests of:

1. Sources of radiation;
2. Facilities in which sources of radiation are used or stored;
3. Instruments for detection and monitoring of radiation; and
4. Other equipment and devices used in connection with the use or storage of licensed or registered sources of radiation.

[Bd. of Health, Radiation Control Reg. §§ 1.6-1.6.4, eff. 2-28-80]

NAC 459.134 Communications with Division. ([NRS 459.201](#)) All communications and reports concerning the provisions of [NAC 459.010](#) to [459.950](#), inclusive, and copies of regulatory guides and applications filed under those provisions should be addressed to the Radiological Health Section, Health Division, 505 East King Street, Carson City, Nevada 89701.

[Bd. of Health, Radiation Control Reg. § 1.9, eff. 2-28-80]—(NAC A 9-6-88; R084-98, 1-26-99)

NAC 459.135 Deliberate misconduct; enforcement action. ([NRS 459.030](#))

1. A licensee, an employee of a licensee, a contractor or subcontractor of a licensee, or an employee of a contractor or subcontractor of a licensee, who knowingly provides to a licensee, or to a contractor or subcontractor of a licensee, any component, equipment, material or other good or service that relates to the activities of the licensee pursuant to this chapter shall not:

(a) Engage in deliberate misconduct; or

(b) Deliberately submit to the Division, a licensee, or a contractor or subcontractor of a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the Division.

2. A person who violates subsection 1 may be subject to an enforcement action by the Division.

3. As used in this section:

(a) "Contractor" includes a supplier and a consultant.

(b) "Deliberate misconduct" means an intentional act or omission that the person knows:

(1) Would cause or, if not detected, would have caused, a licensee to be in violation of any rule, regulation or order of the Division, or of any term, condition or limitation of a license issued by the Division; or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor or subcontractor.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.136 Procedure for review of actions taken by Division; appeals. ([NRS 459.201](#))

1. Any licensee or registrant who has reason to believe that an action by the Division or one or more of the Division's staff members pursuant to [NAC 459.118](#) to [459.950](#), inclusive, concerning him has been incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

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

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

4. An applicant for or holder of a license or registration issued pursuant to [NAC 459.118](#) to [459.950](#), inclusive, who is aggrieved by the Health Division taking any disciplinary action pursuant to [NRS 459.010](#) to [459.290](#), inclusive, may appeal that action in accordance with [NAC 439.300](#) to [439.395](#), inclusive, after exhausting the informal procedures set forth in this section, except that the Bureau may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

5. As used in this section, "Bureau" means the Bureau of Health Protection Services of the Health Division of the Department of Health and Human Services or its successor.

[Bd. of Health, Radiation Control Reg. §§ 12.1-12.1.4, eff. 2-28-80]—(NAC A 9-6-88; 10-30-97)

NAC 459.138 Change of method for determining calendar quarters. ([NRS 459.201](#)) No licensee or registrant may change the method observed by him for determining calendar quarters for purposes of [NAC 459.010](#) to [459.950](#), inclusive, except at the beginning of a calendar year.

[Bd. of Health, Radiation Control Reg. part § 1.2.6, eff. 2-28-80]—(NAC A 9-6-88; R084-98, 1-26-99)

NAC 459.140 Variances. ([NRS 459.201](#)) A request for a variance must be made in accordance with the procedures in [chapter 439](#) of NAC, regulations governing the procedures for seeking variances from board regulations.

[Bd. of Health, Radiation Control Reg. §§ 12.2 & 12.2.1, eff. 2-28-80]

NAC 459.141 Termination of declaration of woman who has declared her pregnancy. ([NRS 459.030](#)) The declaration of a woman who has declared her pregnancy remains in effect until the woman making the declaration:

1. Withdraws the declaration in writing; or

2. Is no longer pregnant.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.142 Severability. ([NRS 459.201](#)) If any of the provisions of [NAC 459.010](#) to [459.950](#), inclusive, or any application thereof to any person, thing or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

[Bd. of Health, Radiation Control Reg. § 1.10, eff. 2-28-80]—(NAC A 9-6-88; R084-98, 1-26-99)

Registration of Radiation Machines

NAC 459.150 Scope of provisions; registration required. ([NRS 459.201](#))

1. [NAC 459.150](#) to [459.166](#), inclusive, provide for the registration of radiation machines and registration of persons who install or perform service upon radiation machines.

2. No person may repair, maintain or install radiation machines unless he is registered in conformance with the requirement of [NAC 459.150](#) to [459.166](#), inclusive.

3. A person may operate a radiation machine only if there is a valid registration or the operator is registered with the Division to install, service or repair the machine.

[Bd. of Health, Radiation Control Reg. §§ 2.12.1.2, eff. 2-28-80; § 2.1.3, eff. 10-15-81]—(NAC A 4-27-84; 9-1-89)

NAC 459.152 Exemptions from requirements. ([NRS 459.201](#))

1. Electronic equipment that produces radiation incidental to its operation for other purposes is exempt from the requirements of registration and notification in [NAC 459.150](#) to [459.166](#), inclusive, if the dose equivalent rate, averaged over an area of 10 square centimeters, does not exceed 0.5 mrem per hour at 5 cm from any accessible surface of the equipment. The production, testing or factory servicing of the equipment is not exempt.

2. Radiation machines which:

(a) Are in transit or in storage incident to transportation; or

(b) Have been previously registered and are disassembled or in storage,

are exempt from the requirements of [NAC 459.150](#) to [459.166](#), inclusive.

3. Domestic television receivers are exempt from the requirements of [NAC 459.150](#) to [459.166](#), inclusive.

[Bd. of Health, Radiation Control Reg. §§ 2.2-2.2.3, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.154 Applications for registration; temporary use of portable machine. ([NRS 439.150](#), [459.201](#))

1. Except as otherwise provided in subsection 2, each person who controls an unregistered, operational radiation machine shall apply to the Division for registration of the machine within 30 days after installing the machine.

2. A person who brings a portable machine into this State for a temporary use of 180 days or less in any calendar year:

(a) Must apply to the Division for registration of the machine for a temporary use at least 3 working days before using it in this State;

(b) Shall comply with all other applicable provisions of [NAC 459.010](#) to [459.950](#), inclusive;

(c) Shall furnish the Division with any other information it may reasonably request; and

(d) Shall not use the machine in this State more than 180 days per calendar year.

3. The application must be made on the Division's Form NRC-4, Application for Registration of Radiation Machine. A copy of the form may be obtained from the Division. A separate application and registration are required for each control console of a radiation machine.

4. Each application for registration of an X-ray machine must contain a list of the numbers of the X-ray tubes associated with a control panel.

5. Each person who controls a radiation machine must designate on the application form a person where the machine is located who is responsible for protection against radiation.

6. Each person who seeks to engage in the business of installing radiation machines, furnishing services or repairing radiation machines in this State must apply for registration with the Division and receive a certificate of registration before furnishing any services.

7. Each application for registration by a person to install, service or repair radiation machines must be

accompanied by a nonrefundable annual fee of \$70 or the application must not be acted upon by the Division.

[Bd. of Health, Radiation Control Reg. §§ 2.3, 2.3.2, & 2.3.3, eff. 2-28-80; § 2.3.1, eff. 2-28-80; A 10-15-81; §§ 2.3.1.1 & 2.3.1.2, eff. 10-15-81]—(NAC A 4-27-84; 6-23-86; 9-6-88; 9-6-88; 4-18-90; 1-24-92; R084-98, 1-26-99; R149-03, 12-3-2003)

NAC 459.156 Registration certificate: Issuance; incorporation of additional requirements and conditions. ([NRS 459.201](#))

1. Upon a determination that an applicant meets the requirements of [NAC 459.150](#) to [459.166](#), inclusive, the Division shall issue a registration certificate for the radiation machine or for the person installing, servicing or repairing radiation machines on the appropriate form.

2. The Division may incorporate in the registration certificate at the time of issuance or thereafter by appropriate regulations or order any additional requirements and conditions with respect to the receipt, possession, use and transfer of radiation machines by the registrant as it deems appropriate or necessary.

[Bd. of Health, Radiation Control Reg. §§ 2.4-2.4.2, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.158 Registration certificate: Expiration. ([NRS 459.201](#)) Except as provided by [NAC 459.160](#), each registration certificate expires on the last day of the month and year indicated on the certificate or 30 days after notification of expiration by the Division.

[Bd. of Health, Radiation Control Reg. § 2.5, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.160 Registration certificate: Renewal. ([NRS 459.201](#))

1. An application for renewal of registration must be filed in accordance with [NAC 459.154](#).

2. If a registrant files an application for renewal of his registration accompanied by the appropriate fee at least 10 days before its expiration, his registration does not expire until the status of his registration has been determined by the Division.

[Bd. of Health, Radiation Control Reg. §§ 2.6 & 2.6.1, eff. 2-28-80; § 2.6.2, eff. 2-28-80; A 10-15-81]—(NAC A 4-27-84)

NAC 459.161 Fees; failure to submit fee. ([NRS 439.150](#), [459.201](#))

1. An application for the registration of a radiation machine submitted pursuant to [NAC 459.154](#) must be accompanied by a nonrefundable fee for each X-ray tube or electron source which is installed in the radiation machine, as follows:

- (a) Medical use, other than mammography, \$250.
- (b) Veterinary use, \$75.
- (c) Dental use, \$70.
- (d) Industrial use, \$100.
- (e) Academic use, \$75.
- (f) Accelerator, \$275.

2. Except as otherwise provided in subsection 3, if the Division issues a registration certificate pursuant to [NAC 459.156](#), the registrant must, for each year the certificate is valid, submit to the Division a nonrefundable renewal fee in an amount equal to the appropriate fee set forth in subsection 1.

3. The renewal fee must be received by the Division not later than the date on which the registration expires. If the fee is not received by that date, the registrant must:

- (a) Stop operating the radiation machine which does not have a valid registration on or before the date the registration expires; or
- (b) Submit to the Division within 5 days after the registration expires:
 - (1) An application for renewal of the registration;
 - (2) A fee in an amount that is equal to the appropriate fee set forth in subsection 1; and
 - (3) A fee for late payment of \$50 per registration.

4. Any application for registration or renewal of registration which is not accompanied by the appropriate fees will not be acted upon by the Division until such fees are paid.

5. An application for a certificate of authorization for a radiation machine must be accompanied by a nonrefundable fee for each machine as required pursuant to [NAC 457.295](#).

(Added to NAC by Bd. of Health, eff. 9-1-89; A 1-24-92; 11-1-95; R149-03, 12-3-2003; R085-06, 11-13-2006)

NAC 459.162 Report of changes. ([NRS 459.201](#)) The registrant shall notify the Division in writing before making any change which would render the information contained in his application for registration or his registration certificate, or both, no longer accurate.

[Bd. of Health, Radiation Control Reg. § 2.7, eff. 2-28-80]

NAC 459.164 Advertisement. ([NRS 459.201](#)) No person may advertise the fact that he or his facility is registered with the Division pursuant to the provisions of [NAC 459.150](#) to [459.166](#), inclusive, or imply that any activity under the registration has been approved by the Division.

[Bd. of Health, Radiation Control Reg. § 2.8, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.166 Transfer, loan, disposal, assembly or installation of machine, supplies or equipment. ([NRS 459.201](#))

1. Any person who sells, leases, transfers, lends, disposes, assembles or installs radiation machines in this State or sells, leases, transfers or disposes of a radiation machine currently registered in this State shall, within 15 days, notify the Division of:

- (a) The name and address of each person who has received such a machine;
- (b) The manufacturer, model and serial number of each control console and X-ray tube transferred; and
- (c) The date of transfer of each machine.

2. A person shall not make, sell, lease, transfer, lend, assemble or install any radiation machine or the supplies and equipment used in connection with such a machine unless the machine and any supplies and equipment, when properly placed in operation and used, meet the applicable requirements of [NAC 459.010](#) to [459.950](#), inclusive.

[Bd. of Health, Radiation Control Reg. §§ 2.9-2.9.2, eff. 2-28-80]—(NAC A 4-27-84; R084-98, 1-26-99)

Licensing of Radioactive Material

NAC 459.180 Applicable provisions. ([NRS 459.030](#), [459.201](#))

1. The provisions of [NAC 459.180](#) to [459.314](#), inclusive, provide for the licensing of radioactive materials. No person may receive, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license issued pursuant to [NAC 459.180](#) to [459.314](#), inclusive, or as otherwise provided in those sections.

2. In addition to the requirements of [NAC 459.180](#) to [459.314](#), inclusive, all licensees are subject to the requirements of [NAC 459.010](#) to [459.142](#), inclusive, [459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive. Licensees engaged in industrial radiography are subject to the requirements of [NAC 459.737](#) and licensees using radioactive materials in the healing arts are subject to the requirements of [NAC 459.3066](#), [459.3801](#) and [459.3805](#).

[Bd. of Health, Radiation Control Reg. §§ 3.1 & 3.1.1, eff. 2-28-80; § 3.1.2, eff. 2-28-80; A 10-15-81]—(NAC A 4-27-84; 9-1-89; 1-18-94; 11-1-95; R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.182 Exemptions for source materials. ([NRS 459.201](#))

1. Any person is exempt from [NAC 459.180](#) to [459.314](#), inclusive, to the extent that he receives, possesses, uses, owns or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 0.05 percent of the mixture, compound, solution or alloy.

2. Any person is exempt from [NAC 459.180](#) to [459.314](#), inclusive, to the extent that he receives, possesses, uses or transfers unrefined and unprocessed ore containing source material. Except as authorized in a specific license, such a person may not refine or process such ore.

3. Any person is exempt from [NAC 459.180](#) to [459.314](#), inclusive, to the extent that he receives, possesses, uses or transfers any of the following:

(a) Any quantities of thorium contained in:

- (1) Incandescent gas mantles;
- (2) Vacuum tubes;
- (3) Welding rods;
- (4) Electric lamps for illuminating purposes if each lamp does not contain more than 50 milligrams of

thorium;

(5) Germicidal lamps, sunlamps and lamps for outdoor or industrial lighting, if each lamp does not contain more than 2 grams of thorium;

(6) Rare earth metals and compounds, mixtures and products containing not more than 0.25 percent by weight thorium, uranium or any combination of these; or

(7) Personnel neutron dosimeters if each dosimeter does not contain more than 50 milligrams of thorium.

(b) Source material contained in the following products:

(1) Glazed ceramic tableware, if the glaze contains not more than 20 percent by weight source material;

(2) Glassware containing not more than 10 percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass, glass enamel or ceramic used in construction; or

(3) Piezoelectric ceramic containing not more than 2 percent by weight source material.

(c) Photographic film, negatives and prints containing uranium or thorium.

(d) Any finished product or part which is fabricated of or contains tungsten-thorium or magnesium-thorium alloys if the thorium content of the alloy does not exceed 4 percent by weight. This exemption does not authorize the chemical, physical, or metallurgical treatment or processing of any such product or part.

(e) Uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles, or stored or handled in connection with installation or removal of counterweights if:

(1) The counterweights are manufactured in accordance with a specific license issued by the Nuclear Regulatory Commission authorizing distribution by the licensee pursuant to 10 C.F.R. Part 40;

(2) Each counterweight has been impressed with the following legend clearly legible through the plating or other covering: "DEPLETED URANIUM";

(3) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED";

(4) The exemption contained in paragraph (e) does not authorize the chemical, physical or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering; and

(5) The requirements specified in subparagraphs (2) and (3) above need not be met by counterweights manufactured before December 31, 1969, provided that such counterweights are impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM," as previously required by the regulations of the Board before February 28, 1980.

(f) Natural or depleted uranium metal used as shielding in any shipping container, if:

(1) The shipping container is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM"; and

(2) The uranium metal is encased in mild steel or an equally fire resistant metal with a wall thickness of one-eighth of an inch.

(g) Thorium contained in finished optical lenses, if each lens does not contain more than 30 percent by weight of thorium. The exemption contained in this paragraph does not authorize either:

(1) The shaping, grinding or polishing of such lenses or manufacturing processes other than the assembly of such lenses into optical systems and devices without any alteration of the lenses; or

(2) The receipt, possession, use or transfer of thorium contained in contact lenses, in spectacles, or in eyepieces in binoculars or other optical instruments.

(h) Uranium contained in detector heads for use in fire-detection units if each detector head contains not more than 0.005 microcurie of uranium.

(i) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, if:

(1) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(2) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

4. The exemptions in subsection 3 do not authorize the manufacture of any of the products described.

[Bd. of Health, Radiation Control Reg. §§ 3.2-3.2.1.4, eff. 2-28-80]—(NAC A 9-6-88; R084-98, 1-26-99)

NAC 459.184 Exemption for certain concentrations and quantities of radioactive material other than source material. ([NRS 459.030](#), [459.201](#))

1. Except as otherwise provided in subsection 2, any person is exempt from [NAC 459.180](#) to [459.314](#), inclusive, to the extent that he receives, possesses, uses, transfers, owns or acquires products or materials containing:

(a) Radioactive material in concentrations not in excess of those listed in [NAC 459.186](#); or

(b) Naturally occurring radioactive material that contains less than 5 picocuries of radium 226 per gram of material.

2. A person shall not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under subsection 1 or the equivalent regulations of the Nuclear Regulatory Commission or any agreement state, except in accordance with a specific license issued pursuant to [NAC 459.276](#) or the general licenses provided in [NAC 459.210](#).

3. Except as otherwise provided in subsections 4 and 5, any person is exempt from the provisions of [NAC 459.010](#) to [459.950](#), inclusive, to the extent that he receives, possesses, uses, transfers, owns or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in [NAC 459.188](#).

4. The provisions of [NAC 459.180](#) to [459.314](#), inclusive, do not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

5. A person shall not, for purposes of commercial distribution, transfer radioactive material in the individual quantities in [NAC 459.188](#), knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under subsections 3 and 4 or the equivalent regulations of the Nuclear Regulatory Commission or any agreement state, except in accordance with a specific license issued by the Nuclear Regulatory Commission pursuant to 10 C.F.R. § 32.18 or by the Division pursuant to [NAC 459.278](#). The license must state that the radioactive material may be transferred by the licensee to persons exempt under subsections 3 and 4 or the equivalent regulations of the Nuclear Regulatory Commission or any agreement state.

[Bd. of Health, Radiation Control Reg. §§ 3.2.2-3.2.2.2.3, eff. 2-28-80]—(NAC A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.186 Table of exempt concentrations. ([NRS 459.201](#)) Exempt concentrations are:

Element (atomic number)	Isotope	Column I Gas concentration µCi/ml ¹	Column II Liquid and solid concentration µCi/ml ²
Antimony (51)	Sb 122		3 x 10 ⁻⁴
	Sb 124		2 x 10 ⁻⁴
	Sb 125		1 x 10 ⁻³
Argon (18)	Ar 37	1 x 10 ⁻³	
	Ar 41	4 x 10 ⁻⁷	
Arsenic (33)	As 73		5 x 10 ⁻³
	As 74		5 x 10 ⁻⁴
	As 76		2 x 10 ⁻⁴
	As 77		8 x 10 ⁻⁴
Barium (56)	Ba 131		2 x 10 ⁻³
	Ba 140		3 x 10 ⁻⁴
Beryllium (4)	Be 7		2 x 10 ⁻²
Bismuth (83)	Bi 206		4 x 10 ⁻⁴
Bromine (35)	Br 82	4 x 10 ⁻⁷	3 x 10 ⁻³
Cadmium (48)	Cd 109		2 x 10 ⁻³
	Cd 115m		3 x 10 ⁻⁴
	Cd 115		3 x 10 ⁻⁴
Calcium (20)	Ca 45		9 x 10 ⁻⁵
	Ca 47		5 x 10 ⁻⁴
Carbon (6)	C 14	1 x 10 ⁻⁶	8 x 10 ⁻³
Cerium (58)	Ce 141		9 x 10 ⁻⁴
	Ce 143		4 x 10 ⁻⁴

	Ce 144		1×10^{-4}
Cesium (55)	Cs 131		2×10^{-2}
	Cs 134m		6×10^{-2}
	Cs 134		9×10^{-5}
Chlorine (17)	Cl 38	9×10^{-7}	4×10^{-3}
Chromium (24)	Cr 51		2×10^{-2}
Cobalt (27)	Co 57		5×10^{-3}
	Co 58		1×10^{-3}
	Co 60		5×10^{-4}
Copper (29)	Cu 64		3×10^{-3}
Dysprosium (66)	Dy 165		4×10^{-3}
	Dy 166		4×10^{-4}
Erbium (68)	Er 169		9×10^{-4}
	Er 171		1×10^{-3}
Europium (63)	Eu 152		6×10^{-4}
	(Tr=9.2 h) Eu 155		2×10^{-3}
Fluorine (9)	F 18	2×10^{-6}	8×10^{-3}
Gadolinium (64)	Gd 153		2×10^{-3}
	Gd 159		8×10^{-4}
Gallium (31)	Ga 72		4×10^{-4}
Germanium (32)	Ge 71		2×10^{-2}
Gold (79)	Au 196		2×10^{-3}
	Au 198		5×10^{-4}
	Au 199		2×10^{-3}
Hafnium (72)	Hf 181		7×10^{-4}
Hydrogen (1)	H 3	5×10^{-6}	3×10^{-2}
Indium (49)	In 113m		1×10^{-2}
	In 114m		2×10^{-4}
Iodine (53)	I 126	3×10^{-9}	2×10^{-5}
	I 131	3×10^{-9}	2×10^{-5}
	I 132	8×10^{-8}	6×10^{-4}
	I 133	1×10^{-8}	7×10^{-5}
	I 134	2×10^{-7}	1×10^{-3}
Iridium (77)	Ir 190		2×10^{-3}
	Ir 192		4×10^{-4}
	Ir 194		3×10^{-4}
Iron (26)	Fe 55		8×10^{-3}
	Fe 59		6×10^{-4}
Krypton (36)	Kr 85m	1×10^{-6}	
	Kr 85	3×10^{-6}	
Lanthanum (57)	La 140		2×10^{-4}
Lead (82)	Pb 203		4×10^{-3}
Lutetium (71)	Lu 177		1×10^{-3}
Manganese (25)	Mn 52		3×10^{-4}
	Mn 54		1×10^{-3}
	Mn 56		1×10^{-3}
Mercury (80)	Hg 197m		2×10^{-3}
	Hg 197		3×10^{-3}
	Hg 203		2×10^{-4}
Molybdenum (42)	Mo 99		2×10^{-3}
Neodymium (60)	Nd 147		6×10^{-4}
	Nd 149		3×10^{-3}
Nickel (28)	Ni 65		1×10^{-3}
Niobium (Columbium) (41)	Nb 95		1×10^{-3}
	Nb 97		9×10^{-3}
Osmium (76)	Os 185		7×10^{-4}
	Os 191m		3×10^{-2}
	Os 191		2×10^{-3}
	Os 193		6×10^{-4}

Palladium (46)	Pd 103		3×10^{-3}
	Pd 109		9×10^{-4}
Phosphorus (15)	P 32		2×10^{-4}
Platinum (78)	Pt 191		1×10^{-3}
	Pt 193m		1×10^{-2}
	Pt 197m		1×10^{-2}
	Pt 197		1×10^{-3}
Potassium (19)	K 42		3×10^{-3}
Praseodymium (59)	Pr 142		3×10^{-4}
	Pr 143		5×10^{-4}
Promethium (61)	Pm 147		2×10^{-3}
	Pm 149		4×10^{-4}
Rhenium (75)	Re 183		6×10^{-3}
	Re 186		9×10^{-4}
	Re 188		6×10^{-4}
Rhodium (45)	Rh 103m		1×10^{-1}
	Rh 105		1×10^{-3}
Rubidium (37)	Rb 86		7×10^{-4}
Ruthenium (44)	Ru 97		4×10^{-3}
	Ru 103		8×10^{-4}
	Ru 105		1×10^{-3}
	Ru 106		1×10^{-4}
Samarium (62)	Sm 153		8×10^{-4}
Scandium (21)	Sc 46		4×10^{-4}
	Sc 47		9×10^{-4}
	Sc 48		3×10^{-4}
Selenium (34)	Se 75		3×10^{-3}
Silicon (14)	Si 31		9×10^{-3}
Silver (47)	Ag 105		1×10^{-3}
	Ag 110m		3×10^{-4}
	Ag 111		4×10^{-4}
Sodium (11)	Na 24		2×10^{-3}
Strontium (38)	Sr 85		1×10^{-3}
	Sr 89		1×10^{-4}
	Sr 91		7×10^{-4}
	Sr 92		7×10^{-4}
Sulfur (16)	S 35	9×10^{-8}	6×10^{-4}
Tantalum (73)	Ta 182		4×10^{-4}
Technetium (43)	Tc 96m		1×10^{-1}
	Tc 96		1×10^{-3}
Tellurium (52)	Te 125m		2×10^{-3}
	Te 127m		6×10^{-4}
	Te 127		3×10^{-3}
	Te 129m		3×10^{-4}
	Te 131m		6×10^{-4}
	Te 132		3×10^{-4}
Terbium (65)	Tb 160		4×10^{-4}
Thallium (81)	Tl 200		4×10^{-3}
	Tl 201		3×10^{-3}
	Tl 202		1×10^{-3}
	Tl 204		1×10^{-3}
Thulium (69)	Tm 170		5×10^{-4}
	Tm 171		5×10^{-3}
Tin (50)	Sn 113		9×10^{-4}
	Sn 125		2×10^{-4}
Tungsten (Wolfram) (74)	W 181		4×10^{-3}
	W 187		7×10^{-4}
Vanadium (23)	V 48		3×10^{-4}
Xenon (54)	Xe 131m	4×10^{-6}	
	Xe 133	3×10^{-6}	

	Xe 135	1 x 10 ⁻⁶	
Ytterbium (70)	Yb 175		1 x 10 ⁻³
Yttrium (39)	Y 90		2 x 10 ⁻⁴
	Y 91m		3 x 10 ⁻²
	Y 91		3 x 10 ⁻⁴
	Y 92		6 x 10 ⁻⁴
	Y 93		3 x 10 ⁻⁴
Zinc (30)	Zn 65		1 x 10 ⁻³
	Zn 69m		7 x 10 ⁻⁴
	Zn 69		2 x 10 ⁻²
Zirconium (40)	Zr 95		6 x 10 ⁻⁴
	Zr 97		2 x 10 ⁻⁴
Beta, gamma, or both, emitting radioactive material not listed above with a half-life of less than 3 years.			
		1 x 10 ⁻¹⁰	1 x 10 ⁻⁶

¹ Values are given in Column I only for those materials normally used as gases.

² µCi/gm for solids.

m Metastable state.

Concentration present in the product and the exempt concentration established in this section for the specific isotope when not in combination. The sum of such ratios may not exceed “1,” that is, unity. An example is:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} < 1$$

Note 1: Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in the table, the activity stated is that of the parent isotope and takes into account the daughters.

Note 2: For the purposes of [NAC 459.184](#) where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration.

[Bd. of Health, Radiation Control Reg. Art. 3, Appendix A, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.188 Table of exempt quantities. ([NRS 459.201](#)) Exempt quantities are:

Radioactive material	Microcuries
Antimony 122 (Sb 122)	100
Antimony 124 (Sb 124)	10
Antimony 125 (Sb 125)	10
Arsenic 73 (As 73)	100

Arsenic 74 (As 74)	10
Arsenic 76 (As 76)	10
Arsenic 77 (As 77)	100
Barium 131 (Ba 131)	10
Barium 133 (Ba 133)	10
Barium 140 (Ba 140)	10
Bismuth 210 (Bi 210)	1
Bromine 82 (Br 82)	10
Cadmium 109 (Cd 109)	10
Cadmium 115m (Cd 115m)	10
Cadmium 115 (Cd 115)	100
Calcium 45 (Ca 45)	10
Calcium 47 (Ca 47)	10
Carbon 14 (C 14)	100
Cerium 141 (Ce 141)	100
Cerium 143 (Ce 143)	100
Cerium 144 (Ce 144)	1
Cesium 129 (Cs 129)	100
Cesium 131 (Cs 131)	1,000
Cesium 134m (Cs 134m)	100
Cesium 134 (Cs 134)	1
Cesium 135 (Cs 135)	10
Cesium 136 (Cs 136)	10
Cesium 137 (Cs 137)	10
Chlorine 36 (Cl 36)	10
Chlorine 38 (Cl 38)	10
Chromium 51 (Cr 51)	1,000
Cobalt 57 (Co 57)	100
Cobalt 58m (Co 58m)	10
Cobalt 58 (Co 58)	10
Cobalt 60 (Co 60)	1
Copper 64 (Cu 64)	100
Dysprosium 165 (Dy 165)	10
Dysprosium 166 (Dy 166)	100
Erbium 169 (Er 169)	100
Erbium 171 (Er 171)	100
Europium 152 (Eu 152)	100
9.2h	
Europium 152 (Eu 152)	1
13 yr	
Europium 154 (Eu 154)	1
Europium 155 (Eu 155)	10
Fluorine 18 (F 18)	1,000

Gadolinium 153 (Gd 153)	10
Gadolinium 159 (Gd 159)	100
Gallium 67 (Ga 67)	100
Gallium 72 (Ga 72)	10
Germanium 71 (Ge 71)	100
Gold 198 (Au 198)	100
Gold 199 (Au 199)	100
Hafnium 181 (Hf 181)	10
Holmium 166 (Ho 166)	100
Hydrogen 3 (H 3)	1,000
Indium 111 (In 111)	100
Indium 113m (In 113m)	100
Indium 114m (In 114m)	10
Indium 115m (In 115m)	100
Indium 115 (In 115)	10
Iodine 123 (I 123)	100
Iodine 125 (I 125)	1
Iodine 126 (I 126)	1
Iodine 129 (I 129)	0.1
Iodine 131 (I 131)	1
Iodine 132 (I 132)	10
Iodine 133 (I 133)	1
Iodine 134 (I 134)	10
Iodine 135 (I 135)	10
Iridium 192 (Ir 192)	10
Iridium 194 (Ir 194)	100
Iron 52 (Fe 52)	10
Iron 55 (Fe 55)	100
Iron 59 (Fe 59)	10
Krypton 85 (Kr 85)	100
Krypton 87 (Kr 87)	10
Lanthanum 140 (La 140)	10
Lutetium 177 (Lu 177)	100
Manganese 52 (Mn 52)	10
Manganese 54 (Mn 54)	10
Manganese 56 (Mn 56)	10
Mercury 197m (Hg 197m)	100
Mercury 197 (Hg 197)	100
Mercury 203 (Hg 203)	10
Molybdenum 99 (Mo 99)	100
Neodymium 147 (Nd 147)	100
Neodymium 149 (Nd 149)	100

Nickel 59 (Ni 59)	100
Nickel 63 (Ni 63)	10
Nickel 65 (Ni 65)	100
Niobium 93m (Nb 93m)	10
Niobium 95 (Nb 95)	10
Niobium 97 (Nb 97)	10
Osmium 185 (Os 185)	10
Osmium 191m (Os 191m)	100
Osmium 191 (Os 191)	100
Osmium 193 (Os 193)	100
Palladium 103 (Pd 103)	100
Palladium 109 (Pd 109)	100
Phosphorus 32 (P 32)	10
Platinum 191 (Pt 191)	100
Platinum 193m (Pt 193m)	100
Platinum 193 (Pt 193)	100
Platinum 197m (Pt 197m)	100
Platinum 197 (Pt 197)	100
Polonium 210 (Po 210)	0.1
Potassium 42 (K 42)	10
Potassium 43 (K 43)	10
Praseodymium 142 (Pr 142)	100
Praseodymium 143 (Pr 143)	100
Promethium 147 (Pm 147)	10
Promethium 149 (Pm 149)	10
Rhenium 186 (Re 186)	100
Rhenium 188 (Re 188)	100
Rhodium 103m (Rh 103m)	100
Rhodium 105 (Rh 105)	100
Rubidium 81 (Rb 81)	10
Rubidium 86 (Rb 86)	10
Rubidium 87 (Rb 87)	10
Ruthenium 97 (Ru 97)	100
Ruthenium 103 (Ru 103)	10
Ruthenium 105 (Ru 105)	10
Ruthenium 106 (Ru 106)	1
Samarium 151 (Sm 151)	10
Samarium 153 (Sm 153)	100
Scandium 46 (Sc 46)	10

Scandium 47 (Sc 47)	100
Scandium 48 (Sc 48)	10
Selenium 75 (Se 75)	10
Silicon 31 (Si 31)	100
Silver 105 (Ag 105)	10
Silver 110m (Ag 110m)	1
Silver 111 (Ag 111)	100
Sodium 22 (Na 22)	10
Sodium 24 (Na 24)	10
Strontium 85 (Sr 85)	10
Strontium 89 (Sr 89)	1
Strontium 90 (Sr 90)	0.1
Strontium 91 (Sr 91)	10
Strontium 92 (Sr 92)	10
Sulphur 35 (S 35)	100
Tantalum 182 (Ta 182)	10
Technetium 96 (Tc 96)	10
Technetium 97m (Tc 97m)	100
Technetium 97 (Tc 97)	100
Technetium 99m (Tc 99m)	100
Technetium 99 (Tc 99)	10
Tellurium 125m (Te 125m)	10
Tellurium 127m (Te 127m)	10
Tellurium 127 (Te 127)	100
Tellurium 129m (Te 129m)	10
Tellurium 129 (Te 129)	100
Tellurium 131m (Te 131m)	10
Tellurium 132 (Te 132)	10
Terbium 160 (Tb 160)	10
Thallium 200 (Tl 200)	100
Thallium 201 (Tl 201)	100
Thallium 202 (Tl 202)	100
Thallium 204 (Tl 204)	10
Thulium 170 (Tm 170)	10
Thulium 171 (Tm 171)	10
Tin 113 (Sn 113)	10
Tin 125 (Sn 125)	10
Tungsten 181 (W 181)	10
Tungsten 185 (W 185)	10
Tungsten 187 (W 187)	100
Vanadium 48 (V 48)	10

Xenon 131m (Xe 131m)	1,000
Xenon 133 (Xe 133)	100
Xenon 135 (Xe 135)	100
Ytterbium 175 (Yb 175)	100
Yttrium 87 (Y 87)	10
Yttrium 90 (Y 90)	10
Yttrium 91 (Y 91)	10
Yttrium 92 (Y 92)	100
Yttrium 93 (Y 93)	100
Zinc 65 (Zn 65)	10
Zinc 69m (Zn 69m)	100
Zinc 69 (Zn 69)	1,000
Zirconium 93 (Zr 93)	10
Zirconium 95 (Zr 95)	10
Zirconium 97 (Zr 97)	10

Any radioactive material not listed above other than alpha emitting radioactive material.

[Bd. of Health, Radiation Control Reg. Art. 3, Appendix B, eff. 2-28-80]

NAC 459.190 Miscellaneous exemptions: Certain timepieces, lock illuminators, precision balances, automobile shift quadrants, marine navigational instruments, thermostats, electron tubes and ionizing radiation measuring instruments. ([NRS 459.030](#), [459.201](#))

1. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into, the following products, any person is exempt from [NAC 459.010](#) to [459.950](#), inclusive, to the extent that he receives, possesses, uses, transfers, owns or acquires the following products:

(a) Timepieces, hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(1) Twenty-five millicuries (925 megabecquerels) of tritium per timepiece.

(2) Five millicuries (185 megabecquerels) of tritium per hand.

(3) Fifteen millicuries (555 megabecquerels) of tritium per dial. If bezels are used, they are considered part of the dial.

(4) One hundred microcuries (3.7 megabecquerels) of promethium 147 per watch or 200 microcuries (7.4 megabecquerels) of promethium 147 per other timepiece.

(5) Twenty microcuries (740 kilobecquerels) of promethium 147 per watch hand or 40 microcuries (1.48 megabecquerels) of promethium 147 per other timepiece hand.

(6) Sixty microcuries (2.22 megabecquerels) of promethium 147 per watch dial or 120 microcuries (4.44 megabecquerels) of promethium 147 per other timepiece dial. If bezels are used, they are considered part of the dial.

(7) Fifteen-hundredths microcurie (5.55 kilobecquerels) of radium per timepiece.

(8) Three-hundredths microcurie (1.11 kilobecquerels) of radium per hand.

(9) Nine-hundredths microcurie (3.33 kilobecquerels) of radium per dial. If bezels are used, they are considered part of the dial.

(10) Notwithstanding these quantities, the levels of radiation from hands and dials containing promethium 147 or radium 226 must not exceed, when measured through 50 milligrams per square centimeter of absorber:

(I) For wrist watches, 0.1 millirad (1 microgray) per hour at 10 centimeters from any surface;

(II) For pocket watches, 0.1 millirad (1 microgray) per hour at 1 centimeter from any surface, also

radium must not be used for pocket watches; and

(III) For any other timepiece, 0.2 millirad (2 micrograys) per hour at 10 centimeters from any surface.

(11) One microcurie (37 kilobecquerels) of radium 226 per timepiece in timepieces acquired before February 28, 1980.

(b) Lock illuminators containing not more than 15 millicuries (555 megabecquerels) of tritium or not more than 2 millicuries (74 megabecquerels) of promethium 147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium 147 must not exceed 1 millirad (10 micrograys) per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.

(c) Precision balances containing no more than 1 millicurie (37 megabecquerels) of tritium per balance or 0.5 millicurie (18.5 megabecquerels) of tritium per balance part.

(d) Automobile shift quadrants containing not more than 25 millicuries (925 megabecquerels) of tritium.

(e) Marine compasses containing not more than 750 millicuries (27.75 gigabecquerels) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 gigabecquerels) of tritium gas.

(f) Thermostat dials and pointers containing not more than 25 millicuries (925 megabecquerels) of tritium per thermostat.

(g) Electron tubes, if each tube does not contain more than one of the following specified quantities of radioactive material:

(1) One hundred fifty millicuries (5.55 gigabecquerels) of tritium per microwave receiver protector tube or 10 millicuries (370 megabecquerels) of tritium per any other electron tube;

(2) One microcurie (37 kilobecquerels) of cobalt 60;

(3) Five microcuries (185 kilobecquerels) of nickel 63;

(4) Thirty microcuries (1.11 megabecquerels) of krypton 85;

(5) Five microcuries (185 kilobecquerels) of cesium 137;

(6) Thirty microcuries (1.11 megabecquerels) of promethium 147; or

(7) One microcurie (37 kilobecquerels) of radium 226,

and if the levels of radiation from each electron tube containing radioactive material do not exceed 1 millirad (10 micrograys) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber.

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, a source of radioactive material not exceeding the applicable quantity in [NAC 459.188](#).

2. For the purposes of [NAC 459.180](#) to [459.314](#), inclusive, authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing source material or by-product material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the Nuclear Regulatory Commission.

3. For the purposes of paragraph (g) of subsection 1, electron tubes include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

[Bd. of Health, Radiation Control Reg. §§ 3.2.2.3-3.2.2.3.1.8, eff. 2-28-80]—(NAC A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.192 Miscellaneous exemptions: Certain self-luminous products, articles containing radium 226, gas and aerosol detectors, capsules containing carbon 14 urea and synthetic plastic resins containing scandium 46. ([NRS 459.030](#), [459.201](#))

1. Except for persons who manufacture, process or produce self-luminous products containing tritium, krypton 85 or promethium 147, any person is exempt from the provisions of [NAC 459.010](#) to [459.950](#), inclusive, to the extent that he receives, possesses, uses, transfers, owns or acquires tritium, krypton 85 or promethium 147 in self-luminous products manufactured, processed, produced, imported or transferred in accordance with a specific license issued by the Nuclear Regulatory Commission pursuant to 10 C.F.R. § 32.22 which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this subsection for self-luminous products does not apply to tritium, krypton 85 or promethium 147 used in products for frivolous purposes or in toys or adornments.

2. Any person is exempt from the provisions of [NAC 459.010](#) to [459.950](#), inclusive, to the extent that he receives, possesses, uses, transfers or owns articles containing less than 0.1 microcurie (3.7 kilobecquerels) of radium 226 which were acquired before February 28, 1980.

3. Except for persons who manufacture, process or produce gas and aerosol detectors containing radioactive material, any person is exempt from the provisions of [NAC 459.010](#) to [459.950](#), inclusive, to the extent that he receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to

protect life or property from fires and airborne hazards if the detectors containing radioactive material have been manufactured, imported or transferred in accordance with a specific license issued by the Division, the Nuclear Regulatory Commission or any other agreement state pursuant to 10 C.F.R. § 32.26 or its equivalent, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements. The following also apply to gas and aerosol detectors containing radioactive material:

(a) The provisions of subsection 2 of [NAC 459.190](#) apply to this subsection.

(b) Any gas and aerosol detector which contains by-product material, or naturally occurring and accelerator-produced radioactive material, and which was previously manufactured and distributed to general licensees in accordance with a specific license issued by an agreement state is exempt under this subsection if the device is labeled in accordance with the specific license and if the device meets the requirements of [NAC 459.280](#).

4. Any person who receives, possesses, uses, transfers, owns or acquires capsules that contain carbon 14 urea is exempt from the provisions of [NAC 459.180](#) to [459.314](#), inclusive, if each capsule:

(a) Is intended solely for in vivo diagnostic use in humans and is not used for research involving human subjects; and

(b) Contains, allowing for nominal variation that may occur during the manufacturing process, not more than 1 microcurie (37 kilobecquerels) of carbon 14 urea.

Nothing in this subsection relieves a person from complying with any other federal, state or local requirement governing the receipt, administration or use of drugs.

5. Any person who receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium 46 which are designed for sand consolidation in oil wells is exempt from the provisions of [NAC 459.010](#) to [459.950](#), inclusive, if the resins have been manufactured or imported in accordance with a specific license issued by the Nuclear Regulatory Commission or have been manufactured in accordance with the specifications contained in a specific license issued by the Division or any agreement state to the manufacturer of resins pursuant to licensing requirements equivalent to those in 10 C.F.R. §§ 32.16 and 32.17 of the regulations of the Nuclear Regulatory Commission. This exemption does not authorize the manufacture of any resins containing scandium 46.

[Bd. of Health, Radiation Control Reg. §§ 3.2.2.3.2-3.2.2.3.4, eff. 2-28-80]—(NAC A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.194 Types of licenses. ([NRS 459.201](#)) Licenses for radioactive materials are of two types:

1. General licenses which grant authority to persons for certain activities involving radioactive materials and are effective without the filing of applications with the Division or the issuance of licensing documents to the particular persons, although the filing of a certificate with the Division may be required by the particular general license. Except as otherwise provided in the specific provisions of a general license, including, without limitation, a provision concerning [NAC 459.357](#), a general license is subject to all other applicable portions of these regulations and any limitations of the general license.

2. Specific licenses which are issued by the Division to a named person who files an application for a license pursuant to the provisions of [NAC 459.180](#) to [459.314](#), inclusive. A specific license is subject to all applicable portions of these regulations as well as any limitations specified in the licensing document.

[Bd. of Health, Radiation Control Reg. §§ 3.3-3.3.1.2, eff. 2-28-80]—(NAC A by R085-06, 11-13-2006)

NAC 459.195 Application for license: Evaluation or emergency plan required for certain quantities of radioisotopes. ([NRS 459.201](#))

1. Except as otherwise provided in this subsection, each application for a license to possess radioactive materials in unsealed form, on foils, in plated sources or sealed in glass in excess of the quantities specified in the table set forth in [NAC 459.1951](#) must contain:

(a) An evaluation showing that the maximum dose a person not on the premises of the facility where the radioactive material is located would receive due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or

(b) An emergency plan for responding to a release of radioactive material.

Nothing in this subsection relieves a person from complying with any other federal, state or local requirement governing the receipt, administration or use of drugs. An application for a license to possess a combination of radioactive materials must include an emergency plan if, pursuant to the table set forth in [NAC 459.1951](#), the sum of the ratios of the quantity of each radioactive material for which the license is sought to the quantity listed for that material exceeds one.

2. An evaluation submitted pursuant to paragraph (a) of subsection 1 must be supported by one or more of the following factors:

- (a) The radioactive material is physically separated so that only a portion could be involved in an accident;
 - (b) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;
 - (c) The release fraction in the respirable size range would be lower than the release fraction specified in [NAC 459.1951](#) because of the chemical or physical form of the material;
 - (d) The solubility of the radioactive material would reduce the dose received;
 - (e) The design of the facility or safety features engineered in the facility would cause the release fraction to be lower than the release fraction specified in the table set forth in [NAC 459.1951](#);
 - (f) Operating restrictions or procedures would prevent a release fraction in excess of the release fraction specified in the table set forth in [NAC 459.1951](#); or
 - (g) Other factors appropriate for the specific facility.
3. An emergency plan submitted pursuant to paragraph (b) of subsection 1 must include the following:
- (a) A brief description of the applicant's facility and the area near the site of the facility.
 - (b) An identification of each type of accident involving radioactive materials that may occur for which protective actions would be needed.
 - (c) A classification system for classifying an accident as an alert or an emergency. As used in this paragraph:
 - (1) "Alert" means events may occur, are in progress or have occurred that could lead to a release of radioactive material but the release is not expected to require a response by any off-site organization for the protection of persons not on the property of the facility.
 - (2) "Emergency" means events may occur, are in progress or have occurred that could lead to a significant release of radioactive material and could require a response by an off-site organization for the protection of persons not on the property of the facility.
 - (d) An identification of the means of detecting each type of accident in a timely manner.
 - (e) A brief description of the means and equipment to be used to mitigate the consequences of each type of accident, including the means and equipment provided to protect employees of the facility, and a description of the program for maintaining the equipment.
 - (f) A brief description of the methods and equipment to be used to assess releases of radioactive materials.
 - (g) A requirement that in the event of a release of radioactive material a control point will be established.
 - (h) A brief description of the responsibilities of the personnel in the facility who would respond to an accident, including an identification of personnel responsible for promptly notifying off-site organizations and for promptly notifying the Division, and an identification of personnel responsible for maintaining and updating the emergency plan.
 - (i) A commitment to and a brief description of the means to notify promptly and request assistance from off-site organizations, including the means for requesting medical assistance for the treatment of contaminated or injured employees of the facility if necessary. The notification of and coordination with off-site organizations must be planned so that the unavailability of some employees of the facility, the unavailability of access to certain parts of the facility and the unavailability of certain equipment will not prevent the notification and coordination. The plan must contain a commitment for notification of the Division immediately after notification of the off-site organizations but such notification must be made not later than 1 hour after an accident has been classified as an emergency pursuant to paragraph (c).
 - (j) A brief description of the types of information that would be included in the notification given to off-site organizations and to the Division. Such information must include the status of the facility, any known releases of radioactive material and any recommended protective actions that should be taken.
 - (k) A brief description of the frequency and objectives of and plans for the training that will be provided to employees of the facility on how to respond to an emergency and a brief description of any special instructions and orientation tours that would be offered to fire, police, medical and other emergency personnel. The training of employees must familiarize the employees with the emergency procedures to be followed at the site of the facility. In addition, the training must thoroughly prepare employees of the facility for their responsibilities in the event of the types of accidents most probable for that specific facility. The required training may include the training of groups of employees in the proper and coordinated response to such accidents.
 - (l) A brief description of the means of restoring the facility to a safe condition after an accident.
 - (m) Provisions for conducting quarterly tests of the system for communication with off-site organizations. The quarterly tests must include the check and update of all necessary telephone numbers.
 - (n) Provisions for biennially conducting exercises at the site of the facility to test response to simulated emergencies. Off-site organizations must be invited to participate in the exercises. The exercises must use hypothetical accident scenarios which are most probable for the specific site of the facility and the scenarios must

not be revealed to most participants in the exercises before commencing the exercises. A critique of each exercise must be required by participants who are not directly responsible for the implementation of the plan. The critiques of the exercises must evaluate the plan, emergency procedures, facilities, equipment, training of personnel and the overall effectiveness of the response. Deficiencies identified by the critiques must be corrected. The provisions of this paragraph do not require the participation of off-site organizations in the exercises.

(o) A certification that the applicant has complied with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §§ 11001 et seq.) which are applicable to the applicant's activities at the proposed place of use of the radioactive material.

4. The applicant shall provide off-site organizations which are expected to respond to any accidents involving radiation at the site of the facility 60 days to review and comment on the applicant's emergency plan before submitting the plan to the Division. The applicant shall submit any comments received within the 60 days to the Division with the emergency plan.

5. As used in this section, "off-site organization" means any organization not located at the site where the radioactive material is located which responds to accidents involving radiation.

(Added to NAC by Bd. of Health, eff. 10-22-93)

NAC 459.1951 Application for license: Quantities of radioisotopes for which evaluation or emergency plan is required. ([NRS 459.201](#)) The following table sets forth quantities of radioisotopes for the purposes of subsections 1 and 2 of [NAC 459.195](#).

Radioactive material	Release fraction	Quantity (curies)
Actinium-228	0.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252	.001	9(20mg)
Carbon-14	.01	50,000
	Non CO	
Cerium-141	.01	10,000
Cerium-144	.01	300
Cesium-134	.01	2,000
Cesium-137	.01	3,000
Chlorine-36	.5	100
Chromium-51	.01	300,000
Cobalt-60	.001	5,000
Copper-64	.01	200,000
Curium-242	.001	60
Curium-243	.001	3
Curium-244	.001	4
Curium-245	.001	2
Europium-152	.01	500
Europium-154	.01	400
Europium-155	.01	3,000
Germanium-68	.01	2,000
Gadolinium-153	.01	5,000
Gold-198	.01	30,000
Hafnium-172	.01	400

Hafnium-181	.01	7,000
Holmium-166m	.01	100
Hydrogen-3	.5	20,000
Iodine-125	.5	10
Iodine-131	.5	10
Indium-114m	.01	1,000
Iridium-192	.001	40,000
Iron-55	.01	40,000
Iron-59	.01	7,000
Krypton-85	1.0	6,000,000
Lead-210	.01	8
Manganese-56	.01	60,000
Mercury-203	.01	10,000
Molybdenum-99	.01	30,000
Neptunium-237	.001	2
Nickel-63	.01	20,000
Niobium-94	.01	300
Phosphorus-32	.5	100
Phosphorus-33	.5	1,000
Polonium-210	.01	10
Potassium-42	.01	9,000
Promethium-145	.01	4,000
Promethium-147	.01	4,000
Ruthenium-106	.01	200
Samarium-151	.01	4,000
Scandium-46	.01	3,000
Selenium-75	.01	10,000
Silver-110m	.01	1,000
Sodium-22	.01	9,000
Sodium-24	.01	10,000
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technetium-99	.01	10,000
Technetium-99m	.01	400,000
Tellurium-127m	.01	5,000
Tellurium-129m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Vanadium-48	.01	7,000
Xenon-133	1.00	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400
Zirconium-95	.01	5,000
Any other beta-gamma emitter	.01	10,000
Mixed fission products	.01	1,000
Mixed corrosion products	.01	10,000
Contaminated equipment beta-gamma	.001	10,000
Irradiated material, any form other than solid noncombustible	.01	1,000

Irradiated material, solid noncombustible	.001	10,000
Mixed radioactive waste, beta-gamma	.01	1,000
Packaged mixed waste, beta-gamma	.001	10,000
Any other alpha emitter	.001	2
Contaminated equipment, alpha	.0001	20
Packaged waste, alpha	.0001	20

(Added to NAC by Bd. of Health, eff. 10-22-93)

NAC 459.1955 Preparation for decommissioning: Plan for financing; financial assurance; records.
([NRS 459.030](#), [459.201](#))

1. A plan for financing decommissioning, as described in subsection 10, must be submitted by each applicant for a license authorizing the possession and use of:

(a) Unsealed radioactive materials with a half-life of more than 120 days in quantities that exceed 10^5 times the applicable quantities set forth in [NAC 459.362](#); or

(b) The involvement of a combination of radionuclides when R divided by 10^5 is greater than 1.

2. A plan for financing decommissioning, as described in subsection 10, must be submitted by each licensee who is authorized to possess and use, and each applicant for a specific license authorizing the possession and use of:

(a) Sealed sources of radioactive material or plated foils of radioactive material with a half-life of more than 120 days in quantities that exceed 10^{12} times the applicable quantities set forth in [NAC 459.362](#); or

(b) The involvement of a combination of isotopes when R divided by 10^{12} is greater than 1.

3. Each applicant for a specific license that authorizes the possession and use of radioactive material with a half-life of more than 120 days and in the quantities set forth in subsection 9 shall submit:

(a) A plan for financing decommissioning as described in subsection 10; or

(b) A certification which sets forth that financial assurance for decommissioning:

(1) Has been provided in the amount required by subsection 9 using one of the methods set forth in subsection 11; or

(2) Will be provided after the application has been approved and the license issued, but before the receipt of any licensed material by the licensee.

4. If an applicant:

(a) Defers the execution of the financial instrument until after the license has been issued pursuant to subparagraph (2) of paragraph (b) of subsection 3, the applicant shall submit to the Division as part of the certification a signed original of the financial instrument used to comply with subsection 11 before the receipt of any licensed material.

(b) Does not defer the execution of the financial instrument until after the license has been issued, the applicant shall submit to the Division as part of the certification a signed original of the financial instrument used by the applicant to comply with subsection 11.

5. An applicant for a specific license of the type described in subsection 1 or 3 shall submit a plan for financing decommissioning or a certification of financial assurance for decommissioning with his application.

6. The holder of a specific license that is issued before January 26, 1999, and:

(a) Of a type described in subsection 1, shall submit a plan for financing decommissioning or a certification of financial assurance for decommissioning in an amount not less than \$1,125,000. If a certification of financial assurance is submitted, the licensee shall include a plan for financing decommissioning in an application for renewal of the license.

(b) Of a type described in subsection 3 shall submit a plan for financing decommissioning or a certification of financial assurance for decommissioning.

7. A licensee who has submitted an application for renewal of his license before January 26, 1999, in

accordance with [NAC 459.202](#), shall:

- (a) Provide financial assurance for decommissioning in accordance with subsections 1 and 3; and
- (b) Submit a plan for financing decommissioning.

8. Waste collectors and waste processors, as defined in Appendix G, shall:

(a) Provide financial assurance for decommissioning in an amount based on a plan for financing decommissioning as described in subsection 10; and

(b) Submit a plan for financing decommissioning which must include, without limitation:

(1) The cost of disposal of the maximum amount, measured in curies, of radioactive material permitted by the license;

(2) The cost of disposal of the maximum quantity, measured by volume, of radioactive material which could be present at the licensee's facility at any time; and

(3) The cost to remediate the licensee's site to meet the license termination criteria set forth in [NAC 459.200](#).

9. Financial assurance for decommissioning must be provided in accordance with the following amounts:

(a) Not less than \$1,125,000 is required if:

(1) The amount of radioactive material is greater than 10^4 , but less than or equal to 10^5 times the applicable quantities described in [NAC 459.362](#), in unsealed form; or

(2) R, for a combination of radionuclides, divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1.

(b) Not less than \$225,000 is required if:

(1) The amount of radioactive material is greater than 10^3 , but less than or equal to 10^4 times the applicable quantities described in [NAC 459.362](#), in unsealed form; or

(2) R, for a combination of radionuclides, divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1.

(c) Not less than \$113,000 is required if:

(1) The amount of radioactive material is greater than 10^{10} times the applicable quantities described in [NAC 459.362](#), in sealed sources or plated foils; or

(2) R, for a combination of radionuclides, divided by 10^{10} is greater than 1.

10. The plan for financing decommissioning must contain the following:

(a) An estimate of the costs of decommissioning the facility based on the decommissioning plan;

(b) A description of the method of assuring financing for decommissioning in compliance with subsection 11;

(c) A schedule for adjusting the estimate of costs, which estimates of costs must be adjusted at least every 3 years, and associated levels of funding periodically over the life of the facility; and

(d) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument used to satisfy the requirements of subsection 11.

11. Financial assurance for decommissioning must be provided by one or more of the following methods:

(a) Prepayment in the form of a deposit of an amount of money in cash or liquid assets that would be sufficient to pay the costs of decommissioning before starting operations at the facility into an account segregated from the assets of the licensee and outside the administrative control of the licensee. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit or deposit of government securities.

(b) Provision of a surety that assures that the costs of decommissioning will be paid should the licensee fail to do so. A guarantee of money from a parent company of the licensee for the cost of decommissioning that is based on a financial test may be used if the guarantee and test meet the criteria set forth in subsection 14. Such a guarantee may not be used in combination with any other method of financing to satisfy the requirements of this subsection. A guarantee of money by the applicant or licensee for the cost of decommissioning that is based on a financial test may be used if the guarantee and test meet the criteria set forth in subsection 14. Such a guarantee must not be used in combination with any other method of financing to satisfy the requirements of this subsection or if the applicant or licensee has a parent company that holds a majority control of the voting stock of the applicant or licensee. Any surety used to provide financial assurance for decommissioning must contain the following conditions:

(1) The surety must be open-ended or, if written for a specified term, must be renewed automatically unless 90 days or more before the renewal date the issuer notifies the Division, the beneficiary and the licensee of his intention not to renew. The surety must provide that the full-face amount will be paid to the beneficiary automatically before the expiration without proof of forfeiture if the licensee fails to provide a replacement

acceptable to the Division within 30 days after receipt of notification of the cancellation.

(2) The surety must be payable to a trust established for the costs of decommissioning the facility. The trustee and trust must be approved by the Division. The Division will approve as a trustee an appropriate agency of the State or Federal Government or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by an agency of the State or Federal Government.

Ē A licensee shall maintain the surety in effect until the Division has terminated his license.

(c) Provision of an external sinking fund in which deposits are made at least annually, coupled with a surety issued in compliance with the provisions of paragraph (b) except that the value of the surety may decrease by the amount being accumulated in the external sinking fund.

(d) If the licensee is a federal, state or local governmental agency, a statement of intent containing an estimate of the costs of decommissioning or an amount required by subsection 9 and an indication that money for decommissioning will be obtained when necessary.

12. A person licensed pursuant to [NAC 459.180](#) to [459.314](#), inclusive, shall maintain the following records in an identified location until the site is released for unrestricted use:

(a) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment or site. Such records must include, without limitation, the name, quantity, form and concentration of a nuclide involved in the spill or unusual occurrence.

(b) Drawings and other documents relating to:

(1) The modification of structures and equipment in restricted areas where radioactive materials are used and stored; and

(2) Locations where it is possible that contamination which is inaccessible has occurred, including, without limitation, areas of seepage into concrete and other porous materials.

(c) A list of all the areas:

(1) Designated and formerly designated as restricted areas;

(2) Outside of restricted areas that require documentation pursuant to paragraph (a);

(3) Outside of restricted areas where waste has been buried; and

(4) Outside of restricted areas which contain material that, if the license expired, the licensee would be required to decontaminate the area to unrestricted release levels or apply for approval for disposal pursuant to [NAC 459.3595](#).

Ē If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used.

13. Before licensed activities are transferred or assigned pursuant to subsection 2 of [NAC 459.198](#), the licensee must transfer all the records described in paragraphs (a), (b) and (c) of subsection 12 to the licensee to whom the activities have been transferred or assigned. Such records become, upon receipt, the responsibility of the licensee to whom the activities have been transferred or assigned and must be retained by that licensee until its license is terminated.

14. To pass the financial test referred to in subsection 11:

(a) A parent company must have:

(1) Two of the following three ratios:

(I) A ratio of total liabilities to net worth that is less than 2;

(II) A ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities that is more than 0.1; and

(III) A ratio of current assets to current liabilities that is more than 1.5;

(2) Net working capital and tangible net worth that are each at least six times the current cost estimates for decommissioning or, if certification is used, the amount set forth in subsection 9; and

(3) Assets located in the United States that amount to at least 90 percent of the total assets of the parent company or at least six times the cost estimate for decommissioning or, if certification is used, the amount set forth in subsection 9; or

(b) A parent company must have:

(1) A rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's Ratings Services or a rating of Aaa, Aa, A or Baa as issued by Moody's Investors Service, Inc.;

(2) Tangible net worth of at least six times the current cost estimate for decommissioning, or, if a certification is used, the amount set forth in subsection 9; and

(3) Assets located in the United States that amount to at least 90 percent of the total assets of the parent company or at least six times the cost estimate for decommissioning.

15. The terms of a guarantee of a parent company must provide that:

(a) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the Division. The guarantee may not be cancelled until 120 days after the date the notice of cancellation is received by both the licensee and the Division, as evidenced by the return receipts.

(b) If the licensee fails to provide alternate financial assurance as specified in this section within 90 days after receipt by the licensee and the Division of a notice of cancellation of the guarantee from the guarantor, the guarantor must provide such alternate financial assurance in the name of the licensee.

(c) The guarantee and financial test provisions set forth in subsection 14 must remain in effect until the Division has terminated the license.

(d) If a trust is established for the costs of decommissioning, the trustee and trust must be acceptable to the Division. An acceptable trustee includes an appropriate state or federal agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

16. A licensee who guarantees the costs of decommissioning must have:

(a) A tangible net worth of at least 10 times the total estimated cost of decommissioning or the current amount required for decommissioning;

(b) Assets located in the United States that amount to at least 90 percent of its total assets or at least 10 times the cost estimate for decommissioning;

(c) A rating for its most recent bond issuance of AAA, AA or A as issued by Standard and Poor's Ratings Services or a rating of Aaa, Aa or A as issued by Moody's Investors Services, Inc.; and

(d) At least one class of equity securities registered pursuant to the Securities Exchange Act of 1934.

17. A licensee shall ensure that a certified public accountant who is independent of the licensee compares the data used to satisfy the financial test as set forth in subsections 14 and 16. The data must be derived from audited, year-end financial statements for the last fiscal year. A licensee shall inform the Division within 90 days after matters which cause the certified public accountant to believe that the data used to satisfy the financial test should be adjusted and that the licensee or parent company, as applicable, can no longer pass the test. After the initial financial test, the licensee or parent company, as applicable, shall repeat the test within 90 days after the close of each fiscal year. If the parent company can no longer pass the test, the licensee must notify the Division of its intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within 90 days after the close of the fiscal year. The licensee shall provide alternate financial assurance within 120 days after the close of such fiscal year.

18. If a bond issuance of the licensee or parent company, as applicable, ceases to be rated in a category of A or above by either Standard and Poor's Ratings Services or Moody's Investors Services, Inc., the licensee must notify the Division in writing within 20 days after the rating. If the bond issuance ceases to be rated in a category of A or above by both Standard and Poor's Ratings Services and Moody's Investors Services, Inc., the licensee or parent company, as applicable, no longer meets the financial test as set forth in subsection 14.

19. The licensee shall provide to the Division a written guarantee or commitment by a corporate officer which provides that the licensee will fund and complete the decommissioning of the facility or, upon issuance of an order by the State Board of Health, the licensee must establish a trust in the amount of the current cost estimates for decommissioning.

20. As used in this section:

(a) "External sinking fund" means a fund established and maintained by depositing money periodically in an account segregated from the licensee's assets and outside the licensee's administrative control in which the total amount of money to be accumulated before the termination of the operation is expected is sufficient to pay the costs of decommissioning. The term includes, without limitation, a trust, escrow account, government fund, certificate of deposit or deposit of government securities.

(b) "R" equals the sum of the ratios of the quantity of each radionuclide to the applicable value as set forth in [NAC 459.362](#).

(c) "Surety" includes, without limitation, a trust fund, surety bond, letter of credit, line of credit, insurance, guarantee of performance or, except as otherwise provided in this section, any combination thereof.

(Added to NAC by Bd. of Health, eff. 10-22-93; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.196 Issuance of specific licenses. ([NRS 459.201](#))

1. Upon a determination that an application meets the requirements of [chapter 459](#) of NRS and the regulations of the Division, the Division will issue a specific license authorizing the proposed activity in a form and containing such conditions and limitations as it deems appropriate or necessary.

2. The Division may incorporate in any license at the time of issuance additional requirements and conditions

with respect to the licensee's receipt, possession, use and transfer of radioactive material subject to [NAC 459.180](#) to [459.314](#), inclusive, as it deems appropriate or necessary in order to:

- (a) Minimize danger to public health and safety or property;
 - (b) Require such reports and the keeping of such records, and to provide for such inspections of activities under the licenses as may be appropriate or necessary; and
 - (c) Prevent loss or theft of material subject to [NAC 459.180](#) to [459.314](#), inclusive.
- [Bd. of Health, Radiation Control Reg. §§ 3.5.6-3.5.6.2.3, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.198 Terms and conditions of licenses. ([NRS 459.201](#))

1. Each license issued pursuant to [NAC 459.180](#) to [459.950](#), inclusive, is subject to all the provisions of [chapter 459](#) of NRS, now or hereafter in effect, and to all regulations and orders of the Division.
2. No license issued or granted under [NAC 459.180](#) to [459.950](#), inclusive, or right to possess or utilize radioactive material granted by any license issued pursuant to those provisions, may be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the Division, after securing full information finds that the transfer is in accordance with the provisions of [chapter 459](#) of NRS and gives its consent in writing.
3. Each person licensed by the Division pursuant to [NAC 459.180](#) to [459.950](#), inclusive, or each person seeking a license, shall:
 - (a) Confine his use and possession of the material licensed to the locations and purposes authorized in the license.
 - (b) Inform the Division in writing before the sale or lease of his business if the transaction involves the transfer of a source of radiation to another person.
 - (c) Inform the Division, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under Title 11 of the United States Code or the appropriate chapter of NRS by or against:
 - (1) The licensee;
 - (2) An entity, as that term is defined in 11 U.S.C. § 101(15), which controls the licensee or which lists the licensee as a property of the estate of the entity; or
 - (3) An affiliate, as that term is defined in 11 U.S.C. § 101(2), of the licensee.
 - (d) Keep records of information important to the safe and effective decommissioning of the facility where the radioactive material is located in a location identified to the Division until the license is terminated by the Division. If records of information relevant to decommissioning are kept for other purposes, references to these records and their locations may be used. Such information must include:
 - (1) Records of spills or other unusual occurrences involving the spread of contamination in or around the facility, the equipment of the facility or the site of the facility. These records may be limited to instances when contamination remains after any cleanup procedures or when there is a reasonable likelihood that contaminants may have spread to inaccessible areas including possible seepage into porous materials such as concrete. These records must include any information known to the licensee on the identification of nuclides, quantities, forms and concentrations involved.
 - (2) Any available drawings of structures and equipment of the facility, as originally built and as modified, which are located in restricted areas where radioactive material are used or stored, and of locations of inaccessible areas to which contaminants may spread such as buried pipes which may be subject to contamination. If drawings are not available, the licensee shall provide to the Division other appropriate records of information concerning these areas.
 - (3) Records of any performance of an estimate of the costs of decommissioning for incorporation in a plan for financing the decommissioning and any records of the method used for assuring the availability of money for the costs of decommissioning the facility.
4. Each person licensed by the Division pursuant to [NAC 459.180](#) to [459.950](#), inclusive, who uses a portable gauge shall use a minimum of two independent physical controls that form tangible barriers to secure the portable gauge from unauthorized removal when the portable gauge is not under the control and constant surveillance of the licensee.

[Bd. of Health, Radiation Control Reg. §§ 3.5.7-3.5.7.3, eff. 2-28-80]—(NAC A 9-6-88; 10-22-93; R085-06, 11-13-2006)

NAC 459.200 Expiration and termination of specific licenses; notification of Division before certain events; decommissioning. ([NRS 459.030](#), [459.201](#))

1. Except as otherwise provided in subsections 2 and 3, a specific license expires at the end of the day on the date of expiration set forth on the license.

2. A specific license for which a licensee has, not less than 30 days before the date of expiration set forth on the license, filed an application for renewal pursuant to [NAC 459.202](#) remains effective until the Division makes a final decision on the application. If the decision is to deny the application for renewal, the license expires on the date of the decision or, if the Division specifies a date of expiration in the decision to deny the application for renewal, on the date specified.

3. A specific license revoked by the Division expires on the date of the decision of the Division to revoke the license or on the date specified in the decision of the Division to revoke the license.

4. A specific license continues in effect with respect to the possession of radioactive material until the Division notifies the licensee in writing that the license is terminated. During the time the specific license continues in effect, the licensee shall:

- (a) Limit actions involving radioactive material to those related to decommissioning; and
- (b) Continue to control entry to restricted areas until they are suitable for release so that there is no undue hazard to public health and safety.

5. Except as otherwise provided in subsection 7, a licensee shall notify the Division in writing within 60 days before:

(a) The decision of the licensee to cease permanently its principal activities at the entire site or in a separate building or outdoor area that contains residual radioactivity if the building or outdoor area is unsuitable for release because of an undue hazard to public health and safety;

(b) The end of a 24-month period in which no principal activities have been conducted pursuant to the license; or

(c) The end of a 24-month period in which no principal activities have been conducted in a separate building or outdoor area that contains residual radioactivity and the building or outdoor area is unsuitable for release because of an undue hazard to public health and safety.

6. Coincident with the notification required by subsection 5, the licensee shall maintain in effect all financial assurances for decommissioning established by the licensee pursuant to [NAC 459.1955](#) in conjunction with the issuance or renewal of a license as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to meet the detailed cost estimate for decommissioning. After the Division approves the plan for decommissioning, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Division.

7. The Division may grant a request to extend the period during which notification is required pursuant to subsection 5 if the Division determines that such an extension is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted not later than 30 days before notification is required pursuant to subsection 5. The schedule for decommissioning may not commence until the Division has made a determination on the request.

8. A plan for decommissioning must be submitted to the Division by the licensee if it is required by a condition of the license or if the procedures for decommissioning have not been approved by the Division and these procedures could increase the potential impacts on the health and safety of workers or the public, including, without limitation, if:

- (a) The procedures involve techniques not applied routinely during cleanup or maintenance operations;
- (b) The workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during normal operations;
- (c) The procedures could result in a significantly greater airborne concentration of radioactive materials than is present during normal operations; or
- (d) The procedures could result in a significantly greater release of radioactive material to the environment than that associated with normal operations.

Such procedures may not be carried out by the licensee without being approved by the Division before they commence.

9. A proposed plan for decommissioning will be approved by the Division if decommissioning will be completed as soon as practical, the health and safety of the workers and the public will be protected and the proposed plan for decommissioning includes:

- (a) A description of the conditions of the site, separate building or outdoor area sufficient to evaluate the acceptability of the plan;
- (b) A description of the decommissioning activities;
- (c) A description of the methods that will be used to ensure the protection of workers and the environment

against radiation hazards during decommissioning;

(d) A description of the planned final radiation survey;

(e) An updated and detailed cost estimate for decommissioning, comparison of that estimate with the money set aside for decommissioning and a plan for ensuring the availability of adequate money for completion of decommissioning; and

(f) For a plan for decommissioning in which completion of decommissioning will be later than 24 months after approval of the plan, a justification for the delay based on the criteria set forth in subsection 12.

10. A licensee shall begin decommissioning of the site within 60 days after the plan for decommissioning is approved by the Division.

11. Except as otherwise provided in subsection 12, a licensee:

(a) Shall complete decommissioning of the site, separate building or outdoor area as soon as practicable, but not later than 24 months after decommissioning begins.

(b) Must, if decommissioning involves an entire site, request termination of the license as soon as practicable, but not later than 24 months after decommissioning begins.

12. The Division may approve a request by the licensee for an extension of the period allowed for decommissioning or termination of a license if the Division determines that such an extension is necessary because:

(a) It is not technically feasible to complete decommissioning within 24 months;

(b) There is not sufficient capacity for waste disposal to allow completion of decommissioning within 24 months;

(c) A significant reduction in the volume of wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) A significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; or

(e) There are other site-specific factors that make decommissioning within 24 months undesirable or unfeasible, including, without limitation, the regulatory requirements of other government agencies, lawsuits, activities involving the treatment of groundwater, monitored restoration of natural groundwater, actions that could result in more environmental harm than deferred cleanup and other factors beyond the control of the licensee.

13. As the final step in decommissioning, the licensee shall certify the disposition of all licensed material, including, without limitation, accumulated wastes, by submitting to the Division a completed NRC Form 314 or information that is equivalent to that contained in the completed form and:

(a) Demonstrate that the premises where the licensed activities were carried out satisfy the criteria for decommissioning set forth in [NAC 459.316](#) to [459.3184](#), inclusive; or

(b) Conduct a radiation survey of the premises and submit to the Division a report of the results of this survey. The radiation survey must demonstrate that the premises are suitable for release and include:

(1) A description of the levels of gamma radiation in units of millirem (millisievert) per hour at 1 meter from surfaces;

(2) A description of the levels of radioactivity, including, without limitation, alpha and beta radiation, in units of:

(I) Microcuries (megabecquerels) per 100 square centimeters, removable and fixed, for surfaces;

(II) Microcuries (megabecquerels) per milliliter for water; and

(III) Picocuries (becquerels) per gram for solids, including, without limitation, soils and concrete; and

(3) A description of the survey instruments used and a statement that each instrument was properly calibrated and tested. The statement must be certified by the person who calibrated and tested the instrument.

14. A specific license, including an expired license, will be terminated by written notice to the licensee that the Division has determined that:

(a) All radioactive material has been disposed of properly;

(b) Reasonable effort has been made by the licensee to eliminate residual radioactive contamination, if present;

(c) All records required to be maintained pursuant to subsection 12 of [NAC 459.1955](#) have been received by the Division; and

(d) The radiation survey performed by the licensee or other information submitted by the licensee demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning set forth in [NAC 459.316](#) to [459.3184](#), inclusive.

[Bd. of Health, Radiation Control Reg. § 3.5.8, eff. 2-28-80]—(NAC A 4-27-84; 1-21-92; 10-22-93; 11-1-95; R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-

13-2006)

NAC 459.202 Renewal of specific licenses. ([NRS 459.201](#)) Applications for renewal of specific licenses must be filed in accordance with [NAC 459.200](#) and [459.236](#) and, except as otherwise provided in [NAC 459.203](#), must be accompanied by the appropriate fee as set forth in [NAC 459.310](#). The application for renewal must be received by the Division not later than the date on which the license expires. If the application is not received by that date, the licensee must:

1. Stop all operations involving radioactive materials and place all sources of radiation in storage until they can be transferred to persons authorized to receive them; or
2. Submit to the Division within 5 days after the license expires an application for renewal of the license accompanied by a fee that is equal to twice the amount of the appropriate fee set forth in [NAC 459.310](#).

[Bd. of Health, Radiation Control Reg. §§ 3.5.9-3.5.9.2, eff. 2-28-80]—(NAC A 9-1-89; 1-24-92; R084-98, 1-26-99; R085-06, 11-13-2006)

NAC 459.203 Payment of fees for specific licenses. ([NRS 459.201](#))

1. Except as otherwise provided in subsection 2, if the Division issues a specific license pursuant to [NAC 459.196](#), the licensee must, for each year his specific license is valid, submit to the Division the appropriate fee set forth in [NAC 459.310](#).

2. The fee must be received each year by the Division not later than the last day of the same month that is set forth as the date of expiration on the license. If the fee is not received by that date, the licensee must:

(a) Stop all operations involving radioactive materials and place all sources of radiation in storage until they can be transferred to persons authorized to receive them; or

(b) Submit to the Division within 5 days after the license expires an application for renewal of the license accompanied by a fee that is equal to twice the amount of the appropriate fee set forth in [NAC 459.310](#).

(Added to NAC by Bd. of Health, eff. 9-1-89; A 1-24-92; R084-98, 1-26-99)

NAC 459.204 Amendment of license. ([NRS 459.201](#)) Applications for amendment of a license must be filed in accordance with [NAC 459.236](#) and specify the items which the licensee desires to be amended on his license and the ground for such amendment.

[Bd. of Health, Radiation Control Reg. § 3.5.10, eff. 2-28-80]

NAC 459.206 Action on applications to renew or amend licenses. ([NRS 459.201](#)) In considering an application by a licensee to renew or amend his license, the Division will apply the criteria set forth in [NAC 459.238](#) to [459.307](#), inclusive, as applicable.

[Bd. of Health, Radiation Control Reg. § 3.5.11, eff. 2-28-80]

NAC 459.208 Modification, suspension, revocation and termination of licenses. ([NRS 459.201](#))

1. The terms and conditions of all licenses will be subject to amendment, revision or modification. The license may be suspended or revoked by reason of amendments to [chapter 459](#) of NRS or by reason of regulations or orders issued by the Division.

2. Any license may be revoked, suspended or modified, in whole or in part, for any material false statement in the application or any statement of fact required under the provisions of [chapter 459](#) of NRS or because of conditions revealed by such application or statement of fact or any report, record or inspection or other means which would warrant the Division to refuse to grant a license on an original application, or for violation of, or failure to observe any of the terms and conditions of [chapter 459](#) of NRS, the license, or regulation or order of the Division.

3. Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no license will be modified, suspended or revoked unless, prior to the institution of proceedings thereof:

(a) Facts or conduct which may warrant such action have been called to the attention of the licensee in writing; and

(b) The licensee has been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

4. The Division may terminate a specific license upon a written request submitted by the licensee to the Division.

[Bd. of Health, Radiation Control Reg. §§ 3.5.13-3.5.13.4, eff. 2-28-80]

NAC 459.210 Reciprocal recognition of licenses. ([NRS 459.030](#), [459.201](#))

1. Subject to the provisions of [NAC 459.010](#) to [459.950](#), inclusive, a person who holds a specific license from the Nuclear Regulatory Commission or an agreement state issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained is hereby granted a general license to conduct within this State the activities authorized in the specific license for a period not in excess of 180 days in any calendar year provided that:

(a) The specific license does not limit the activity authorized by the specific license to specified installations or locations.

(b) The out-of-state licensee notifies the Division in writing at least 3 business days before engaging in the proposed activity and receives written permission from the Division to proceed with the proposed activity. The notification must indicate the location, period and type of proposed possession and use within the State, and must be accompanied by a copy of the specific license. If, for a specific case, the 3-day period would impose an undue hardship on the out-of-state licensee, he may apply to the Division and obtain written permission to proceed sooner. The Division may waive the requirement for filing additional written notifications during the remainder of the calendar year following the receipt of the initial notification from a person engaging in activities under the general license.

(c) The out-of-state licensee complies with all applicable regulations of the Division and with all the terms and conditions of his specific license, except any terms and conditions which may be inconsistent with applicable regulations of the Division.

(d) The out-of-state licensee supplies such other information as the Division may request.

(e) The out-of-state licensee must not transfer or dispose of radioactive material possessed or used under the general license provided in this section except by transfer to a person:

(1) Specifically licensed by the Division or by the Nuclear Regulatory Commission to receive such material; or

(2) Exempt from the requirements for a license for such material pursuant to [NAC 459.184](#).

2. A licensee must determine the jurisdiction of a temporary job site at a federal facility before radioactive materials may be used at the temporary job site. If the jurisdiction is unknown, the licensee must contact the federal agency to determine whether the job site is under exclusive federal jurisdiction. The jurisdiction of the job site must be obtained in writing from the federal agency, or the name and title of the person at the federal agency who provided the determination must be recorded along with the date of the determination.

3. Before a licensee may use radioactive material at a temporary job site in another state or at a federal facility, the licensee must obtain authorization, if the job site is:

(a) In another state, from:

(1) That state, if that state is an agreement state; or

(2) The Nuclear Regulatory Commission, by filing for reciprocity or a specific license, if the state is not an agreement state or the job site is within an area of exclusive federal jurisdiction.

(b) At a federal facility, from the Nuclear Regulatory Commission by:

(1) Filing an NRC Form 241 in accordance with 10 C.F.R. § 150.20(b), as those provisions existed on January 26, 1999; or

(2) Filing for a specific license.

4. Any person who holds a specific license issued by the Nuclear Regulatory Commission or an agreement state authorizing the holder to manufacture, transfer, install or maintain a device described in [NAC 459.216](#) within areas subject to the jurisdiction of the licensing body is hereby granted a general license to install, transfer, demonstrate or maintain such a device in this State provided that:

(a) Such person shall file a report with the Division within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this State. Each such report must identify each general licensee to whom such device is transferred by name and address, the type of device transferred and the quantity and type of radioactive material contained in the device;

(b) The device has been manufactured, labeled, installed and maintained in accordance with applicable provisions of the specific license issued to such person by the Nuclear Regulatory Commission or an agreement state;

(c) Such person must assure that any labels required to be affixed to the device under regulations of the authority which licensed manufacture of the device bear a statement that: "Removal of this label is prohibited"; and

(d) The holder of the specific license must furnish to each general licensee to whom he transfers such device or on whose premises he installs such device a copy of the general license contained in [NAC 459.216](#).

5. The Division may withdraw, limit or qualify its acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed pursuant to the licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

[Bd. of Health, Radiation Control Reg. §§ 3.6-3.6.1.3, eff. 2-28-80]—(NAC A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.212 General licenses: Source material. ([NRS 459.201](#))

1. A general license is issued authorizing the use and transfer of not more than 15 pounds of source material at any one time by persons in the following categories:

(a) Pharmacists using the source material solely for the compounding of medicinals;

(b) Physicians using the source material for medicinal purposes;

(c) Persons receiving possession of source material from pharmacists and physicians in the form of medicinals or drugs;

(d) Commercial and industrial firms, and research, educational and medical institutions for research, development, educational or commercial purposes; and

(e) If the person so licensed does not receive more than a total of 150 pounds of source material in any 1 calendar year.

2. A person who receives, possesses, uses or transfers source material pursuant to the general license issued under this section is exempt from the provisions of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive, to the extent that the activities are within the terms of the general license. This exemption does not apply to any person who also possesses source material under a specific license issued pursuant to [NAC 459.180](#) to [459.314](#), inclusive.

3. A general license is also issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use or transfer source material.

[Bd. of Health, Radiation Control Reg. §§ 3.4-3.4.1.3, eff. 2-28-80]—(NAC A 1-18-94; R084-98, 1-26-99)

NAC 459.214 General licenses: Certain devices designed for use as static eliminators or for ionization of air. ([NRS 459.201](#))

1. A general license is issued to transfer, receive, acquire, own, possess and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the Nuclear Regulatory Commission for use pursuant to 10 C.F.R. § 31.3. This general license is subject to the provisions of [NAC 459.124](#) to [459.134](#), inclusive, subsection 2 of [NAC 459.184](#), [NAC 459.198](#), [459.208](#), [459.312](#), [459.314](#), and [459.320](#) to [459.374](#), inclusive, relating to the labeling of containers, and [NAC 459.780](#) to [459.794](#), inclusive.

2. The devices included in this license are:

(a) Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of polonium 210 per device; and

(b) Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of polonium 210 per device or a total of not more than 50 millicuries of hydrogen 3 (tritium) per device.

[Bd. of Health, Radiation Control Reg. §§ 3.4.2-3.4.2.1.2, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.216 General licenses: Certain detecting, measuring, gauging or controlling devices and devices for producing light or ionized atmosphere. ([NRS 459.201](#))

1. A general license is issued to commercial and industrial firms, to research, educational and medical institutions, to a person engaged in the conduct of his own business, and to the state and local governments, including the agencies of either, to own, receive, acquire, possess, use or transfer, in accordance with the provisions of subsections 2 and 3 and [NAC 459.218](#), radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage or qualitative or quantitative chemical composition or for producing light or an ionized atmosphere.

2. The general license in subsection 1 applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in a

specific license issued by the Division pursuant to [NAC 459.282](#), or in accordance with the specifications contained in a specific license issued by the Nuclear Regulatory Commission or an agreement state.

3. A general licensee may receive a device described in this section only from a specific licensee described in subsection 2 or through a transfer made pursuant to subsection 8 of [NAC 459.218](#) and [459.2185](#).

4. The general license provided in subsection 1 is subject to the provisions of [NAC 459.124](#) to [459.134](#), inclusive, [459.198](#), [459.208](#), [459.2185](#), [459.219](#), [459.287](#), [459.289](#), [459.2895](#), [459.3062](#) to [459.3068](#), inclusive, [459.3075](#), [459.312](#), [459.313](#) and [459.314](#).

[Bd. of Health, Radiation Control Reg. §§ 3.4.2.2-3.4.2.2.2, 3.4.2.2.4 & 3.4.2.2.5, eff. 2-28-80]—(NAC A by R085-06, 11-13-2006)

NAC 459.218 Duties and restrictions regarding certain detecting, measuring, gauging or controlling devices and devices for producing light or ionized atmosphere. ([NRS 459.201](#)) Any person who owns, receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license in subsection 1 of [NAC 459.216](#):

1. Shall ensure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained thereon and comply with all instructions and precautions provided by the labels.

2. Shall ensure that the device is tested for leakage of radioactive material and proper operation of the on-and-off mechanism and indicator, if any, and that such tests are conducted at no longer than 6-month intervals or at such other intervals as are specified in the label, except that:

(a) Devices containing only krypton need not be tested for leakage of radioactive material; and

(b) Devices containing only tritium or not more than 100 microcuries of other beta- or gamma-emitting material, or both, or 10 microcuries of alpha-emitting material and devices held in storage in the original shipping container before initial installation need not be tested for any purpose.

3. Shall ensure that the tests required by subsection 2 and other testing, installation, servicing and removal from installation, involving the radioactive materials, its shielding or containment, are performed and recorded:

(a) In accordance with the instructions provided by the labels; or

(b) By a person holding an applicable specific license from the Division, the Nuclear Regulatory Commission or an agreement state to perform such activities.

4. Shall maintain records showing compliance with the requirements of subsections 2 and 3. The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installing, servicing and removal from installation concerning the radioactive material, its shielding or containment. Records of tests for leakage of radioactive material required by subsection 2 must be maintained until the sealed source is transferred or disposed of. Records of tests of the on-and-off mechanism and indicator required by subsection 2 must be maintained for 1 year after the next required test of the on-and-off mechanism and indicator is performed or until the sealed source is transferred or disposed of. Records which are required by subsection 3 must be maintained for a period of 2 years from the date of the recorded event or until the device is transferred or disposed of.

5. Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-and-off mechanism or indicator, or upon the detection of 0.005 microcurie (185 becquerel) or more of removable radioactive material:

(a) Shall immediately inform the Radiological Health Section of the Division by telephone;

(b) Shall immediately suspend operation of the device;

(c) Shall, within 30 days, furnish to the Division a report containing a brief description of the event and the remedial action taken;

(d) Shall, in a case of detection of 0.005 microcurie (185 becquerel) or more of radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, furnish to the Division a plan for ensuring that the premises and environs are acceptable for unrestricted use; and

(e) Shall not, in a case of detection of 0.005 microcurie (185 becquerel) or more of radioactive material or failure of or damage to a source likely to result in contamination of the premises and the environs, operate the device until it has been repaired by the manufacturer or other person holding a specific license to repair the device issued pursuant to 10 C.F.R. Parts 30 and 32 or equivalent regulations of an agreement state.

6. Shall not abandon the device containing radioactive material.

7. Except as otherwise provided in subsection 8, may transfer or dispose of the device containing radioactive material only by transfer to a specific licensee of the Division, the Nuclear Regulatory Commission or an

agreement state whose specific license authorizes him to receive the device or whose license authorizes waste collection. Within 30 days after transfer of a device to a specific licensee, the person shall furnish to the Division a report containing identification of the device by the manufacturer's or initial transferor's name, the model number and serial number of the device transferred, the name, address and license number of the person receiving the device and the date of the transfer. A transferor shall not transfer the device to any specific licensee not described in this subsection without first obtaining approval of the transfer from the Division.

8. May transfer the device to another general licensee only:

(a) Where the device remains in use at a particular location. In such a case the transferor shall give the transferee a copy of [NAC 459.010](#) to [459.794](#), inclusive, and any safety documents identified in the label on the device and within 30 days after the transfer shall report to the Division the manufacturer's or initial transferor's name, the model number and serial number of the device transferred, the name, title, telephone number and address of the transferee, and the name and position of a person who may constitute a point of contact between the Division and the transferee and who has knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or

(b) Where the device is held in storage by an intermediate person in the original shipping container at its intended location of use before initial use by a general licensee.

9. Shall comply with the provisions of [NAC 459.369](#) and [459.3695](#) for reporting radiation incidents, theft or loss of licensed material, but is exempt from the other requirements of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive.

10. Except as otherwise provided in this subsection, shall respond to written requests from the Division to provide information relating to the general license within 30 calendar days after the date of the request or within the time specified in the request. If the general licensee cannot provide the requested information within the allotted time, the licensee shall, within the allotted time, request in writing additional time to comply with the request from the Division pursuant to the provisions of [NAC 459.134](#).

11. Shall appoint a person responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with those regulations and requirements. The general licensee, through the person appointed pursuant to this subsection, shall ensure daily compliance with all applicable regulations and requirements. The provisions of this subsection do not relieve the licensee of any responsibility or obligation under this chapter or [chapter 459](#) of NRS.

12. Except for a person who holds a general license issued by the Nuclear Regulatory Commission or an agreement state and who uses a device described in paragraph (a) in areas subject to the jurisdiction of the Division for a period of less than 180 days in any calendar year, shall:

(a) Register any device which contains:

- (1) Ten millicuries (370 megabecquerels) or more of cesium-137;
- (2) One-tenth millicuries (3.7 megabecquerels) or more of strontium-90;
- (3) One millicurie (37 megabecquerels) or more of cobalt-60;
- (4) One millicurie (37 megabecquerels) or more of americium-241; or
- (5) One millicurie (37 megabecquerels) or more of any other transuranic element, that is, an element with

an atomic number greater than uranium-92,

È based on the activity indicated on the label. The general licensee shall register the device annually with the Division and shall pay the appropriate fee. In registering the device, the person shall verify, correct and, as appropriate, add to the information provided in a request from the Division for registration. The registration information must be submitted to the Division within 30 days after the date of the request for registration made by the Division, unless otherwise indicated in the request.

(b) In complying with the registration requirements of paragraph (a), in addition to any other information specifically requested by the Division, provide, without limitation, the following information:

- (1) The name and mailing address of the general licensee;
- (2) The name of the manufacturer or initial transferor of each device;
- (3) The model number, serial number, radioisotope and activity, as indicated on the label, of each device;
- (4) The name, title and telephone number of the responsible person designated as a representative of the general licensee pursuant to subsection 11;
- (5) The address of the physical location at which each device is used and stored or, in the case of a portable device, the address of the primary place of storage;
- (6) A certification by the responsible person designated as the representative of the general licensee pursuant to subsection 11 that the information provided in the registration has been verified through a physical

inventory and check of label information; and

(7) A certification by the responsible person designated as the representative of the general licensee pursuant to subsection 11 that the responsible person is aware of the requirements of the general license.

13. Shall report to the Division any change to the mailing address for a location of use, including any change in the name of the general licensee, within 30 days after the effective date of the change. For a portable device, the general licensee is required to report only a change in the address of the primary place of storage of the portable device.

14. Shall not hold a device that is not in use for more than 2 years, except that a device that is kept in standby for future use is excluded from the 2-year time limit if the general licensee performs physical inventories of those devices held in standby on a quarterly basis. If a device with shutters is not being used, the shutters must be locked in the closed position. If a device is put back into service or is transferred to another person and was not tested during the required test interval, the device must be tested for leakage before use or transfer and the shutter must be tested before use. The Division may determine the eligibility for release for unrestricted use of such a device in accordance with the provisions of [NAC 459.3178](#).

[Bd. of Health, Radiation Control Reg. §§ 3.4.2.2.3-3.4.2.2.3.9, eff. 2-28-80]—(NAC A 9-6-88; 1-18-94; R085-06, 11-13-2006)

NAC 459.2185 Requirements for transfer of certain detecting, measuring, gauging or controlling devices and devices for producing light or ionized atmosphere to intended users or intermediate transferees. ([NRS 459.201](#))

1. Except as otherwise provided in subsection 2, before a person may transfer a device containing radioactive material to the intended user of the device or an intermediate transferee for use by the intended user:

(a) Pursuant to a general license issued pursuant to [NAC 459.216](#), the person must be licensed pursuant to [NAC 459.216](#) and [459.282](#) to distribute such devices and shall, before the initial transfer of the device, provide to the intended user of the device and each intermediate transferee:

(1) A copy of the general license of the transferor issued pursuant to [NAC 459.216](#), except that if subsections 2, 3, 4 and 12 of [NAC 459.218](#) do not apply to the device those provisions may be omitted;

(2) A copy of the provisions of [NAC 459.124](#), subsection 1 of [NAC 459.194](#) and [NAC 459.369](#) and [459.3695](#);

(3) A list of the services that can be performed only by a specific licensee;

(4) Information concerning acceptable disposal options, including, without limitation, information concerning estimated costs of disposal; and

(5) Notice that it is the policy of the Division to take enforcement action for improper disposal.

(b) Pursuant to a general license which is equivalent to a license issued pursuant to [NAC 459.216](#) and which is issued pursuant to the regulations of the Nuclear Regulatory Commission or an agreement state, the person must be licensed pursuant to [NAC 459.216](#) and shall, before the initial transfer of the device, provide to the intended user of the device and each intermediate transferee:

(1) A copy of the provisions of [NAC 459.124](#), subsection 1 of [NAC 459.194](#) and [NAC 459.216](#) and [459.369](#) and a copy of the equivalent regulations of the Nuclear Regulatory Commission or agreement state, except that any provisions of the regulations of the Nuclear Regulatory Commission or agreement state which do not apply to the device may be omitted;

(2) If a copy of the regulations of the Nuclear Regulatory Commission is provided in lieu of a copy of the regulations of the agreement state pursuant to subparagraph (1), a statement that the use of the device is regulated by the agreement state;

(3) A list of the services that can be performed only by a specific licensee;

(4) Information concerning acceptable disposal options, including, without limitation, information concerning estimated costs of disposal; and

(5) The name or title, address and telephone number of the contact person at the Nuclear Regulatory Commission or appropriate regulatory agency of the agreement state from whom additional information may be obtained.

2. A licensee described in paragraph (a) or (b) of subsection 1 may propose an alternative method of informing an intended user of the device or other transferee of the type of information set forth in subsection 1 and may use the proposed method upon approval by the Division.

3. A general licensee who is subject to the provisions of paragraph (b) of subsection 1 and who transfers a

device containing radioactive material after November 13, 2006, must comply with the provisions of [NAC 459.282](#) concerning the labeling of the device.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.219 Requirements for separate locations of use of certain detecting, measuring, gauging or controlling devices and devices for producing light or ionized atmosphere. ([NRS 459.201](#)) Each address for a location of use described in subparagraph (5) of paragraph (b) of subsection 12 of [NAC 459.218](#) is deemed to represent a separate general license and requires separate registration and payment of a separate fee.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.220 General licenses: Luminous safety devices for aircraft. ([NRS 459.201](#))

1. A general license is issued to own, receive, acquire, possess and use tritium or promethium 147 contained in luminous safety devices for use in aircraft, if:

(a) Each device contains not more than 10 curies of tritium or 300 millicuries of promethium 147; and

(b) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Division or any agreement state to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in 10 C.F.R. § 32.53 of the regulations of the Nuclear Regulatory Commission.

2. Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in subsection 1 are exempt from the requirements of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive, except that they shall comply with the provisions of [NAC 459.369](#) and [459.3695](#).

3. This general license does not authorize:

(a) The manufacture, assembly or repair of luminous safety devices containing radioactive material.

(b) The ownership, receipt, acquisition, possession or use of promethium 147 contained in instrument dials.

4. This general license is subject to the provisions of [NAC 459.124](#) to [459.134](#), inclusive, [459.198](#), [459.208](#), [459.312](#) and [459.314](#).

[Bd. of Health, Radiation Control Reg. §§ 3.4.2.3-3.4.2.3.5, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.222 General licenses: Ownership of radioactive material. ([NRS 459.201](#)) A general license is issued to own radioactive material without regard to quantity. This general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

[Bd. of Health, Radiation Control Reg. § 3.4.2.4, eff. 2-28-80]

NAC 459.224 General licenses: Calibration and reference sources. ([NRS 459.201](#))

1. A general license is hereby issued to those persons listed to own, receive, acquire, possess, use and transfer, in accordance with the provisions of subsections 4 and 5, americium 241 in the form of calibration or reference sources:

(a) Any person who holds a specific license issued by the Division which authorizes him to receive, possess, use and transfer radioactive material; and

(b) Any person who holds a specific license issued by the Nuclear Regulatory Commission which authorizes him to receive, possess, use and transfer special nuclear material.

2. A general license is hereby issued to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of subsections 4 and 5 to any person who holds a specific license issued by the Division which authorizes him to receive, possess, use and transfer radioactive material.

3. A general license is hereby issued to own, receive, possess, use and transfer radium 226 in the form of calibration or reference sources in accordance with the provisions of subsections 4 and 5 to any person who holds a specific license issued by the Division which authorizes him to receive, possess, use and transfer radioactive material.

4. The general licenses in paragraphs (a), (b) and (c) of subsection 5 apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the Nuclear Regulatory Commission pursuant to 10 C.F.R. § 32.57 or 10 C.F.R. § 70.39 or which have been manufactured in accordance with specifications contained in a specific license issued to the manufacturer by the Division or any agreement state pursuant to licensing

requirements equivalent to those contained in 10 C.F.R. § 32.57 or 10 C.F.R. § 70.39 of the regulations of the Nuclear Regulatory Commission.

5. The general licenses provided in subsections 1, 2 and 3 are subject to the provisions of [NAC 459.124](#) to [459.134](#), inclusive, [459.198](#), [459.208](#), [459.312](#), [459.314](#), [459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to [NAC 459.180](#) to [459.314](#), inclusive:

(a) Shall not possess at any one time or at any one location of storage or use more than 5 microcuries of americium 241, 5 microcuries of plutonium and 5 microcuries of radium 226 in those sources;

(b) Shall not receive, possess, use or transfer such a source unless the source or its storage container bears a label which includes the following statement or a substantially similar statement:

(1) The receipt, possession, use and transfer of this source, Model, Serial No., are subject to a general license and the regulations of the Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

**CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS
(AMERICIUM 241) (PLUTONIUM) (RADIUM 226) DO NOT TOUCH
RADIOACTIVE PORTION OF THIS SOURCE.**

.....
Name of manufacturer or importer

(2) The label must show only the name of the appropriate material;

(c) Shall not transfer, abandon or dispose of such source except by transfer to a person authorized by a license from the Division, the Nuclear Regulatory Commission or an agreement state to receive the source;

(d) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium 241, plutonium or radium 226 which might otherwise escape during storage; and

(e) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

6. These general licenses do not authorize the manufacture of calibration or reference sources containing americium 241, plutonium or radium 226.

[Bd. of Health, Radiation Control Reg. §§ 3.4.2.5-3.4.2.5.6, eff. 2-28-80]—(NAC A 1-18-94; R084-98, 1-26-99)

NAC 459.228 General licenses: Prepackaged units of radioactive material for in vitro testing. ([NRS 459.201](#)) A general license is issued to any physician, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of [NAC 459.230](#), the following radioactive materials in prepackaged units:

1. Iodine 125, iodine 131, selenium 75, cobalt 57 and carbon 14 in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

2. Hydrogen 3 (tritium) in units not exceeding 50 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or its radiation, to human beings or animals.

3. Iron 59 in units not exceeding 20 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or its radiation, to human beings or animals.

4. Mock iodine 125 reference or calibration sources in units not exceeding 0.05 microcurie of iodine 129 and 0.005 microcurie of americium 241 each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or radiation from it to human beings or animals.

[Bd. of Health, Radiation Control Reg. §§ 3.4.2.7-3.4.2.7.1.4, eff. 2-28-80]

NAC 459.230 Duties and restrictions regarding prepackaged units of radioactive material for in vitro testing. ([NRS 459.201](#))

1. A person may not receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by [NAC 459.228](#), until he has filed division form NRC-8, "Certificate - In Vitro Testing with

Radioactive Material Under General License,” with the Division and received from the Division a validated copy of division form NRC-8 with certification number assigned. The physician, clinical laboratory or hospital shall furnish on division form NRC-8 the following information and any other information required by that form:

- (a) Name and address of the physician, clinical laboratory or hospital;
- (b) The location of use; and

(c) A statement that the physician, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized under the general license in [NAC 459.228](#), and that tests will be performed only by personnel competent in the use of the instruments and in the handling of the radioactive material.

2. A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by [NAC 459.228](#), shall comply with the following:

(a) The general licensee shall not possess at any one time, pursuant to the general license in [NAC 459.228](#), at any one location of storage or use a total amount of iodine 125, iodine 131, selenium 75, iron 59 or cobalt 57 in excess of 200 microcuries.

(b) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(c) The general licensee shall use the radioactive material only for the uses authorized by [NAC 459.228](#).

(d) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the Division, the Nuclear Regulatory Commission or any agreement state, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(e) The general licensee must dispose of the mock iodine 125 reference or calibration sources described in subsection 4 of [NAC 459.228](#), as required by [NAC 459.3355](#) and [459.359](#) to [459.3615](#), inclusive.

3. The general licensee shall not receive, acquire, possess or use radioactive material pursuant to [NAC 459.228](#):

(a) Except as prepackaged units which are labeled in accordance with the provisions of an applicable specific license issued by the Nuclear Regulatory Commission or any agreement state which authorizes the manufacture and distribution of iodine 125, iodine 131, carbon 14, hydrogen 3 (tritium), selenium 75, iron 59, cobalt 57 or mock iodine 125 for distribution to persons generally licensed under [NAC 459.228](#) or its equivalent; and

(b) Unless the following statement or a substantially similar statement, which contains the information in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

This radioactive material must be received, acquired, possessed and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

.....
Name of manufacturer

4. The physician, clinical laboratory or hospital possessing or using radioactive material under the general license of [NAC 459.228](#) shall report in writing to the Division any changes in the information furnished by him in the “Certificate - In Vitro Testing with Radioactive Material Under General License,” division form NRC-8. The report must be furnished within 30 days after the effective date of such change.

5. Any person using radioactive material pursuant to the general license of [NAC 459.228](#) is exempt from the requirements of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive, with respect to radioactive material covered by that general license except that such persons using mock iodine 125 described in subsection 4 of [NAC 459.228](#) shall comply with the provisions of [NAC 459.3355](#), [459.359](#) to [459.3615](#), inclusive, [459.369](#) and [459.3695](#).

[Bd. of Health, Radiation Control Reg. §§ 3.4.2.7.2-3.4.2.7.6, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.232 General licenses: Ice detection devices. (NRS 459.201)

1. A general license is issued to own, receive, acquire, possess, use and transfer strontium 90 contained in ice detection devices, if each device contains not more than 50 microcuries of strontium 90 and each device has been manufactured or imported in accordance with a specific license issued by the Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Division of any agreement state to the manufacturer of a device pursuant to licensing requirements equivalent to those in 10 C.F.R. § 32.61 of the regulations of the Nuclear Regulatory Commission.

2. Persons who own, receive, acquire, possess, use or transfer strontium 90 contained in ice detection devices pursuant to the general license in subsection 1:

(a) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Division, the Nuclear Regulatory Commission or an agreement state to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of [NAC 459.3355](#) and [459.359](#) to [459.3615](#), inclusive;

(b) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained; and

(c) Are exempt from the requirements of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive, except that the persons shall comply with the provisions of [NAC 459.3355](#), [459.359](#) to [459.3615](#), inclusive, [459.369](#) and [459.3695](#).

3. This general license does not authorize the manufacture, assembly, disassembly or repair of strontium 90 in ice detection devices.

4. This general license is subject to the provisions of [NAC 459.124](#) to [459.134](#), inclusive, [459.198](#), [459.208](#), [459.312](#) and [459.314](#).

[Bd. of Health, Radiation Control Reg. §§ 3.4.2.8-3.4.2.8.4, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.234 General licenses: Intrastate transportation of radioactive material. (NRS 459.201)

1. A general license is issued to any common or contract carrier to transport and store radioactive material in the regular course of carriage for another or storage incident thereto if the transportation and storage is in accordance with the applicable requirements of the regulations, appropriate to the mode of transport, of the Department of Transportation relating to the loading and storage of packages, placarding of the transporting vehicle and incident reporting. Any notification of incidents referred to in the federal regulations must be filed with, or made to, the Division. Persons who transport and store radioactive material pursuant to this general license are exempt from the requirements of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive.

2. A general license is issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements of the regulations, appropriate to the mode of transport, of the Department of Transportation relating to the loading and storage of packages, placarding of the transporting vehicle and incident reporting. Incidents must be reported as described in subsection 1.

3. Persons who transport radioactive material pursuant to a general license issued under this section are exempt from the requirements of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive, to the extent that they transport radioactive material.

4. Physicians, are exempt from the requirements of subsection 2 to the extent that they transport radioactive material for use in the practice of medicine.

[Bd. of Health, Radiation Control Reg. §§ 3.4.3-3.4.3.2.2, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.236 Specific licenses: Application. (NRS 459.201)

1. Applications for specific licenses must be filed on a form prescribed by the Division and accompanied by the appropriate fee as prescribed in [NAC 459.310](#).

2. The Division may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Division to determine whether the application should be granted or denied or whether a license should be modified or revoked.

3. Each application must be signed by the applicant or licensee or a person duly authorized to act for and on his behalf.

4. An application for a license may include a request for a license authorizing one or more activities.

5. In his application, the applicant may incorporate by reference information contained in previous applications, statements or reports filed with the Division provided such references are clear and specific.

6. Applications and documents submitted to the Division may be made available for public inspection except that the Division may withhold any document or part thereof from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.

7. An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains a sealed source must:

(a) Identify the source or device by manufacturer and model number as registered with the Nuclear Regulatory Commission pursuant to the provisions of [NAC 459.289](#) or [459.2895](#) or 10 C.F.R. § 32.210 or registered with an agreement state pursuant to an equivalent regulation of the agreement state; or

(b) Contain the information identified in [NAC 459.289](#) or [459.2895](#), 10 C.F.R. § 32.210 or an equivalent regulation of an agreement state.

8. If applicable pursuant to [NAC 459.1955](#), an application for a specific license must contain a proposed plan for financing decommissioning or a certification of financial assurance for decommissioning.

[Bd. of Health, Radiation Control Reg. §§ 3.5-3.5.1.6, eff. 2-28-80]—(NAC A 9-1-89; R085-06, 11-13-2006)

NAC 459.238 Specific licenses: General requirements; reasons for denial. ([NRS 459.201](#))

1. An application for a license will be approved if the Division determines that:

(a) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with the provisions of [NAC 459.010](#) to [459.950](#), inclusive, in a manner to minimize danger to public health and safety or property;

(b) The applicant's proposed equipment, facilities and procedures are adequate to minimize danger to public health and safety or property;

(c) The issuance of the license will not be inimical to the health and safety of the public; and

(d) The applicant satisfies any applicable special requirements in [NAC 459.240](#) to [459.307](#), inclusive.

2. The Division will deny an application for a license if the Division determines that:

(a) The issuance of the license would be inimical to the health and safety of the public;

(b) The applicant does not satisfy the requirements of paragraph (a), (b) or (d) of subsection 1; or

(c) The applicant has held a license authorizing a similar use of radioactive material issued by the Division or by the appropriate licensing agency in another jurisdiction and the license has either been revoked or the licensee has been cited for a violation, which the Division deems significant, of a regulation relating to matters of health and safety.

[Bd. of Health, Radiation Control Reg. §§ 3.5.2-3.5.2.4, eff. 2-28-80]—(NAC A 10-22-93; R084-98, 1-26-99)

NAC 459.240 Specific licenses: Institutional use of radioactive material on human beings. ([NRS 459.201](#)) In addition to the requirements set forth in [NAC 459.238](#), a specific license for institutional use of radioactive material on human beings will be issued if all the following requirements are satisfied:

1. The applicant has appointed a committee on radiation safety to oversee the use of radioactive material throughout the institution and review the institution's safety program. The committee must consist of at least the following members:

(a) An authorized user for each type of use permitted by the license;

(b) A representative of the nursing staff;

(c) A representative of the institution's management who is neither an authorized user nor a radiation safety officer; and

(d) The radiation safety officer.

2. The applicant possesses adequate facilities for the clinical care of patients.

3. A physician designated as an authorized user has the training and experience required in [NAC 459.010](#) to [459.950](#), inclusive, that is appropriate to the type of usage of radioactive material for which he is authorized and, where applicable, the clinical management of patients who are radioactive.

4. The operating procedures for radiation safety proposed by the applicant are adequate for the handling and disposal of the quantities and types of radioactive materials specified in the application.

[Bd. of Health, Radiation Control Reg. §§ 3.5.3-3.5.3.1.4, eff. 2-28-80]—(NAC A 4-27-84; 11-1-95; R084-98, 1-26-99)

NAC 459.242 Specific licenses: Physicians using radioactive material for humans. ([NRS 459.201](#)) In

addition to the requirements in [NAC 459.238](#), a specific license for the human use of radioactive material will be issued to an individual physician if:

1. The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the radioactive patients of the applicant whenever it is advisable;
 2. The applicant has the training and experience required in [NAC 459.010](#) to [459.950](#), inclusive, that is appropriate to the type of usage of radioactive material for which he is authorized and, where applicable, the clinical management of radioactive patients; and
 3. The operating procedures for radiation safety proposed by the applicant are adequate for the handling and disposal of the quantities and types of radioactive materials specified in the application.
- [Bd. of Health, Radiation Control Reg. §§ 3.5.3.2-3.5.3.2.2, eff. 2-28-80]—(NAC A 11-1-95; R084-98, 1-26-99)

NAC 459.2434 Specific licenses: Application, amendment or renewal of license for medical use of radioactive material. ([NRS 459.201](#))

1. An application for a license for medical use of radioactive material must be made by submitting an original and one copy of NRC Form 5 to the Division. NRC Form 5 and its instructions may be obtained at no charge from the Division.
 2. An application for amendment to a license or renewal of a license for medical use of radioactive material must be made by submitting an original and one copy of a letter of request to the Division.
- (Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.2565 Specific licenses: Use of sealed sources for diagnosis. ([NRS 459.201](#))

1. A licensee may use the following sealed sources for diagnosis in accordance with the radiation safety and handling instructions of the manufacturer:
 - (a) Iodine-125, americium-241 and gadolinium-153 in a device for bone mineral analysis; and
 - (b) Iodine-125 in a portable imaging device.
 2. A licensee who uses radioactive material as a sealed source for diagnosis shall have in his possession a portable radiation detection survey instrument capable of:
 - (a) Detecting dose rates that range from 0.1 millirem per hour to 100 millirem per hour; or
 - (b) Measuring dose rates that range from 1 millirem per hour to 1000 millirem per hour.
- (Added to NAC by Bd. of Health by R084-98, eff. 1-26-99)

NAC 459.261 Specific licenses: Use of sealed sources in well logging. ([NRS 459.201](#))

1. In addition to the requirements set forth in [NAC 459.238](#), a specific license for use of sealed sources in well logging will be issued if:
 - (a) The applicant develops a satisfactory program for training logging supervisors and logging assistants and submits to the Division a description of the program which specifies the:
 - (1) Initial training;
 - (2) On-the-job training;
 - (3) Annual safety reviews that will be made by the licensee;
 - (4) Means the applicant will use to demonstrate the logging supervisor's knowledge and understanding of and ability to comply with the Division's regulations and licensing requirements and the applicant's operating and emergency procedures; and
 - (5) Means the applicant will use to demonstrate the logging assistant's knowledge and understanding of an ability to comply with the applicant's operating and emergency procedures.
 - (b) The applicant has established and submits to the Division satisfactory written operating and emergency procedures.
 - (c) The applicant has established and submits to the Division a satisfactory program for annual inspections of the job performance of each logging supervisor to ensure that the Division's regulations, licensing requirements and the applicant's operating and emergency procedures are followed.
 - (d) The applicant submits to the Division a satisfactory description of its overall organizational structure as it applies to the radiation safety responsibilities in well logging, including specified delegations of authority and responsibility.
2. If an applicant wants to perform leak testing of sealed sources, he must submit to the Division the identification of the manufacturers and the model numbers of the leak test kits to be used.

3. If an applicant wants to analyze his own wipe samples he must submit satisfactory procedures to the Division which describe:

- (a) The instruments that will be used;
 - (b) The methods of performing the analysis; and
 - (c) The pertinent experience of the person who will analyze the wipe samples.
- (Added to NAC by Bd. of Health, eff. 4-27-84; A 9-6-88)

NAC 459.262 Broad licenses: General requirements. (NRS 459.201)

1. [NAC 459.180](#) to [459.274](#), inclusive, prescribes requirements for the issuance of specific licenses of broad scope for radioactive material, called “broad licenses” herein, and regulations governing holders of the licenses.

2. Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing source material or by-product material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the Nuclear Regulatory Commission, Washington, D.C. 20555.

[Bd. of Health, Radiation Control Reg. § 3.5.4, eff. 2-28-80]

NAC 459.264 Broad licenses: Types of licenses. (NRS 459.201) The types of broad licenses available are:

1. A “type A specific license of broad scope” is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, not exceeding quantities specified in the license, for any authorized purpose, including, without limitation, medical use of radioactive material. The quantities specified are usually in the multicurie range.

2. A “type B specific license of broad scope” is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in [NAC 459.266](#), for any authorized purpose. The possession limit for a type B broad license, if only one radionuclide is possessed under the license, is the quantity specified for that radionuclide in Column I of [NAC 459.266](#). If two or more radionuclides are possessed, the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in Column I of [NAC 459.266](#) for that radionuclide. The sum of the ratios for all radionuclides possessed under the license must not exceed unity.

3. A “type C specific license of broad scope” is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in [NAC 459.266](#) for any authorized purpose. The possession limit for a type C broad license, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Column II of [NAC 459.266](#). If two or more radionuclides are possessed, the possession limit is determined for each as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in Column II of [NAC 459.266](#) for that radionuclide. The sum of the ratios for all radionuclides possessed under the license must not exceed unity.

[Bd. of Health, Radiation Control Reg. §§ 3.5.4.1-3.5.4.1.3, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.266 Broad licenses: Table of limits. (NRS 459.201) The limits for radioactive material for broad licenses are:

Radioactive material	Column I curies	Column II curies
Antimony 122	1.0	0.01
Antimony 124	1.0	0.01
Antimony 125	1.0	0.01
Arsenic 73	10.0	0.1
Arsenic 74	1.0	0.01
Arsenic 76	1.0	0.01
Arsenic 77	10.0	0.1
Barium 131	10.0	0.1
Barium 140	1.0	0.01
Beryllium 7	10.0	0.1
Bismuth 210	0.1	0.001
Bromine 82	10.0	0.1

Cadmium 109	1.0	0.01
Cadmium 115m	1.0	0.01
Cadmium 115	10.0	0.1
Calcium 45	1.0	0.01
Calcium 47	10.0	0.1
Carbon 14	100.0	1.0
Cerium 141	10.0	0.1
Cerium 143	10.0	0.1
Cerium 144	0.1	0.001
Cesium 131	100.0	1.0
Cesium 134m	100.0	1.0
Cesium 134	0.1	0.001
Cesium 135	1.0	0.01
Cesium 136	10.0	0.1
Cesium 137	0.1	0.001
Chlorine 36	1.0	0.01
Chlorine 38	100.0	1.0
Chromium 51	100.0	1.0
Cobalt 57	10.0	0.1
Cobalt 58m	100.0	1.0
Cobalt 58	1.0	0.01
Cobalt 60	0.1	0.001
Copper 64	10.0	0.1
Dysprosium 165	100.0	1.0
Dysprosium 166	10.0	0.1
Erbium 169	10.0	0.1
Erbium 171	10.0	0.1
Europium 152 (9.2 h)	10.0	0.1
Europium 152 (13 y)	0.1	0.001
Europium 154	0.1	0.001
Europium 155	1.0	0.01
Fluorine 18	100.0	1.0
Gadolinium 153	1.0	0.01
Gadolinium 159	10.0	0.1
Gallium 72	10.0	0.1
Germanium 71	100.0	1.0
Gold 198	10.0	0.1
Gold 199	10.0	0.1
Hafnium 181	1.0	0.01
Holmium 166	10.0	0.1
Hydrogen 3	100.0	1.0
Indium 113m	100.0	1.0
Indium 114m	1.0	0.01
Indium 115m	100.0	1.0
Indium 115	1.0	0.01
Iodine 125	0.1	0.001
Iodine 126	0.1	0.001
Iodine 129	0.1	0.001
Iodine 131	0.1	0.001
Iodine 132	10.0	0.1
Iodine 133	1.0	0.01
Iodine 134	10.0	0.1
Iodine 135	1.0	0.01
Iridium 192	1.0	0.01
Iridium 194	10.0	0.1
Iron 55	10.0	0.1
Iron 59	1.0	0.01
Krypton 85	100.0	1.0
Krypton 87	10.0	0.1
Lanthanum 140	1.0	0.01
Lutetium 177	10.0	0.1
Manganese 52	1.0	0.01

Manganese 54	1.0	0.01
Manganese 56	10.0	0.1
Mercury 197m	10.0	0.1
Mercury 197	10.0	0.1
Mercury 203	1.0	0.01
Molybdenum 99	10.0	0.1
Neodymium 147	10.0	0.1
Neodymium 149	10.0	0.1
Nickel 59	10.0	0.1
Nickel 63	1.0	0.01
Nickel 65	10.0	0.1
Niobium 93m	1.0	0.01
Niobium 95	1.0	0.01
Niobium 97	100.0	1.0
Osmium 185	1.0	0.01
Osmium 191m	100.0	1.0
Osmium 191	10.0	0.1
Osmium 193	10.0	0.1
Palladium 103	10.0	0.1
Palladium 109	10.0	0.1
Phosphorus 32	1.0	0.01
Platinum 191	10.0	0.1
Platinum 193m	100.0	1.0
Platinum 193	10.0	0.1
Platinum 197m	100.0	1.0
Platinum 197	10.0	0.1
Polonium 210	0.01	0.0001
Potassium 42	1.0	0.01
Praseodymium 142	10.0	0.1
Praseodymium 143	10.0	0.1
Promethium 147	1.0	0.01
Promethium 149	10.0	0.1
Radium 226	0.01	0.0001
Rhenium 186	10.0	0.1
Rhenium 188	10.0	0.1
Rhodium 103m	1,000.0	10.0
Rhodium 105	10.0	0.1
Rubidium 86	1.0	0.01
Rubidium 87	1.0	0.01
Ruthenium 97	100.0	1.0
Ruthenium 103	1.0	0.01
Ruthenium 105	10.0	0.1
Ruthenium 106	0.1	0.001
Samarium 151	1.0	0.01
Samarium 153	10.0	0.1
Scandium 46	1.0	0.01
Scandium 47	10.0	0.1
Scandium 48	1.0	0.01
Selenium 75	1.0	0.01
Silicon 31	10.0	0.1
Silver 105	1.0	0.01
Silver 110m	0.1	0.001
Silver 111	10.0	0.1
Sodium 22	0.1	0.001
Sodium 24	1.0	0.01
Strontium 85m	1,000.0	10.0
Strontium 85	1.0	0.01
Strontium 89	1.0	0.01
Strontium 90	0.01	0.0001
Strontium 91	10.0	0.1
Strontium 92	10.0	0.1
Sulphur 35	10.0	0.1

Tantalum 182	1.0	0.01
Technetium 96	10.0	0.1
Technetium 97m	10.0	0.1
Technetium 97	10.0	0.1
Technetium 99m	100.0	1.0
Technetium 99	1.0	0.01
Tellurium 125m	1.0	0.01
Tellurium 127m	1.0	0.01
Tellurium 127	10.0	0.1
Tellurium 129m	1.0	0.01
Tellurium 129	100.0	1.0
Tellurium 131m	10.0	0.1
Tellurium 132	1.0	0.01
Terbium 160	1.0	0.01
Thallium 200	10.0	0.1
Thallium 201	10.0	0.1
Thallium 202	10.0	0.1
Thallium 204	1.0	0.01
Thulium 170	1.0	0.01
Thulium 171	1.0	0.01
Tin 113	1.0	0.01
Tin 125	1.0	0.01
Tungsten 181	1.0	0.01
Tungsten 185	1.0	0.01
Tungsten 187	10.0	0.1
Vanadium 48	1.0	0.01
Xenon 131m	1,000.0	10.0
Xenon 133	100.0	1.0
Xenon 135	100.0	1.0
Ytterbium 175	10.0	0.1
Yttrium 90	1.0	0.01
Yttrium 91	1.0	0.01
Yttrium 92	10.0	0.1
Yttrium 93	1.0	0.01
Zinc 65	1.0	0.01
Zinc 69m	10.0	0.1
Zinc 69	100.0	1.0
Zirconium 93	1.0	0.01
Zirconium 95	1.0	0.01
Zirconium 97	1.0	0.01

Any radioactive material other than source material, special nuclear material, or alpha emitting radioactive material not listed above.

0.1 0.001

[Bd. of Health, Radiation Control Reg. Art. 3, Appendix C, eff. 2-28-80]

NAC 459.268 Broad licenses: Application for type A specific license of broad scope. ([NRS 459.201](#)) An application for a type A specific license of broad scope will be approved if:

1. The applicant satisfies the general requirements specified in [NAC 459.238](#);
2. The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and
3. The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to ensure safe operations, including:

(a) The establishment of a radiation safety committee composed of such persons as a radiation safety officer, a representative of management and persons trained and experienced in the safe use of radioactive material;

(b) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection and is available for advice and assistance on radiation safety matters; and

(c) The establishment of appropriate administrative procedures to ensure:

(1) Control of procurement and use of radioactive material;

(2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(3) Review, approval and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with subparagraph (2) prior to use of the radioactive material.

[Bd. of Health, Radiation Control Reg. §§ 3.5.4.2-3.5.4.2.3.3.3, eff. 2-28-80]

NAC 459.270 Broad licenses: Application for type B specific license of broad scope. ([NRS 459.201](#)) An application for a type B specific license of broad scope will be approved if:

1. The applicant satisfies the general requirements specified in [NAC 459.238](#); and

2. The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting and management review that are necessary to ensure safe operations, including:

(a) The appointment of a radiation safety officer who is qualified because of training and experience in radiation protection and is available for advice and assistance on radiation safety matters; and

(b) The establishment of appropriate administrative procedures to ensure:

(1) Control of procurement and use of radioactive material;

(2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(3) Review, approval and recording by the radiation safety officer of safety evaluation of proposed uses prepared in accordance with subparagraph (2) prior to the use of the radioactive material.

[Bd. of Health, Radiation Control Reg. §§ 3.5.4.3-3.5.4.3.2.2.3, eff. 2-28-80]

NAC 459.272 Broad licenses: Application for type C specific license of broad scope. ([NRS 459.201](#)) An application for a type C specific license of broad scope will be approved if:

1. The applicant satisfies the general requirements specified in [NAC 459.238](#);

2. The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, persons who have received:

(a) A college degree at the bachelor level or equivalent training and experience in the physical or biological sciences or in engineering; and

(b) At least 40 hours of training and experience in the safe handling of radioactive material, the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and

3. The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting and management review necessary to ensure safe operations.

[Bd. of Health, Radiation Control Reg. §§ 3.5.4.4-3.5.4.4.3, eff. 2-28-80]

NAC 459.274 Broad licenses: Conditions of license. ([NRS 459.030](#), [459.201](#)) Specific licenses of broad scope are subject to the following conditions:

1. Unless specifically authorized, persons licensed pursuant to [NAC 459.262](#) may not:

(a) Conduct tracer studies in the environment involving direct release of radioactive material;

(b) Receive, acquire, own, possess, use or transfer devices containing 100,000 curies or more of radioactive material in sealed sources used for irradiation of materials;

(c) Conduct activities for which a specific license issued by the Division under [NAC 459.240](#) to [459.2565](#), inclusive, and [459.276](#) to [459.307](#), inclusive, is required; or

(d) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other product designed for ingestion or inhalation by, or application to, a human being.

2. Each type A specific license of broad scope issued under [NAC 459.180](#) to [459.274](#), inclusive, will be subject to the condition that radioactive material possessed under the license may only be used by, or under the

direct supervision of, persons approved by the radiation safety committee of the licensee.

3. Each type B specific license of broad scope issued under this article is subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, persons approved by the radiation safety officer of the licensee.

4. Each type C specific license of broad scope issued under this article is subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, persons who satisfy the requirements of [NAC 459.272](#).

[Bd. of Health, Radiation Control Reg. §§ 3.5.4.5-3.5.4.5.4, eff. 2-28-80]—(NAC A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.276 Specific licenses: Introduction of exempt concentrations of radioactive material into certain products or materials. ([NRS 459.201](#))

1. In addition to the requirements set forth in [NAC 459.238](#), a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another to be transferred to persons exempt pursuant to [NAC 459.184](#) will be issued if:

(a) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to ensure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer; and

(b) The applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in [NAC 459.186](#), that reconcentration of the radioactive material in concentrations exceeding those in [NAC 459.186](#) is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

2. Each person licensed under this section must file an annual report with the Division which identifies the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; the name and address of the person who owned or possessed the product or material into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to this section during the reporting period, the report must so indicate. The report must cover the year ending June 30, and be filed with the Division within 30 days.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.1-3.5.5.1.2, eff. 2-28-80]

NAC 459.278 Specific licenses: Distribution of radioactive material in exempt quantities. ([NRS 459.201](#))

1. An application for a specific license to distribute radioactive material other than source or by-product material to persons exempted from [NAC 459.010](#) to [459.794](#), inclusive, pursuant to [NAC 459.184](#) will be approved if:

(a) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(b) The radioactive material is in the form of processed chemical elements, compounds, mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product or device intended for commercial distribution; and

(c) The applicant submits copies of prototype labels and brochures and the Division approves the labels and brochures.

2. The license issued under subsection 1 is subject to the following conditions:

(a) No more than ten exempt quantities may be sold or transferred in any single transaction. An exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions does not exceed unity.

(b) Each exempt quantity must be separately and individually packaged. No more than ten packaged exempt quantities may be contained in any outer package for transfer to persons exempt pursuant to [NAC 459.184](#). The outer package must be such that the dose rate at the external surface of the package does not exceed 0.5 millirem

per hour.

(c) The immediate container of each quantity or separately packaged fractional quantity of radioactive material must bear a durable, legible label which:

- (1) Identifies the radionuclide and the quantity of radioactivity; and
- (2) Bears the words "Radioactive Material."

(d) In addition to the labeling information required by paragraph (c) the label affixed to the immediate container or an accompanying brochure must:

- (1) State that the contents are exempt from the Nuclear Regulatory Commission or agreement state requirements;
- (2) Bear the words "Radioactive Material - Not for Human Use - Introduction into Foods, Beverages, Cosmetics, Drugs, Medicines or Products Manufactured for Commercial Distribution is Prohibited - Exempt Quantities Should not be Combined"; and
- (3) Set forth appropriate radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

3. Each person licensed under this section shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under [NAC 459.184](#) or the equivalent regulations of an agreement state, and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license must be filed with the Division. Each report must cover the year ending June 30, and be filed within 30 days. If no transfers of radioactive material have been made pursuant to this section during the reporting period, the report must so indicate.

4. The provisions of subsection 2 of [NAC 459.262](#) apply to this section.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.2-3.5.5.2.3, eff. 2-28-80]

NAC 459.280 Specific licenses: Incorporation of naturally occurring or accelerator-produced radioactive material into gas and aerosol detectors. ([NRS 459.030](#), [459.201](#)) An application for a specific license authorizing the incorporation of a naturally occurring or accelerator-produced radioactive material, other than source or by-product material, into gas and aerosol detectors to be distributed to persons exempt under [NAC 459.192](#) will be approved if:

- 1. The application satisfies requirements equivalent to those contained in 10 C.F.R. § 32.26 of the regulations of the Nuclear Regulatory Commission; and
- 2. The amount of radium 226 to be incorporated in each device does not exceed 0.1 microcurie (3.7 kilobecquerels).

[Bd. of Health, Radiation Control Reg. § 3.5.5.3, eff. 2-28-80]—(NAC A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.282 Specific licenses: Manufacture or distribution of devices. ([NRS 459.201](#)) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under [NAC 459.216](#) or equivalent regulations of the Nuclear Regulatory Commission or an agreement state will be approved if:

- 1. The applicant satisfies the general requirements of [NAC 459.238](#).
- 2. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions and potential hazards of the device to provide reasonable assurance that:
 - (a) The device can be safely operated by persons not having training in radiological protection;
 - (b) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in any period of 1 year a dose in excess of 10 percent of the limits specified in [NAC 459.325](#); and
 - (c) In an accident such as fire or explosion, associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

- (1) Whole body, head and trunk, active blood-forming organs, gonads or lens of eye 15 rems
- (2) Hands and forearms, feet and ankles, localized areas of skin averaged over areas not larger than 1 square centimeter..... 200 rems
- (3) Other organs..... 50 rems

3. Each device bears a durable, legible, clearly visible label or labels approved by the Division which contain in a clearly identified and separate statement:

(a) Instructions and precautions necessary to assure safe installation, operation and maintenance of the device. Documents such as operating and service manuals may be identified in the label and used to provide this information.

(b) The requirement, or lack of requirement, for leak testing, or for testing any on-and-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity and date of determination of the quantity.

(c) The information called for in the following statement, in the same or substantially similar form:

The receipt, possession, use and transfer of this device model, serial number, are subject to a general license or the equivalent and the regulations of the Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercises of regulatory authority. This label must be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

.....
 (Name of manufacturer or distributor)

(d) The model, serial number and name of the manufacturer or distributor may be omitted from the label required by this subsection if the information is specified elsewhere and labeling is affixed to the device.

4. Each device that has a separable source housing that provides primary shielding for the source also bears, on the source housing, a durable label listing the model number and serial number of the device, the isotope and quantity, the radiation symbol described in [NAC 459.355](#), the words "CAUTION - RADIOACTIVE MATERIAL" and the name of the manufacturer or initial distributor of the device.

5. Each device described in paragraph (a) of subsection 12 of [NAC 459.218](#) bears a permanent label, including, without limitation, an embossed, etched, engraved or a stamped label, affixed to the source housing if separable or to the device if the source housing is not separable, which contains the words "CAUTION - RADIOACTIVE MATERIAL" and the radiation symbol described in [NAC 459.355](#), if practicable.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.4-3.5.5.4.1.3.3.1, eff. 2-28-80]—(NAC A 1-18-94; R085-06, 11-13-2006)

NAC 459.286 Information required for manufacture and distribution of devices. ([NRS 459.201](#)) If the applicant desires that the general licensee under [NAC 459.216](#) or under equivalent regulations of the Nuclear Regulatory Commission or an agreement state be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage or radioactive material, perform service upon the device, test the on-and-off mechanism and indicator or remove the device from installation, he shall include in his application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities and bases for such estimates. The submitted information must demonstrate that performance of the activity by a person untrained in radiological protection, in addition to other handling, storage and use of devices under the general licensee, is unlikely to cause that person to receive in 1 year a dose in excess of 10 percent of the limits specified in [NAC 459.325](#).

[Bd. of Health, Radiation Control Reg. § 3.5.5.4.3, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.287 Manufacturer or distributor of devices: Provision of record of final disposition of bankruptcy proceeding. ([NRS 459.201](#)) If a person licensed pursuant to [NAC 459.282](#) is required to provide notice of a bankruptcy proceeding pursuant to subsection 3 of [NAC 459.198](#), the licensee shall, upon request of the Division, the Nuclear Regulatory Commission or the equivalent agency of an agreement state, provide a record of the final disposition of the bankruptcy proceeding to the requesting agency.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.288 Distribution of devices. ([NRS 459.201](#)) Each person licensed under [NAC 459.282](#) to distribute devices to generally licensed persons shall:

1. Furnish a copy of the general license contained in [NAC 459.216](#) to each person to whom he directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license contained in [NAC 459.216](#).

2. Furnish a copy of the general license contained in the Nuclear Regulatory Commission's or agreement state's regulation equivalent to [NAC 459.216](#), or alternatively, furnish a copy of the general license contained in [NAC 459.216](#) to each person to whom he directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license of the Nuclear Regulatory Commission or the agreement state. If a copy of the general license in [NAC 459.216](#) is furnished to such a person, it must be accompanied by a note explaining that the use of the device is regulated by the Nuclear Regulatory Commission or an agreement state under requirements substantially the same as those in [NAC 459.216](#).

3. Report to the Division all transfers of devices to persons for use under the general license in [NAC 459.216](#). The report must identify each general licensee by name and address; a person by name and position who may constitute a point of contact between the Division and the general licensee; the type and model number of device transferred; and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact and relationship to the intended user. If no transfers have been made to the persons generally licensed under [NAC 459.216](#) during the reporting period, the report must so indicate. The report must cover each calendar quarter and be filed within 30 days thereafter.

4. Reports to other agencies, for example:

(a) Report to the Nuclear Regulatory Commission all transfers of devices for use under the Nuclear Regulatory Commission general license in 10 C.F.R. § 31.5.

(b) Report to the responsible agreement state agency all transfers of devices for use under a general license in that agreement state's regulations equivalent to [NAC 459.216](#).

(c) The reports must identify each general licensee by name and address; a person by name and position who may constitute a point of contact between the agency and the general licensee; the type and model of the device transferred; and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact and relationship to the intended user. The report must be submitted within 30 days after the end of each calendar quarter in which such a device is transferred to the generally licensed person.

(d) If no transfers have been made to Nuclear Regulatory Commission licensees during the reporting period, this information must be reported to the Nuclear Regulatory Commission.

(e) If no transfers have been made to a particular agreement state during the reporting period, this information must be reported to the responsible agreement state agency upon request of the agency.

5. Keep records showing the name, address and the point of contact for each general licensee to whom he directly or through an intermediate person transfers radioactive material in devices for use pursuant to the general license provided in [NAC 459.216](#) or equivalent regulations to the Nuclear Regulatory Commission or an agreement state. The records must show the date of each transfer, the radionuclide and the quantity of radioactivity in each device transferred, the identity of any intermediate person and compliance with the report requirements of this section.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.4.4-3.5.5.4.4.5, eff. 2-28-80]

NAC 459.289 Report of transfer of device to or receipt of device from person who has general license issued by State. ([NRS 459.201](#))

1. A person who is licensed pursuant to [NAC 459.282](#) to transfer devices containing radioactive material initially to a person who has been issued a general license pursuant to [NAC 459.216](#) or who received such a device from a person who has been issued a general license pursuant to [NAC 459.216](#) shall, in accordance with the provisions of [NAC 459.134](#), report to the Division each such transfer and receipt of devices containing radioactive material.

2. The report required pursuant to subsection 1 must:

(a) Cover each calendar quarter;

(b) Be filed within 30 days after each calendar quarter;

(c) Clearly indicate the calendar quarter covered by the report;

(d) Clearly identify the licensee submitting the report and include the license number of the licensee;

(e) If the person making the report transferred a device containing radioactive material to a general licensee, be submitted on Nuclear Regulatory Commission Form 653, Transfers of Industrial Devices Report (To General Licensees), or in a clear and legible report containing all the data required on Form 653, including, without limitation:

(1) The identity of each general licensee who received such a device, by name and mailing address for the location of use of the device or, if there is no mailing address for the location of use, an alternate address for the general licensee and a description of the location of use;

(2) The name, title and telephone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(3) The date of the transfer;

(4) The type, model number and serial number of the device transferred; and

(5) The quantity and type of radioactive material contained in the device transferred;

(f) If one or more intermediate persons will temporarily possess the device at the intended place of use before the intended user takes possession of the device, include the information required in this subsection for each intermediate person and must clearly designate each intermediate person;

(g) If the person making the report received a device containing radioactive material from a general licensee, include, without limitation:

(1) The name and address of the general licensee;

(2) The type, model number and serial number of the device received;

(3) The date of receipt; and

(4) In the case of devices not initially transferred by the person required to make the report, the name of the manufacturer or initial transferor of the device; and

(h) If, during the calendar quarter, no transfers have been made to or from a general licensee who is licensed pursuant to [NAC 459.216](#), indicate that no transfers were made during the calendar quarter.

3. If a person required to make a report pursuant to this section makes a change to a device possessed by a general licensee who is licensed pursuant to [NAC 459.216](#), such that the label must be changed to update required information, the report described in subsection 2, in addition to all other requirements of this section, must:

(a) Identify, by name and address, the general licensee and the person who possesses the device;

(b) Identify the device by type, model number and serial number; and

(c) Note the changes to the information on the label of the device.

4. A person required to make a report pursuant to this section shall maintain all information concerning transfers and receipts of devices containing radioactive material that supports the report for at least 3 years following the date of the recorded event.

5. If a license of a person required to make a report pursuant to this section is to be terminated for any reason, the licensee shall, upon request, provide the information described in subsection 4 to the Division.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.2895 Report of transfer of device to or receipt of device from person who has general license issued by Nuclear Regulatory Commission or agreement state. ([NRS 459.201](#))

1. A person who is licensed pursuant to [NAC 459.282](#) to transfer devices containing radioactive material initially to a person who has been issued a general license by the Nuclear Regulatory Commission or an agreement state or who received such a device from a person who has been issued a general license by the Nuclear Regulatory Commission or an agreement state shall report those transfers and receipts of devices containing radioactive material to the Nuclear Regulatory Commission or appropriate regulatory agency of the agreement state.

2. The report required pursuant to subsection 1 must:

(a) Cover each calendar quarter;

(b) Be filed within 30 days after each calendar quarter;

(c) Clearly indicate the calendar quarter covered by the report;

(d) Clearly identify the licensee submitting the report and include the license number of the licensee;

(e) If the person making the report transferred a device containing radioactive material to a general licensee, be submitted on Nuclear Regulatory Commission Form 653, Transfers of Industrial Devices Report (To General Licensee), or in a clear and legible report containing all the data required by Form 653, including, without

limitation:

(1) The identity of each general licensee who holds a general license issued by the Nuclear Regulatory Commission or an agreement state and who received such a device, by name and mailing address for the location of use or, if there is no mailing address for the location of use, an alternate address for the general licensee and a description of the location of use;

(2) The name, title and telephone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(3) The date of the transfer;

(4) The type, model number and serial number of the device transferred; and

(5) The quantity and type of radioactive material contained in the device transferred;

(f) If one or more intermediate persons will temporarily possess the device at the intended place of use before the intended user takes possession of the device, include the information required in this subsection for each intermediate person and must clearly designate each intermediate person;

(g) If the person making the report received a device containing radioactive material from a general licensee, include:

(1) The name and address of the general licensee;

(2) The type, model number and serial number of the device received;

(3) The date of receipt; and

(4) In the case of devices not initially transferred by the person required to make the report, the name of the manufacturer or initial transferor of the device; and

(h) If, during the calendar quarter, no transfers have been made to or from a general licensee who is licensed by the Nuclear Regulatory Commission or an agreement state, upon request from the Nuclear Regulatory Commission or agreement state, indicate that no transfers were made during the calendar quarter.

3. If a person required to make a report pursuant to this section makes a change to a device possessed by a person who holds a general license issued by the Nuclear Regulatory Commission or an agreement state, such that the label must be changed to update required information, the report described in subsection 2, in addition to all other requirements of this section, must:

(a) Identify, by name and address, the general licensee and the person who possesses the device;

(b) Identify the device by type, model number and serial number; and

(c) Note the changes to the information on the label of the device.

4. A person required to make a report pursuant to this section shall maintain all information concerning transfers and receipts of devices containing radioactive material that supports the report for at least 3 years following the date of the recorded event.

5. If a license of a person required to make a report pursuant to this section is to be terminated for any reason, the licensee shall, upon request, provide the information described in subsection 4 to the Nuclear Regulatory Commission or the equivalent agency of an agreement state.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.290 Specific licenses: Manufacture, assembly or repair of luminous safety devices for use in aircraft. ([NRS 459.201](#)) An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium 147 for use in aircraft, for distribution to persons generally licensed under [NAC 459.220](#), will be approved subject to the following conditions:

1. The applicant satisfies the general requirements specified in [NAC 459.238](#); and

2. The applicant satisfies the requirements of 10 C.F.R. §§ 32.53-32.56 & 32.101 or their equivalent.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.5-3.5.5.5.2, eff. 2-28-80]

NAC 459.292 Specific licenses: Manufacture of calibration and reference sources. ([NRS 459.201](#)) An application for a specific license to manufacture calibration and reference sources containing americium 241, plutonium or radium 226 to persons generally licensed under [NAC 459.224](#) will be approved subject to the following conditions:

1. The applicant satisfies the general requirement of [NAC 459.238](#); and

2. The applicant satisfies the requirements of 10 C.F.R. §§ 32.57-32.59 & 32.102 and 10 C.F.R. § 70.39 or their equivalent.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.6-3.5.5.6.2, eff. 2-28-80]

NAC 459.296 Specific licenses: Manufacture or distribution of radioactive material for in vitro clinical or laboratory testing. (NRS 459.201) An application for a specific license to manufacture or distribute radioactive material for use under the general license of [NAC 459.228](#) will be approved if:

1. The applicant satisfies the general requirements specified in [NAC 459.238](#).
2. The radioactive material is to be prepared for distribution in prepackaged units of:
 - (a) Iodine 125 in units not exceeding 10 microcuries each.
 - (b) Iodine 131 in units not exceeding 10 microcuries each.
 - (c) Carbon 14 in units not exceeding 10 microcuries each.
 - (d) Hydrogen 3 (tritium) in units not exceeding 50 microcuries each.
 - (e) Iron 59 in units not exceeding 20 microcuries each.
 - (f) Cobalt 57 in units not exceeding 10 microcuries each.
 - (g) Selenium 75 in units not exceeding 10 microcuries each.
 - (h) Mock iodine 125 in units not exceeding 0.05 microcurie of iodine 129 and 0.005 microcurie of americium 241 each.
3. Each prepackaged unit bears a durable, clearly visible label:
 - (a) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed:
 - (1) Ten microcuries of iodine 125, iodine 131, selenium 75, cobalt 57 or carbon 14;
 - (2) Fifty microcuries of hydrogen 3 (tritium);
 - (3) Twenty microcuries of iron 59; or
 - (4) For mock iodine 125, 0.05 microcurie of iodine 129 and 0.005 microcurie of americium 241 each.
 - (b) Displaying the radiation caution symbol described in [NAC 459.355](#) and the words, "CAUTION - RADIOACTIVE MATERIAL," and "Not for Internal or External Use in Humans or Animals."
4. The following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in leaflet or brochure which accompanies the package:

This radioactive material may be received, acquired, possessed and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

.....
Name of Manufacturer

5. The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information regarding the precautions to be observed in handling and storing such radioactive material. In the case of the mock iodine 125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements of [NAC 459.3355](#) and [459.359](#) to [459.3615](#), inclusive.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.8-3.5.5.8.5, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.298 Specific licenses: Manufacture and distribution of ice detection devices. (NRS 459.201) An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed under [NAC 459.232](#) will be approved subject to the following conditions:

1. The applicant satisfies the general requirements of [NAC 459.238](#); and
2. The criteria of 10 C.F.R. §§ 32.61, 32.62 & 32.103 are met.

[Bd. of Health, Radiation Control Reg. § 3.5.5.9, eff. 2-28-80]

NAC 459.300 Specific licenses: Manufacture, preparation or transfer for commercial distribution of radioactive drugs for medical use. (NRS 459.201)

1. An application for a specific license to manufacture, prepare or transfer for commercial distribution

radioactive drugs containing radioactive material for use by persons licensed for medical use pursuant to [NAC 459.240](#) or [459.242](#), or by persons authorized under a license issued by the Nuclear Regulatory Commission or any other agreement state will be approved if:

- (a) The applicant satisfies the general requirements specified in [NAC 459.238](#);
- (b) The applicant submits evidence that the applicant is:
 - (1) Registered or licensed as a drug manufacturer by:
 - (I) The United States Food and Drug Administration; or
 - (II) An agency of this State;
 - (2) Licensed as a pharmacy by the State Board of Pharmacy; or
 - (3) Operating as a nuclear pharmacy within a medical facility;
- (c) The applicant submits information on the radionuclide, chemical and physical form, maximum activity per vial, syringe, generator or other container of the radioactive drug and shielding provided by the packaging of the radioactive material to demonstrate that it is appropriate for safe handling and storage of radioactive drugs by licensees authorized to use radioactive material for medical use; and
- (d) The applicant complies with the following labeling requirements:
 - (1) A label must be affixed to each transport radiation shield of the radioactive drug, including, without limitation, shields made of lead, glass or plastic, to be transferred for commercial distribution. The label must set forth or contain the radiation symbol, the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL," the name of the radioactive drug, or its abbreviation, and the quantity of radioactivity at the time and date specified on the label. For radioactive drugs with a half-life of more than 100 days, the time may be omitted from the label.

(2) A label must be affixed to each syringe, vial or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must set forth the radiation symbol, the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial or other container can be correlated with the information on the transport radiation shield label.

2. A licensee who is licensed as a pharmacy by the State Board of Pharmacy or who is operating as a nuclear pharmacy within a medical facility:

- (a) May prepare a radioactive drug for medical use if the radioactive drug is prepared by an authorized nuclear pharmacist.
- (b) May allow a pharmacist to work as an authorized nuclear pharmacist if the pharmacist is an authorized nuclear pharmacist.
- (c) May designate a pharmacist as an authorized nuclear pharmacist if the pharmacist is identified, as of November 13, 2006, as an authorized user on a license for a nuclear pharmacy issued by the Division, the Nuclear Regulatory Commission pursuant to 10 C.F.R. Part 32 or an agreement state.

(d) Shall provide to the Division:

- (1) A copy of the certification, license or permit for each pharmacist that authorizes the pharmacist to perform any of the activities set forth in this subsection within 30 days after performing such activities; and
- (2) A copy of the license or registration of the pharmacy or nuclear pharmacy within 30 days after the pharmacist performs any of the activities set forth in this subsection.

3. A licensee who prepares radioactive drugs for medical use pursuant to this section shall:

(a) Possess and use an instrument to measure the radioactivity of alpha-, beta- or photon-emitting radioactive drugs;

(b) Have procedures for the use of the instrument;

(c) Measure, by direct measurement or by a combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta- or photon-emitting radioactive drugs before transfer for commercial distribution;

(d) Perform tests before initial use, periodically and following repair on each instrument for accuracy, linearity and geometry dependence, as appropriate for the instrument, and make adjustments to the instrument if necessary; and

(e) Check each instrument for constancy and proper operation at the beginning of each day of use.

4. No provision of this section relieves a licensee of his duty to comply with any other federal, state or local requirement governing the receipt, administration or use of drugs or radioactive drugs.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.10-3.5.5.10.1.4.2, eff. 2-28-80]—(NAC A 9-6-88; 11-1-95; R084-98, 1-26-99; R085-06, 11-13-2006)

NAC 459.302 Specific licenses: Manufacture and distribution of generators or reagent kits for

preparing radioactive drugs. (NRS 459.201) An application for a specific license to manufacture and distribute generators or reagent kits containing radioactive material for preparation of radioactive drugs by persons licensed for human use pursuant to [NAC 459.240](#) or [459.242](#) or by persons authorized under a license issued by the Nuclear Regulatory Commission or any other agreement state will be approved if:

1. The applicant satisfies the general requirements specified in [NAC 459.238](#);
2. The applicant submits evidence that:
 - (a) The generator or reagent kit is to be manufactured, labeled and packaged in accordance with the Federal Food, Drug and Cosmetic Act or the Public Health Act, such as a new drug application approved by the Food and Drug Administration, a biologic product license issued by the Administration, or a Notice of Claimed Investigational Exemption for a New Drug that has been accepted by the Administration; or
 - (b) The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug and Cosmetic Act and Public Health Service Act;
3. The applicant submits information on the radionuclide, chemical, and physical form, packaging, including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;
4. The label affixed to the generator or reagent kit contains information on the radionuclide, quantity, and date of assay; and
5. The label affixed to the generator or reagent kit, or the leaflet or brochure which accompanies the generator or reagent kit, contains:
 - (a) Adequate information from a radiation safety standpoint on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and
 - (b) A statement that this generator or reagent kit is approved for use by persons licensed by the Division pursuant to [NAC 459.240](#) or [459.242](#), or under equivalent licenses of the Nuclear Regulatory Commission or an agreement state. The labels, leaflets, or brochures required by this paragraph are in addition to the labeling required by the Administration and they may be separate from or, with the approval of the administration, may be combined with the labeling required by the Administration.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.11-3.5.5.11.1.5.2, eff. 2-28-80]—(NAC A 9-6-88; 11-1-95; R085-06, 11-13-2006)

NAC 459.304 Manufacture and distribution of reagent kits not containing radioactive material. (NRS 459.201) Although the Division does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radioactive drugs containing radioactive material as part of its licensing and regulation of the users of radioactive material. Any resident manufacturer of reagent kits not containing radioactive material who desires to have his reagent kits approved by the Division for use by persons licensed for medical use pursuant to [NAC 459.240](#) or [459.242](#) may submit the pertinent information specified in [NAC 459.302](#).

[Bd. of Health, Radiation Control Reg. § 3.5.5.11.1.5.2, Note, eff. 2-28-80]—(NAC A 9-6-88; 11-1-95; R085-06, 11-13-2006)

NAC 459.306 Specific licenses: Manufacture and distribution of sources and devices for medical use. (NRS 459.201) An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to 10 C.F.R. Part 35 or equivalent regulations of an agreement state, for use as a calibration or reference source or for the uses listed in 10 C.F.R. §§ 35.400, 35.500 and 35.600 or equivalent regulations of an agreement state, will be approved if:

1. The applicant satisfies the general requirements in [NAC 459.238](#);
2. The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:
 - (a) The radioactive material contained, its chemical and physical form, and amount;
 - (b) Details of design and construction of the source or device;
 - (c) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and in accidents;
 - (d) For devices containing radioactive material, the radiation profile of a prototype device;
 - (e) Details of quality control procedures to ensure that production sources and devices meet the standards of the design and prototype tests;

(f) Procedures and standards for calibrating sources and devices;

(g) Legends and methods for labeling sources and devices as to their radioactive content; and

(h) Instructions for handling and storing the source or device from the radiation safety standpoint, these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device, provided that instructions which are too lengthy for the label may be summarized on the label and printed in detail on a brochure which is referenced on the label; and

3. The label affixed to the source, device or permanent storage container for the source or device contains information on the radionuclide, quantity, date of assay, and a statement that the source or device is approved by the Division for distribution to persons licensed to use radioactive material identified in 10 C.F.R. §§ 35.57, 35.400, 35.500 and 35.600 or to persons who hold equivalent licenses of the Nuclear Regulatory Commission or an agreement state.

[Bd. of Health, Radiation Control Reg. §§ 3.5.5.12-3.5.5.12.1.3, eff. 2-28-80]—(NAC A 9-6-88; 11-1-95; R085-06, 11-13-2006)

NAC 459.3062 Adoption by reference and revision of certain provisions of federal regulations regarding medical use of radioactive material. ([NRS 459.201](#))

1. The provisions of 10 C.F.R. Part 35, as they existed on September 16, 2004, are hereby adopted by reference, subject to the following:

(a) 10 C.F.R. §§ 35.8, 35.4001 and 35.4002 are not adopted by reference.

(b) Except as otherwise provided in this chapter, the implementation date described in 10 C.F.R. §§ 35.10(a) and 35.10(d) is November 13, 2006.

(c) Except as otherwise provided in this chapter, the October 24, 2002, date described in 10 C.F.R. § 35.57(a) (1) shall be deemed to mean November 13, 2006.

(d) Except as otherwise provided in this section, any reference in 10 C.F.R. Part 35 to:

(1) “10 CFR Part 19” or “10 CFR 19” shall be deemed to mean “[NAC 459.780](#) to [459.794](#), inclusive.”

(2) “10 CFR 19.12” or “§ 19.12” shall be deemed to mean “[NAC 459.784](#).”

(3) “10 CFR Part 20” or “10 CFR 20” shall be deemed to mean “[NAC 459.320](#) to [459.374](#), inclusive.”

(4) “10 CFR 20.1101” or “§ 20.1101” shall be deemed to mean “paragraph (a) of subsection 1 of [NAC 459.321](#).”

(5) “10 CFR 20.1301(a)(1)” or “§ 20.1301(a)(1)” shall be deemed to mean “paragraph (a) of subsection 1 of [NAC 459.335](#).”

(6) “10 CFR 20.1301(c)” or “§ 20.1301(c)” shall be deemed to mean “paragraph (c) of subsection 1 of [NAC 459.335](#).”

(7) “10 CFR 20.1501” or “§ 20.1501” shall be deemed to mean “[NAC 459.337](#).”

(8) “10 CFR Part 30” or “10 CFR 30” shall be deemed to mean “[NAC 459.180](#) to [459.314](#), inclusive.”

(9) “10 CFR 30.34(b)” or “§ 30.34(b)” shall be deemed to mean “subsection 2 of [NAC 459.198](#).”

(10) “10 CFR 30.6” or “§ 30.6” shall be deemed to mean “[NAC 459.134](#).”

(11) “10 CFR 32.72(b)(4)” or “§ 32.72(b)(4)” shall be deemed to mean “paragraph (c) of subsection 2 of [NAC 459.300](#).”

(12) “10 CFR Part 33” or “10 CFR 33” shall be deemed to mean “[NAC 459.262](#) to [459.274](#), inclusive.”

(13) “10 CFR 33.13” or “§ 33.13” shall be deemed to mean “[NAC 459.268](#).”

(14) “10 CFR 71,” “10 CFR Part 71,” “10 CFR 71.5,” “§ 71.5,” or “49 CFR Parts 171-173” shall be deemed to mean “[NAC 459.314](#).”

(15) “10 CFR Part 170,” “10 CFR 170,” “10 CFR Part 171” or “10 CFR 171” shall be deemed to mean “[NAC 459.310](#).”

(16) “Byproduct material” shall be deemed a reference to “radioactive material.”

(17) “Commission” or “NRC” shall be deemed a reference to “Division.”

(18) “Commission’s regulations,” “federal regulations” or “NRC regulations” shall be deemed a reference to “[NAC 459.010](#) to [459.950](#), inclusive.”

(19) “NRC Form 313” shall be deemed a reference to “NRC Form 5,” Application for Radioactive Material License, described in [NAC 459.2434](#).

(20) “NRC license” shall be deemed a reference to “license issued by the Division pursuant to [NAC 459.010](#) to [459.950](#), inclusive.”

(21) "NRC Operations Center" or "Director, Office of Nuclear Safety and Safeguards" shall be deemed a reference to "the provisions of [NAC 459.134](#) and the contact information described in the State of Nevada Radiological Emergency Response Plan."

(22) "NRC or an Agreement State," "Commission or an Agreement State" or "Commission or by an Agreement State" shall be deemed a reference to "Division, Nuclear Regulatory Commission or an agreement state."

(e) The full text of any sentence that contains a reference to "10 CFR Part 21," "10 CFR 21," "10 CFR 30.7," "§ 30.7," "10 CFR 30.9," "§ 30.9," "10 CFR 30.10" or "§ 30.10" shall be deemed omitted.

2. A copy of the volume containing 10 C.F.R. Part 35 may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402-9325, at a cost of \$61, or free of charge at the Internet address <http://www.gpoaccess.gov/cfr/index.html>.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.3064 Written attestations not required for authorized users who have license issued by Nuclear Regulatory Commission or agreement state. ([NRS 459.201](#)) The written attestations described in 10 C.F.R. §§ 35.14(a), 35.50(d), 35.51(b)(2), 35.55(b)(2), 35.190(c)(2), 35.290(c)(2), 35.390(b)(2), 35.392(c)(3), 35.394(c)(3), 35.396(d)(3), 35.490(b)(3), 35.491(b)(3) and 35.690(b)(3) are not required for authorized users who have been named on a radioactive material license issued by the Nuclear Regulatory Commission or an agreement state before November 13, 2006.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.3066 Satisfaction of training requirements for radiation safety officer, authorized medical physicist, authorized nuclear pharmacist or authorized user. ([NRS 459.201](#))

1. Before April 29, 2008, a licensee shall satisfy the training requirements for a radiation safety officer, an authorized medical physicist, an authorized nuclear pharmacist or an authorized user by complying with:

(a) The appropriate provisions of 10 C.F.R. Part 35, Subpart J; or

(b) The appropriate provisions of 10 C.F.R. Part 35, Subpart B or Subparts D to H, inclusive.

2. On or after April 29, 2008, a licensee shall satisfy the training requirements for a radiation safety officer, an authorized medical physicist, an authorized nuclear pharmacist or an authorized user by complying with the provisions of 10 C.F.R. Part 35, Subpart B or Subparts D to H, inclusive.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.3068 Additional requirements for persons registered to use sealed source to engage in medical use. ([NRS 459.201](#)) Except as otherwise provided in [NAC 459.3064](#) and [459.3066](#), in addition to any applicable requirement of [NAC 459.010](#) to [459.794](#), inclusive, a person registered with the Division to use a sealed source to engage in medical use of a radioactive material shall comply with all applicable requirements of, and may rely on all applicable exclusions or exemptions included in, the provisions of 10 C.F.R. Part 35, as adopted by reference pursuant to [NAC 459.3062](#).

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.307 Testing sealed sources for leakage. ([NRS 459.030](#), [459.201](#))

1. Any licensee who possesses sealed sources shall have each sealed source containing radioactive material tested for leakage at intervals not to exceed 6 months, unless a longer interval is authorized by the Division, the Nuclear Regulatory Commission or an agreement state in the Sealed Source and Device Registry maintained by the Nuclear Regulatory Commission. In the absence of a certificate from a transferor indicating that a test has been made within 6 months before the transfer, the sealed sources should not be used until tested, but no leak tests are required when:

(a) The source contains only radioactive material with a half-life of less than 30 days;

(b) The source contains only radioactive material as a gas;

(c) The source contains 100 microcuries (3.7 megabecquerels) or less of beta- or gamma-emitting material or 10 microcuries (370 kilobecquerels) or less of alpha-emitting material;

(d) The sealed source is stored and is not being used. The sources must be tested for leakage before any use or transfer unless they have been leak tested within 6 months before the date of use or transfer; or

(e) The source is seeds of iridium-192 encased in nylon ribbon.

2. The leak test must be capable of detecting the presence of 0.005 microcurie (185 becquerels) of radioactive

material on the test sample. The test sample must be taken from the sealed source or from the surfaces of the device in which the sealed source is permanently mounted or stored on which contamination might be expected to accumulate. Records of leak test results must be maintained for 5 years for inspection by the Division and, for persons licensed pursuant to the provisions of this chapter for the medical use of radioactive material, must include, without limitation:

- (a) The model number and serial number, if one has been assigned, of each sealed source tested;
- (b) The identity of each source by radionuclide and its estimated activity;
- (c) The results of the test of each sealed source;
- (d) The date of the test of each sealed source; and
- (e) The name of the person who performed each test.

3. If the leak test reveals the presence of 0.005 microcurie (185 becquerels) or more of removable contamination, or 0.001 microcurie (37 becquerels) of radon 222 in a 24-hour period if the sealed source is a brachytherapy source manufactured to contain radium, the licensee shall immediately inform the Radiological Health Section of the Division by telephone, withdraw the sealed source, or the device in which it is permanently mounted, from use and cause it to be placed in locked storage. A written report must be filed with the Division within 5 days of the test and must include, without limitation:

- (a) A description of the equipment involved;
- (b) The model number and serial number, if assigned, of the leaking source;
- (c) The radionuclide of the leaking source and its estimated activity;
- (d) The test results;
- (e) The date of the test; and
- (f) A description of the action taken.

[Bd. of Health, Radiation Control Reg. §§ 3.5.3.3.5-3.5.3.3.5.3, eff. 2-28-80]—(NAC A 9-6-88; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.3075 Sealed source or device containing sealed source intended for use under specific license: Request for evaluation and registration; manufacture and distribution. ([NRS 459.201](#))

1. A manufacturer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license may submit a request to the Nuclear Regulatory Commission or an agreement state for evaluation of the radiation safety information concerning its product and for registration of the product.

2. A request for review submitted pursuant to subsection 1 must be sent to the Office of Nuclear Material Safety and Safeguards of the United States Nuclear Regulatory Commission by a method listed in 10 C.F.R. § 30.6(a) or to the equivalent agency of an agreement state.

3. A request for review of a sealed source submitted pursuant to subsection 1 must include, without limitation, sufficient information concerning the:

- (a) Design of the sealed source;
- (b) Manufacture of the sealed source;
- (c) Prototype testing of the sealed source;
- (d) Quality control program proposed for the sealed source;
- (e) Labeling of the sealed source;
- (f) Proposed uses of the sealed source; and
- (g) Leak testing of the source,

to provide reasonable assurance that the radiation safety properties of the sealed source are adequate to protect health and minimize the danger to life and property.

4. A request for review of a device containing a sealed source submitted pursuant to subsection 1 must include, without limitation, sufficient information concerning the:

- (a) Design of the device;
- (b) Manufacture of the device;
- (c) Prototype testing of the device;
- (d) Quality control program proposed for the device;
- (e) Labeling of the device;
- (f) Proposed uses of the device;
- (g) Leak testing of the device;
- (h) Installation of the device;
- (i) Service and maintenance of the device;

- (j) Operating and safety instructions concerning the device; and
- (k) Potential hazards associated with the device,

to provide reasonable assurance that the radiation safety properties of the device are adequate to protect health and minimize the danger to life and property.

5. If the Nuclear Regulatory Commission or agreement state completes an evaluation pursuant to a request made pursuant to subsection 1 and issues a certificate of registration to the manufacturer or initial distributor of a sealed source or device containing a sealed source who made the request pursuant to subsection 1, the manufacturer or initial distributor shall manufacture and distribute the product in accordance with:

- (a) The statements and representations, including, without limitation, the quality control program, contained in the request submitted pursuant to subsection 1; and
 - (b) The provisions of the certificate of registration.
- (Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.310 Fees of Division. ([NRS 439.150](#), [459.201](#)) Except as otherwise provided in [NAC 459.203](#), the Division will not issue a new specific license or a renewed specific license to a person until the appropriate nonrefundable fee has been paid to the Division, as prescribed in the following table:

Material and use	Fee
1. Special nuclear material:	
(a) As sealed source.....	\$2,000
(b) In unsealed form.....	2,000
2. Source materials for other than milling operations.....	\$2,000
3. By-product material, artificially produced radioactive material and radium:	
(a) Manufacturing or distribution, or both.....	\$2,000
(b) Nuclear pharmacy.....	6,000
(c) Industrial radiography.....	5,000
(d) Category 1 irradiator.....	1,500
(e) Academic, broad scope.....	8,000
(f) Academic, other research and development.....	1,200
(g) Service or laboratory.....	1,600
(h) Fixed gauge.....	1,000
(i) Gas chromatograph.....	450
(j) In vitro.....	95
(k) Portable gauge or X-ray fluorescence analyzer.....	1,200
(l) All other uses of source material, special nuclear material, by-product material and radium except those set forth in subsections 4 to 8, inclusive.....	1,000
4. Well logging.....	\$3,000
5. Medical use or veterinary use of radioactive material:	
(a) Medical use or veterinary use only.....	\$4,000
(b) With teletherapy.....	4,000
(c) With high dose remote afterloader.....	4,000
(d) With brachytherapy.....	4,000
(e) Teletherapy only.....	4,000
(f) High dose remote afterloader only.....	4,000
(g) Brachytherapy only.....	4,000
(h) General license for in vitro use.....	115
6. Civil defense.....	\$250

- 7. Registration of devices generally licensed pursuant to paragraph (a) of subsection 12 of [NAC 459.218](#)..... \$250
- 8. Any use of source material, special nuclear material, by-product material or radium by a person who holds a license issued by the Nuclear Regulatory Commission or any agreement state..... See appropriate fee category above

[Bd. of Health, Radiation Control Reg. § 3.1.1.1, eff. 10-15-81]—(NAC A 10-14-82; 4-26-84; 11-1-85; 3-9-87; 2-18-88; 12-15-88; 9-1-89; 1-31-90; 4-18-90; 8-1-91; 1-21-92; 1-24-92; 10-22-93; 11-1-95; R034-04, 4-7-2004; R085-06, 11-13-2006)

NAC 459.312 Transfer of material. ([NRS 459.201](#))

- 1. A licensee may transfer radioactive material only as authorized in this section.
- 2. Except as otherwise provided in his license and subject to the provisions of subsections 3 and 4, any licensee may transfer radioactive material:
 - (a) To the Division but only after receiving prior approval from the Division;
 - (b) To the United States Department of Energy;
 - (c) To any person exempt from the provisions of [NAC 459.180](#) to [459.314](#), inclusive, to the extent permitted under the exemption;
 - (d) To any person authorized to receive the material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Division, the Nuclear Regulatory Commission, or any agreement state, or to any person otherwise authorized to receive material by the Federal Government or any agency thereof, the Division or any agreement state; or
 - (e) As otherwise authorized by the Division in writing.
- 3. Before transferring radioactive material to a specific licensee of the Division, the Nuclear Regulatory Commission, an agreement state, or to a general licensee who is required to register with the Nuclear Regulatory Commission or an agreement state before receipt of the radioactive material, the licensee transferring the material shall verify that the transferee’s license authorizes the receipt of the type, form and quantity of radioactive material to be transferred.
- 4. The following methods for the verification required by subsection 3 are acceptable:
 - (a) The transferor may have in his possession, and read, a current copy of the transferee’s specific license or registration certificate;
 - (b) The transferor may have in his possession a written certification by the transferee that he is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;
 - (c) For emergency shipments the transferor may accept oral certification confirmed in writing within 10 days by the transferee that he is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;
 - (d) The transferor may obtain other sources of information compiled by a reporting service from official records of the Division, the Nuclear Regulatory Commission or the licensing agency of an agreement state as to the identity of licensees and the scope and expiration dates of licenses and registration; or
 - (e) When none of the methods of verification described in paragraphs (a) to (d), inclusive, are readily available or when a transferor desires to verify that information received by one of such methods is correct or up to date, the transferor may obtain and record confirmation from the Division or the Nuclear Regulatory Commission, or the licensing agency of an agreement state, that the transferee is licensed to receive the radioactive material.
- 5. Preparation for shipment and transport of radioactive material must be in accordance with the provisions of [NAC 459.314](#).

[Bd. of Health, Radiation Control Reg. §§ 3.5.12-3.5.12.5, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.313 Shipment of radioactive waste for ultimate disposal at licensed land disposal facility. ([NRS 459.201](#))

- 1. A licensee who ships radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on Nuclear Regulatory Commission Form 541, Uniform Low-Level

Radioactive Waste Manifest, and transfer the recorded manifest information to the intended consignee in accordance with the provisions of Appendix G.

2. Each manifest described in subsection 1 must include a certification by the waste generator as provided in section II of Appendix G.

3. Each person involved in the transfer for disposal or the disposal of radioactive waste, including, without limitation, the waste generator, waste collector, waste processor and disposal facility operator, shall comply with the requirements of section III of Appendix G.

(Added to NAC by Bd. of Health by R085-06, eff. 11-13-2006)

NAC 459.314 Transportation: Preparation of radioactive material. ([NRS 459.201](#))

1. Except as otherwise provided in subsection 3, no licensee may deliver any radioactive material to a carrier for transport, unless:

(a) The licensee complies with the applicable requirements of the regulations appropriate to the mode of transport of the United States Department of Transportation;

(b) The licensee has established procedures for opening and closing a package in which radioactive material is transported to provide safety and to ensure that before the delivery to a carrier for transport, each package is properly closed for transport; and

(c) Before delivery of a package to a carrier for transport, the licensee must assure that any special instructions needed to open safely the package are sent to or have been made available to the consignee.

2. For the purpose of subsection 1, a licensee who transports his own licensed material as a private carrier is considered to have delivered such material to a carrier for transport.

3. Subsection 1 does not apply to the transportation of licensed material or to the delivery of licensed material to a carrier for transport where the transportation is subject to the regulations of the United States Postal Service.

[Bd. of Health, Radiation Control Reg. §§ 3.7-3.7.1.2, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

Radiological Criteria for Termination of License

NAC 459.316 Definitions. ([NRS 459.030](#), [459.201](#)) As used in [NAC 459.316](#) to [459.3184](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.3164](#), [459.3166](#) and [459.3168](#) have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.3164 “Critical group” defined. ([NRS 459.030](#)) “Critical group” means the group of natural persons that, for any particular set of circumstances, are reasonably expected to receive the greatest exposure to residual radioactivity.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.3166 “Distinguishable from background radiation” defined. ([NRS 459.030](#)) “Distinguishable from background radiation” means that, using adequate measurement technology, survey and statistical techniques, the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide:

1. In the site; or

2. In the case of a structure, in similar materials.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.3168 “Residual radioactivity” defined. ([NRS 459.030](#))

1. “Residual radioactivity” means the amount of radioactivity detectable in structures, material, soils, groundwater or other media at a site that is attributable to activities under the control of a licensee, including all licensed or unlicensed sources of radiation used by a licensee.

2. The term includes the detectable amount of radioactivity attributable to radioactive materials remaining at the site from routine or accidental releases, or burials, of radioactive materials at the site.

3. The term does not include the detectable amount of radioactivity attributable to background radiation.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.317 Applicability. (NRS 459.030)

1. Except as otherwise provided in subsection 2, the provisions of [NAC 459.027](#), [459.200](#) and [459.316](#) to [459.3184](#), inclusive, apply to any facility licensed by the Division pursuant to [NAC 459.010](#) to [459.950](#), inclusive.

2. A facility licensed by the Division pursuant to [NAC 459.010](#) to [459.950](#), inclusive, is not subject to the provisions of [NAC 459.027](#), [459.200](#) and [459.316](#) to [459.3184](#), inclusive, if the facility:

(a) Has been decommissioned before May 30, 2003, pursuant to:

(1) The federal Site Decommissioning Management Plan of April 16, 1992, set forth at 57 Fed. Reg. 13,389; or

(2) Other criteria approved by the Division; or

(b) Submitted a decommissioning plan before August 20, 1998, that, except for any day-to-day extension granted by the Division for the submission of an environmental impact statement, was approved by the Division before August 20, 1999, pursuant to the federal Site Decommissioning Management Plan of April 16, 1992, set forth at 57 Fed. Reg. 13,389.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.3172 Explanation of total effective dose equivalent to average member of critical group used. (NRS 459.030) For the purposes of [NAC 459.316](#) to [459.3184](#), inclusive, the total effective dose equivalent to the average member of the critical group used is the peak annual total effective dose equivalent expected within the first 1,000 years after decommissioning.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.3174 Requirements for issuance of any license. (NRS 459.030) An applicant for any license issued by the Division pursuant to [NAC 459.010](#) to [459.950](#), inclusive, except an applicant for the renewal of a license, must describe in the application how facility design and procedures for operation will:

1. Minimize, to the extent practicable, the:

(a) Contamination of the facility and environment; and

(b) Generation of radioactive waste; and

2. Facilitate eventual decommissioning.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.3176 Additional cleanup of decommissioned site. (NRS 459.030) The Division will require a licensee to perform additional cleanup to a site that has been decommissioned and the license for which has been terminated pursuant to [NAC 459.316](#) to [459.3184](#), inclusive, if, based on new information, the Division determines that:

1. The criteria for decommissioning and license termination set forth in [NAC 459.316](#) to [459.3184](#), inclusive, were not met; and

2. The residual radioactivity distinguishable from background radiation remaining at the site could result in a significant threat to public health and safety.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.3178 Property of decommissioned facility: Eligibility for release for unrestricted use. (NRS 459.030) The property of a decommissioned facility is eligible for release for unrestricted use if the residual radiation, distinguishable from background radiation, including groundwater sources of drinking water:

1. Results in the average member of the critical group receiving a total effective dose equivalent that does not exceed 25 millirem (0.25 millisievert) per year; and

2. Is as low as is reasonably achievable.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.318 Property of decommissioned facility: Eligibility for release for restricted use. (NRS 459.030, 459.201)

1. The property of a decommissioned facility that is not eligible for release for unrestricted use is eligible for release for restricted use if the licensee:

(a) Demonstrates that further reductions in residual radioactivity necessary to comply with [NAC 459.3178](#):

(1) Would result in net increase in harm to the public or environment; or

(2) Were not being made because the levels of residual radioactivity associated with restricted conditions are as low as is reasonably achievable.

(b) Establishes that the licensee has provided for institutional controls that:

(1) Are legally enforceable;

(2) Provide reasonable assurance that the average member of the critical group will receive a total effective dose equivalent from residual radioactivity at the site distinguishable from background radiation that does not exceed 25 millirem (0.25 millisievert) per year; and

(3) Will not impose an undue burden on the community to be affected by the decommissioning or any person or institution therein.

(c) Provides, by a method set forth in subsection 4, sufficient financial assurance to enable a third party, including a governmental custodian of the site, to assume and carry out responsibilities for any necessary control and maintenance of the site.

(d) Submits to the Division a decommissioning plan that:

(1) Declares the intent of the licensee to decommission in accordance with [NAC 459.1955](#);

(2) Specifies that the licensee intends to decommission by restricting the use of the site; and

(3) Documents how the advice of persons and institutions in the community that may be affected by the decommissioning has been sought, analyzed and, if appropriate, incorporated into the decommissioning plan.

(e) Provides reasonable assurance that the residual radioactivity at the site distinguished from background radiation has been reduced to levels such that, even in the absence of the institutional controls required by paragraph (b), the average member of the critical group will receive a total effective dose equivalent, from residual radioactivity at the site distinguishable from background radiation, that:

(1) Is as low as is reasonably achievable; and

(2) Except as otherwise provided in subsection 2, does not exceed 100 millirem (1 millisievert) per year.

2. A licensee may satisfy the requirements of subparagraph (2) of paragraph (e) of subsection 1 if the licensee:

(a) Provides reasonable assurance that the average member of the critical group will receive a total effective dose equivalent, from residual radioactivity at the site distinguishable from background radiation, that does not exceed 500 millirem (5 millisieverts) per year;

(b) Demonstrates that reducing residual radioactivity to the level necessary to comply with the 100 millirem (1 millisievert) requirement of subparagraph (2) of paragraph (e) of subsection 1 is not technically feasible, would be prohibitively expensive, or would likely result in net harm to the public or environment;

(c) Makes provisions for durable institutional controls; and

(d) Provides, by a mechanism set forth in subsection 4, sufficient financial assurance to enable a third party, including a governmental custodian of the site:

(1) To carry out periodic rechecks of the site not less frequently than every 5 years to ensure that the institutional controls remain in place as necessary to meet the criteria of paragraph (b) of subsection 1; and

(2) To assume and carry out responsibility for any necessary control and maintenance of those controls.

3. Before a licensee may submit to the Division a decommissioning plan pursuant to subsection 1, the licensee must seek advice from natural persons and institutions in the community who may be affected by the decommissioning concerning whether the licensee's proposed plan of decommissioning satisfies each of the requirements of paragraphs (b) and (c) of subsection 1.

4. A licensee, to satisfy the requirements of this section relating to the provision of financial assurance, may use any of the following methods:

(a) The deposit of an amount of money in cash or liquid assets into an account that is segregated from the assets of the licensee and outside the administrative control of the licensee as described in paragraph (a) of subsection 11 of [NAC 459.1955](#);

(b) Provision of a surety, including insurance, or other guarantee, as described in paragraph (b) of subsection 11 of [NAC 459.1955](#);

(c) If the licensee is a federal, state or local governmental entity, a statement of intent as described in paragraph (d) of subsection 11 of [NAC 459.1955](#); or

(d) If a federal, state or local governmental entity is assuming custody and ownership of the site, any arrangement or mechanism for financial assurance that the governmental entity determines is adequate.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.3182 Property of decommissioned facility: Alternate criteria for release for restricted or

unrestricted use. (NRS 459.030)

1. The Division may terminate a license and release the property of a decommissioned facility for restricted or unrestricted use using alternate criteria greater than the dose criterion of 25 millirem (0.25 millisievert) per year set forth in [NAC 459.3178](#) and paragraph (b) of subsection 1 of [NAC 459.318](#) if the licensee:

- (a) By submitting an analysis of possible sources of exposure, provides reasonable assurance that:
 - (1) The public health and safety will continue to be protected; and
 - (2) It is unlikely that the dose from all man-made sources combined, other than medical, would be more than the limit of 0.1 rem (1 millisievert) per year set forth in [NAC 459.335](#);
- (b) Has employed, to the extent practical, restrictions on site use according to the provisions of [NAC 459.318](#) in minimizing exposures at the site;
- (c) Reduces doses to levels that are as low as is reasonably achievable; and
- (d) Submits to the Division a decommissioning plan that:
 - (1) Declares the intent of the licensee to decommission in accordance with [NAC 459.1955](#);
 - (2) Specifies that the licensee proposes to decommission pursuant to the alternate criteria provisions of this section; and
 - (3) Documents how the advice of natural persons and institutions in the community that may be affected by the decommissioning has been sought, analyzed and, if appropriate, incorporated into the decommissioning plan.

2. To satisfy the public comment requirement of subparagraph (3) of paragraph (d) of subsection 1, a licensee shall:

- (a) Provide an opportunity for participation by representatives of a broad cross section of community interests;
- (b) Provide an opportunity for a comprehensive, collective discussion on the issues by the participants represented; and
- (c) Make publicly available a summary of the results of all such discussions, including, without limitation:
 - (1) A description of the individual viewpoints of the participants on the issues; and
 - (2) The extent of agreement and disagreement among the participants on the issues.

3. Before the Division terminates a license using the alternate criteria of this section, the Division will consider the recommendations of the staff of the Division concerning any comments provided by the Environmental Protection Agency and any public comments submitted pursuant to [NAC 459.3184](#).

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.3184 Notice to public; public comment. (NRS 459.030)

1. The Division will notify the public and seek public comment:

- (a) Upon receipt of a decommissioning plan;
- (b) Upon receipt of a proposal for the release of a site pursuant to [NAC 459.318](#) or [459.3182](#); or
- (c) If the Commission determines such notice to be in the public interest under the circumstances.

2. Notice will be given and comment will be sought from:

(a) State and local governments and any Indian nation or other indigenous people that have treaty or statutory rights:

- (1) In the vicinity of the site; and
- (2) That could be affected by the decommissioning;
- (b) Some segment of the general public; and
- (c) If the proposal is to release a site pursuant to the alternate criteria set forth in [NAC 459.3182](#), the

Environmental Protection Agency.

3. Notice to the public must be accomplished by publication in a forum that is readily accessible to natural persons in the vicinity of the site, including, without limitation:

- (a) Newspapers;
- (b) Letters sent directly to state or local organizations; and
- (c) Any other appropriate forum.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

Standards for Protection Against Radiation**NAC 459.320 Purpose; applicability; reasonable effort required. (NRS 459.030, 459.201)**

1. The provisions of [NAC 459.320](#) to [459.374](#), inclusive, establish standards for protection against radiation hazards. It is the purpose of those sections to control the receipt, possession, use, disposal and transfer of licensed

or registered sources of radiation by any licensee or registrant in such a manner that the total dose to a natural person, including exposures to licensed or unlicensed or registered or unregistered sources of radiation, whether in the possession of the licensee, registrant or any other person, but not including exposure to radiation from natural background sources, medical diagnosis and therapy, natural persons who have been administered radioactive drugs or have received permanent implants containing radioactive material and have been released from the control of a licensee pursuant to 10 C.F.R. § 35.75, or voluntary participation in medical research does not exceed the standards of radiation protection set forth in [NAC 459.320](#) to [459.374](#), inclusive. Those sections will not be construed as limiting actions that may be necessary to protect the health and safety of the public.

2. Except as otherwise specifically provided, [NAC 459.320](#) to [459.374](#), inclusive, apply to all licensees or registrants. Those sections do not limit the intentional exposure of natural persons to radiation for the purpose of medical use or the intentional exposure of natural persons to radiation who are voluntarily participating in programs for medical research.

3. In addition to complying with the requirements set forth in [NAC 459.320](#) to [459.374](#), inclusive, a licensee or registrant shall make every reasonable effort to maintain exposures and releases of radioactive materials in effluents to unrestricted areas, as low as is reasonably achievable.

[Bd. of Health, Radiation Control Reg. §§ 4.1-4.1.2, eff. 2-28-80]—(NAC A 1-18-94; R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.3205 Adoption by reference of certain provisions of federal regulations. ([NRS 459.201](#)) The State Board of Health hereby adopts by reference appendices A, B and C to 10 C.F.R. §§ 20.1001 to 20.2402, inclusive, as those provisions existed on October 13, 1999. A copy of the volume containing these appendices may be purchased from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7854, for the price of \$39, or are available, free of charge, at the Internet address <http://www.gpoaccess.gov/cfr/index.html>.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; R085-06, 11-13-2006)

NAC 459.321 Development, implementation and review of program for protection against radiation; establishment of constraint on air emissions to environment of radioactive material. ([NRS 459.030](#), [459.201](#))

1. Each licensee and registrant shall:

(a) Develop, document and carry out a program for protection against radiation commensurate with the scope of its licensed or registered activities and sufficient to ensure compliance with the provisions of [NAC 459.010](#) to [459.950](#), inclusive.

(b) Use, to the extent practicable, procedures and engineering controls, based upon sound principles of protection against radiation, to achieve occupational doses and doses to members of the public that are as low as is reasonably achievable.

(c) Review, at intervals not to exceed 12 months, the content and implementation of the program for protection against radiation.

2. A licensee or registrant shall, to achieve doses to members of the public that are as low as is reasonably achievable pursuant to paragraph (b) of subsection 1, establish a constraint on air emissions to the environment of radioactive material, excluding radon 222 and its decay products, such that the individual member of the public likely to receive the highest dose from such emissions will not be expected to receive a total effective dose equivalent in excess of 10 millirems (0.1 millisievert).

3. A licensee or registrant that causes, permits or is otherwise responsible for air emissions of radioactive material to the environment that exceed the constraint established pursuant to subsection 2 shall:

(a) Submit to the Division the report required by [NAC 459.371](#); and

(b) Promptly take appropriate corrective action to prevent any recurrence.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.323 Weighting factors. ([NRS 459.201](#))

1. For calculating the effective dose equivalent, the values of the weighting factor are as follows:

Organ Dose Weighting Factors

Organ or Tissue	Weighting Factor
Gonads.....	0.25
Breast.....	0.15
Red bone marrow.....	0.12
Lung.....	0.12
Thyroid.....	0.03
Bone surfaces.....	0.03
Remainder.....	0.30
Whole Body.....	1.00

2. For the purposes of weighting the remainder dose, 0.30 results from 0.06 of each of five remainder organs, excluding the skin and the lens of the eye, that receive the highest doses.

3. The use of other weighting factors for external exposure must first be approved by the Division.
(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.3235 Quality factors for converting absorbed dose to dose equivalent. ([NRS 459.201](#))

1. Except as otherwise provided in subsection 2, the quality factors for converting an absorbed dose to a dose equivalent are as follows:

Quality Factors and Absorbed Dose Equivalencies

Type of Radiation	Quality Factor	Absorbed Dose Equal to a Unit Dose Equivalent
X, gamma, or beta radiation and high-speed electrons.....	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge.....	20	0.05
Neutrons of unknown energy.....	10	0.1
High-energy protons.....	10	0.1

2. If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rems per hour, as provided in subsection 1, 1 rem of neutron radiation of unknown energies may, for the purposes of [NAC 459.010](#) to [459.950](#), inclusive, be assumed to result from a total fluence of 25,000,000 neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate quality factor value from the following table to convert a measured tissue dose in rads to dose equivalent in rem:

Mean Quality Factors and Fluence per Unit Dose
Equivalent for Monoenergetic Neutrons

Neutron	Quality	Fluence per Unit
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	Energy (MeV)	Factor	Dose Equivalent (neutrons cm ² rem ⁻¹)
(thermal)	2.5E-8	2	980E+6
	1E-7	2	980E+6
	1E-6	2	810E+6
	1E-5	2	810E+6
	1E-4	2	840E+6
	1E-3	2	980E+6
	1E-2	2.5	1010E+6
	1E-1	7.5	170E+6
	5E-1	11	39E+6
	1	11	27E+6
	2.5	9	29E+6
	5	8	23E+6
	7	7	24E+6
	10	6.5	24E+6
	14	7.5	17E+6
	20	8	16E+6
	40	7	14E+6
	60	5.5	16E+6
	1E+2	4	20E+6
	2E+2	3.5	19E+6
	3E+2	3.5	16E+6
	4E+2	3.5	14E+6

3. For the purposes of subsection 2, the quality factor must be measured at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; R085-06, 11-13-2006)

NAC 459.325 Limits on occupational doses for adults. ([NRS 459.030](#), [459.201](#))

1. Except as otherwise provided in subsection 5, a licensee or registrant shall control occupational doses, except for planned special exposures, to ensure that no adult receives annually occupational doses in excess of the following limits:

(a) The lesser of:

(1) A total effective dose equivalent of 5 rems (50 millisieverts); or

(2) The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue, other than the lens of the eye, of 50 rems (500 millisieverts);

(b) A lens dose equivalent of 15 rems (150 millisieverts); and

(c) A shallow-dose equivalent to the skin of the whole body or the skin of any extremity of 50 rems (500 millisieverts).

2. Occupational doses received in excess of the annual limits specified in subsection 1, including doses received during accidents, emergencies and planned special exposures, must be subtracted from the limits for planned special exposures that a person may receive during a current year and during his lifetime.

3. The assigned deep-dose equivalent must be for the portion of the body receiving the highest exposure. The assigned shallow-dose equivalent must be the dose averaged over the contiguous 10 square centimeters of skin receiving the highest exposure. The deep-dose equivalent, lens dose equivalent and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the

limits for occupational doses, if the personnel monitoring equipment was not in the region of highest potential exposure, or the results of personnel monitoring are unavailable.

4. The derived air concentration and annual limit on intake values that are set forth in table I of appendix B may be used to determine the occupational dose of a person and to demonstrate compliance with the limits for occupational doses.

5. Notwithstanding the annual limits, a licensee shall limit a person's intake of soluble uranium to 10 milligrams in 1 week.

6. The licensee or registrant shall reduce the occupational dose that a person is allowed to receive in a current year by the amount of the occupational dose that person received during the year while employed by another person.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.3255 Compliance with requirements for summation of external and internal doses. ([NRS 459.030](#), [459.201](#))

1. If a licensee is required to monitor a person pursuant to subsections 1 and 2 of [NAC 459.339](#), the licensee shall demonstrate compliance with the limits set forth in [NAC 459.325](#) by adding external and internal doses. The licensee may demonstrate compliance with the requirements for summation of external and internal doses by meeting one of the conditions specified in subsection 2 and the conditions specified in subsections 3 and 4. The lens dose equivalent and the dose equivalents for the skin and the extremities are not required to be included in the summation, but are subject to separate limits set forth in [NAC 459.325](#). If a licensee or registrant is required to monitor a person pursuant to subsection 1 of [NAC 459.339](#) only or pursuant to subsection 2 of [NAC 459.339](#) only, the summation of the doses is not required.

2. If the only intake of radionuclides is by inhalation, the limit for the total effective dose equivalent is not exceeded if the deep-dose equivalent divided by the limit for the total effective dose equivalent, and one of the following, does not exceed unity:

(a) The sum of the fractions of the annual limit on intake by inhalation for each radionuclide.

(b) The total number of derived air concentration-hours for all radionuclides, divided by 2,000.

(c) The sum of the committed effective dose equivalents to all significantly irradiated organs or tissues, calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit. For the purposes of this subsection, an organ or tissue shall be deemed to be irradiated significantly if, for that organ or tissue, the product of the weighting factors and the committed dose equivalent, per unit intake, is greater than 10 percent of the maximum weighted value of the committed dose equivalent, per unit intake for any organ or tissue.

3. If a person who receives an occupational exposure also receives an intake of radionuclides by oral ingestion in an amount greater than 10 percent of the applicable annual limit on intake by oral ingestion, the licensee shall account for this intake and include it in demonstrating compliance with the limits set forth in [NAC 459.325](#).

4. Except as otherwise provided in this subsection, the licensee shall evaluate and, to the extent practical, account for the intake of radiation through wounds or absorption through the skin. Any intake through intact skin is not required to be evaluated or accounted for pursuant to this subsection.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.327 Determination of external dose from airborne radioactive material. ([NRS 459.030](#), [459.201](#))

1. Licensees shall, when determining the external dose from airborne radioactive material, include the deep-dose equivalent, lens dose equivalent and shallow-dose equivalent caused by external exposure to the cloud of airborne radioactive material.

2. Measurements of airborne radioactive material and derived air concentration must not be used as the primary means to assess the deep-dose equivalent if the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep-dose equivalent must be based upon measurements using instruments or personnel monitoring equipment.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.3275 Determination of compliance with limits for occupational doses. (NRS 459.201)

1. For the purposes of assessing the dose used to determine compliance with the limits for occupational doses set forth in [NAC 459.325](#), a licensee shall, if required pursuant to subsection 2 of [NAC 459.339](#), take suitable and timely measurements of:

- (a) Concentrations of radioactive materials in the air in work areas;
- (b) Quantities of radionuclides in the body;
- (c) Quantities of radionuclides excreted from the body; or
- (d) Any combination of the measurements listed in paragraphs (a), (b) and (c).

2. Unless a respiratory protective device is used or the assessment of intake is based on bioassays, the licensee shall assume that a person inhales radioactive material at the airborne concentration in which the person is present.

3. When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in a person is known, the licensee may:

- (a) Use that information to calculate the committed effective dose equivalent;
- (b) Upon prior approval of the Division, adjust the values for the derived air concentration or the annual limit on intake to reflect the actual physical and chemical characteristics of airborne radioactive material; and
- (c) Separately assess the contribution of fractional intakes of compounds of a given radionuclide in Class D, W or Y to the committed effective dose equivalent.

4. If a licensee uses the information to calculate the committed effective dose equivalent pursuant to paragraph (a), the licensee shall document that information in the record of the person.

5. If the licensee chooses to assess intakes of material in Class Y using the measurements taken pursuant to paragraph (b) or (c) of subsection 1, the licensee may delay the recording and reporting of the assessments for not more than 7 months in order to make additional measurements basic to the assessments, unless he is otherwise required to record and report the assessments by [NAC 459.3695](#) or [459.371](#).

6. If the identity and concentration of each radionuclide in a mixture are known, the fraction of the derived air concentration applicable to the mixture that is used to calculate derived air concentration-hours must be:

- (a) The sum of the ratios of the concentration to the appropriate value for the derived air concentration from Appendix B for each radionuclide in the mixture; or
- (b) The ratio of the total concentration for all radionuclides in the mixture to the most restrictive value for the derived air concentration for any radionuclide in the mixture.

7. If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the derived air concentration for the mixture must be the most restrictive derived air concentration of any radionuclide in the mixture.

8. If a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:

- (a) The licensee uses the total activity of the mixture in demonstrating compliance with the limits specified in [NAC 459.325](#) and in complying with the monitoring requirements specified in subsection 2 of [NAC 459.339](#);
- (b) The concentration of any radionuclide disregarded is less than 10 percent of its derived air concentration; and
- (c) The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30 percent.

9. When determining the committed effective dose equivalent, the following information may be considered:

- (a) The licensee or registrant may assume that the inhalation of one annual limit on intake, or an exposure of 2,000 derived air concentration-hours, results in a committed effective dose equivalent of 5 rems for radionuclides that have their annual limits on intake or derived air concentrations based on the committed effective dose equivalent.

(b) For an annual limit on intake and the associated derived air concentration determined by the nonstochastic organ dose limit of 50 rems, the intake of radionuclides that would result in a committed effective dose equivalent of 5 rems is listed in parentheses in Table I of Appendix B. In this case, the licensee may use the stochastic annual limit on intake to determine the committed effective dose equivalent. If the licensee uses the stochastic annual limit on intake, the licensee shall also demonstrate that the limits specified in subparagraph (2) of paragraph (a) of subsection 1 of [NAC 459.325](#) are met.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.329 Requirements for planned special exposures. (NRS 459.201) A licensee or registrant may permit a worker who is an adult to receive a planned special exposure, in addition to and accounted for separately from the doses received under the limits specified in [NAC 459.325](#), if each of the following conditions is satisfied:

1. The licensee or registrant notifies the Division of the planned special exposure in writing at least 10 working days before the planned special exposure is scheduled to occur, and verifies that the Division has received the letter of notification.
2. The planned special exposure is to occur in an exceptional situation when alternatives that might avoid the higher exposure are unavailable or impractical.
3. The licensee or registrant, and employer if the employer is not the licensee or registrant, specifically authorizes the planned special exposure, in writing, before the exposure occurs.
4. Before the planned special exposure, the licensee or registrant ensures that each person involved is:
 - (a) Informed of the purpose of the planned special exposure;
 - (b) Informed of the estimated doses and associated potential risks, and the specific radiation levels or other conditions that might be involved in performing the task; and
 - (c) Instructed in the measures to be taken to keep the dose as low as is reasonably achievable considering other risks that may be present.
5. Before permitting a person to participate in a planned special exposure, the licensee or registrant ascertains previous doses received by the person during his lifetime as required pursuant to [NAC 459.365](#).
6. The planned special exposure would not cause a person to receive a dose from all planned special exposures and all doses in excess of:
 - (a) The numerical values of any of the limits specified in subsection 1 of [NAC 459.325](#) in any year; and
 - (b) Five times the annual limits specified in subsection 1 of [NAC 459.325](#) during the lifetime of the person.
7. The licensee or registrant maintains records of the conduct of the planned special exposure in accordance with [NAC 459.3655](#) and submits a written report in accordance with [NAC 459.3715](#).
8. The licensee or registrant records the best estimate of the dose resulting from the planned special exposure in the record of the person receiving the dose and informs that person, in writing, of the dose within 30 days after the date of the planned special exposure. The dose from planned special exposures must not be considered in controlling the future occupational dose of the person pursuant to subsection 1 of [NAC 459.325](#), but must be included in the determinations required to be made pursuant to subsections 5 and 6.
(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.331 Annual limits for occupational doses for minors. ([NRS 459.201](#)) The limits for the annual occupational dose for minors are 10 percent of the limits for the annual occupational dose specified in [NAC 459.325](#) for adult workers.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.333 Dose equivalents to embryos. ([NRS 459.030](#), [459.201](#))

1. Except as otherwise provided in subsection 4, a licensee or registrant shall ensure that the dose equivalent to an embryo during the entire pregnancy, resulting from occupational exposure of a woman who has declared her pregnancy, does not exceed 0.5 rem (5 millisieverts).
2. The licensee or registrant shall make efforts to avoid any substantial variation from a uniform monthly exposure rate to a woman who has declared her pregnancy so as to satisfy the limits specified in subsection 1.
3. The dose equivalent to an embryo is the sum of:
 - (a) The deep-dose equivalent to the woman who has declared her pregnancy; and
 - (b) The dose equivalent to the embryo resulting from radionuclides in the embryo and radionuclides in the woman who has declared her pregnancy.
4. If, by the time a woman declares her pregnancy to the licensee or registrant, the dose equivalent to the embryo has exceeded 0.5 rem (5 millisieverts), or is within 0.05 rem (0.5 millisievert) of that dose, the licensee or registrant shall be deemed to be in compliance with subsection 1 if the additional dose equivalent to the embryo does not exceed 0.05 rem (0.5 millisievert) during the remainder of the pregnancy.
(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.335 Dose limits for individual members of public; application for authorization to increase annual dose limit; imposition of additional restrictions; standards for nuclear power operations. ([NRS 459.030](#), [459.201](#))

1. Except as otherwise provided in this section and subsection 2 of [NAC 459.321](#), each licensee and registrant shall conduct operations to ensure that:

(a) The total effective dose equivalent to any member of the public from its licensed or registered operation does not exceed 0.1 rem (1 millisievert) per year, not including the dose contribution from background radiation, any medical administration the member of the public has received, exposure to natural persons who have been administered radioactive material and have been released from the control of a licensee pursuant to 10 C.F.R. § 35.75, voluntary participation in medical research, and the disposal by the licensee of radioactive material into sanitary sewerage in accordance with [NAC 459.3605](#); and

(b) The dose in any unrestricted area from external sources, not including the dose contributions from natural persons who have been administered radioactive material and have been released from the control of a licensee pursuant to 10 C.F.R. § 35.75, does not exceed 0.002 rem (0.02 millisievert) in any 1 hour.

2. Notwithstanding the provisions of paragraph (a) of subsection 1, a licensee may allow a visitor to a person who cannot be released pursuant to 10 C.F.R. § 35.75 to receive a radiation dose greater than 0.1 rem (1 millisievert) if:

(a) The radiation dose does not exceed 0.5 rem (5 millisieverts); and

(b) Before the visit, the licensee has determined that the visit is appropriate.

3. A licensee, a registrant or an applicant for a license or registration may apply to the Division for authorization to operate up to an annual dose limit for a member of the public of 0.5 rem (5 millisieverts) per year. The application must include:

(a) A demonstration of the need for and the expected duration of operations in excess of the limit specified in paragraph (a) of subsection 1;

(b) A description of the program of the licensee or registrant to assess and control the dose within the annual limit of 0.5 rem (5 millisieverts); and

(c) The procedures to be followed to maintain the dose as low as is reasonably achievable.

4. The Division may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee may release in effluents in order to restrict the collective dose.

5. In addition to the requirements of this section, a licensee who is subject to the provisions of 40 C.F.R. Part 190 shall comply with the standards set forth therein.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.3355 Compliance with dose limits for individual members of public. ([NRS 459.201](#))

1. A licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted areas and radioactive materials in effluents released to unrestricted areas in order to demonstrate compliance with the limits specified in [NAC 459.335](#) for members of the public.

2. A licensee or registrant shall demonstrate compliance with the annual limits specified in [NAC 459.335](#) by:

(a) Demonstrating by measurement or calculation that the total effective dose equivalent to the member of the public likely to receive the highest dose from the licensed or registered operation does not exceed the annual limits; or

(b) Demonstrating that:

(1) The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Table II of Appendix B; and

(2) If a person were continually present in an unrestricted area, the dose from external sources would not exceed 0.002 rem in 1 hour and 0.05 rem in 1 year.

3. Upon approval from the Division, the licensee may adjust the concentration values for effluents in Table II of Appendix B for members of the public to take into account the actual physical and chemical characteristics of the effluents.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.336 Orders requiring bioassay services. ([NRS 459.201](#)) Where necessary or desirable in order to aid in determining the extent of a person's exposure to concentrations of radioactive material, the Division may incorporate license provisions or issue an order requiring a licensee or registrant to make available to the person appropriate bioassay services and to furnish a copy of the reports of those services to the Division.

[Bd. of Health, Radiation Control Reg. § 4.2.7, eff. 2-28-80]

NAC 459.337 Surveys and monitoring. ([NRS 459.030](#), [459.201](#))

1. Each licensee and registrant shall make, or cause to be made, surveys that:

- (a) Are necessary for the licensee or registrant to comply with [NAC 459.010](#) to [459.950](#), inclusive; and
- (b) Are necessary under the circumstances to evaluate:
 - (1) The magnitude and extent of radiation levels;
 - (2) Concentrations or quantities of radioactive material; and
 - (3) The potential radiological hazards.

2. The licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements are calibrated for the radiation measured at intervals not to exceed 12 months.

3. All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the dose of radiation and that are used by licensees and registrants to comply with [NAC 459.325](#), with other applicable provisions of [NAC 459.010](#) to [459.950](#), inclusive, or with conditions specified in a license or registration, must be processed and evaluated by a dosimetry processor who is accredited by the National Voluntary Laboratory Accreditation Program of the National Institute of Standards and Technology for the type of radiation or radiations included in the program that most closely approximate the type of radiation for which the person wearing the dosimeter is monitored.

4. The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of personnel monitoring equipment.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.339 Precautionary procedures: Conditions requiring individual monitoring of external and internal occupational doses. ([NRS 459.030](#), [459.201](#)) Each licensee and registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the limits for occupational doses specified in [NAC 459.010](#) to [459.950](#), inclusive. As a minimum:

1. Each licensee and registrant shall monitor occupational exposure to radiation from licensed and unlicensed sources under the control of the licensee or registrant and shall supply and require the use of personnel monitoring equipment by:

(a) Adults who are likely to receive in 1 year, from sources of radiation external to the body, a dose in excess of 10 percent of the limits specified in [NAC 459.325](#);

(b) Minors who are likely to receive in 1 year, from sources of radiation external to the body, a deep-dose equivalent in excess of 0.1 rem (1 millisievert), a lens dose equivalent in excess of 0.15 rem (1.5 millisieverts), or a shallow-dose equivalent to the skin or extremities in excess of 0.5 rem (5 millisieverts);

(c) Women who have declared their pregnancy and are likely to receive, during the entire pregnancy, from sources of radiation external to the body, a deep-dose equivalent in excess of 0.1 rem (1 millisievert); and

(d) Any person entering a high or very high radiation area.

2. Each licensee shall monitor, to determine compliance with [NAC 459.3275](#), the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

(a) Adults who are likely to receive, in 1 year, an intake in excess of 10 percent of the applicable annual limit on intake in columns 1 and 2 of table I of appendix B;

(b) Minors who are likely to receive, in 1 year, a committed effective dose equivalent in excess of 0.1 rem (1 millisievert); and

(c) Women who have declared their pregnancy and are likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 0.1 rem (1 millisievert).

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.341 Precautionary procedures: Control of access to high radiation areas. ([NRS 459.201](#))

1. Except as otherwise provided in this section, a licensee or registrant shall ensure that each entrance to a high radiation area has one or more of the following features:

(a) A control device that, upon entry into the radiation area, causes the level of radiation to be reduced below the level at which a person could receive a deep-dose equivalent of 0.1 rem in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(b) A control device that energizes a conspicuous visible or audible alarm so that a person entering the high radiation area and the supervisor of the activity in the area are made aware of the entry.

(c) Entrances that are locked, except during periods when access to the area is required with positive control

over each individual entrance.

2. In place of the controls required pursuant to subsection 1, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry into the radiation area.

3. The licensee or registrant may apply to the Division for authorization to use alternative methods for controlling access to high radiation areas.

4. The licensee or registrant shall establish the controls required pursuant to subsections 1 and 3 in a manner that does not prevent a person from leaving a high radiation area.

5. The licensee is not required to control each entrance to a high radiation area that contains only radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the United States Department of Transportation if:

(a) The packages do not remain in the area for more than 3 days; and

(b) The dose at 1 meter from the external surface of any package does not exceed 0.01 rem per hour.

6. The licensee is not required to control each entrance to a room or other area in a hospital solely because of the presence of a patient whose treatment requires the use of radioactive material if there are persons in attendance who will take the necessary precautions to:

(a) Prevent the exposure of a person to radiation or radioactive material in excess of the limits specified in [NAC 459.325](#), [459.331](#), [459.333](#) and [459.335](#); and

(b) Ensure that any doses are as low as are reasonably achievable.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.343 Precautionary procedures: Control of access to very high radiation areas. ([NRS 459.201](#))

In addition to the requirements specified in [NAC 459.341](#), a licensee or registrant shall institute measures to ensure that a person is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 500 rads or more in 1 hour at 1 meter from a source of radiation or any surface through which the radiation penetrates.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.345 Precautionary procedures: Control of access to very high radiation area with sealed radioactive sources used to irradiate materials. ([NRS 459.201](#))

1. Except as otherwise provided in this section, each area in which there may exist radiation levels in excess of 500 rads in 1 hour at 1 meter from a sealed radioactive source that is used to irradiate materials must meet the following requirements:

(a) Each entrance must be equipped with entry control devices which:

(1) Function automatically to prevent any person from inadvertently entering a very high radiation area;

(2) Permit deliberate entry into the area only after the control device is actuated and causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for a person to receive a deep-dose equivalent in excess of 0.1 rem in 1 hour; and

(3) Prevent operation of the source of radiation if it would produce radiation levels in the area that could result in a deep-dose equivalent to a person in excess of 0.1 rem in 1 hour.

(b) Additional control devices must be provided so that, upon failure of the entry control devices to function as required pursuant to paragraph (a):

(1) The radiation level within the area, from the source of radiation, is reduced below the level at which it would be possible for a person to receive a deep-dose equivalent in excess of 0.1 rem in 1 hour; and

(2) Conspicuous visible and audible alarms are generated to make any person who is attempting to enter the area aware of the hazard and to make at least one other authorized person, who is physically present, familiar with the activity and prepared to render or summon assistance, aware of the failure of the entry control devices.

(c) The licensee shall provide control devices that ensure that, upon the failure or removal of physical radiation barriers other than the shielded storage container of the sealed source:

(1) The radiation level from the source is reduced below the level at which it would be possible for a person to receive a deep-dose equivalent in excess of 0.1 rem in 1 hour; and

(2) Conspicuous visible and audible alarms are generated to make potentially affected persons aware of the hazard and to make the licensee, or at least one other person who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.

(d) When the shield for stored sealed sources is a liquid, the licensee shall provide a means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.

(e) Physical radiation barriers that comprise permanent structural components and have no reasonable

probability of failure or removal in ordinary circumstances are not required to meet the requirements of paragraph (c) or (d).

(f) Each area must be equipped with devices that will automatically generate conspicuous visible and audible alarms to alert persons in the area before the source of radiation can be put into operation and in time for any persons in the area to operate a clearly identified control device, which must be installed in the area and which is able to prevent the source of radiation from being put into operation.

(g) Each area must be controlled by the use of such administrative procedures and such devices as are necessary to ensure that the area is cleared of persons before each use of the source of radiation.

(h) Each area must be checked by a radiation measurement to ensure that, before any person enters the area after any use of the source of radiation, the radiation level from the source of radiation in the area is below the level at which it would be possible for a person to receive a deep-dose equivalent in excess of 0.1 rem in 1 hour.

(i) The entry control devices required pursuant to paragraph (a) must be tested for proper functioning in the following manner:

(1) Testing must be conducted before the initial operation of the source of radiation on any day, unless operations were continued uninterrupted from the previous day;

(2) Testing must be conducted before the resumption of operation of the source of radiation after any unintentional interruption; and

(3) The licensee shall submit and adhere to a schedule for periodic tests of the entry control devices and warning systems.

(j) The licensee shall not conduct operations, other than those necessary to place the source of radiation in safe condition or to effect repairs on control devices, unless control devices are functioning properly.

(k) Entry and exit portals that are used in transporting materials to and from the area and that are not intended for use by persons to enter or exit the area, must be controlled by such devices and administrative procedures as are necessary to protect and warn against inadvertent entry by any person through these portals. Exit portals which are for irradiated materials must be equipped to detect and signal the presence of any loose radioactive material that is carried toward such a portal and automatically to prevent loose radioactive material from being carried out of the area.

2. Licensees or applicants for licenses who are subject to the provisions of subsection 1 and will use the source of radiation in a variety of positions or in locations which make it impracticable to comply with the requirements of subsection 1, may apply to the Division for approval of alternative safety measures. Alternative safety measures must provide persons with protection that is at least equivalent to the protection specified in subsection 1. At least one of the alternative measures must include an inter-lock control device that is designed to prevent entry based on a measurement of the radiation and that ensures the absence of high radiation levels before a person can gain access to the area where such sources of radiation are used.

3. The entry control devices required by subsections 1 and 2 must be established in such a manner that no person will be prevented from leaving the area.

4. As used in this section, sealed radioactive source means any by-product, source or special nuclear material that is used in sealed sources in irradiators that are not self-shielded.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.347 Precautionary procedures: Use of process or other engineering controls; alternative controls; consideration of other safety factors. ([NRS 459.201](#))

1. A licensee shall use, to the extent practicable, process or other engineering controls, including, without limitation, containment, decontamination and ventilation, to control the concentrations of radioactive material in the air.

2. If it is not practicable to apply process or other engineering controls to control the concentrations of radioactive material in the air to levels below those that define an area of airborne radioactivity, the licensee shall, consistent with maintaining the total effective dose equivalent as low as is reasonably achievable, increase monitoring and limit intakes by one or more of the following:

(a) Controlling access to the area;

(b) Limiting exposure times;

(c) Using respiratory protective devices; or

(d) Using any other means available to control concentrations of radioactive material in the air.

3. If the licensee performs an analysis of exposures to radiation to determine what exposure level is as low as is reasonably achievable and to determine whether respiratory protective devices should be used, the licensee may consider safety factors other than radiological safety factors, including, without limitation, consideration of

the effect of respiratory protective devices on the industrial health and safety of workers.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R085-06, 11-13-2006)

NAC 459.349 Precautionary procedures: Use of respiratory protective devices. ([NRS 459.201](#))

1. If a licensee uses respiratory protective devices to limit intakes as required pursuant to [NAC 459.347](#), the licensee shall comply with the following requirements:

(a) Except as otherwise provided in paragraph (b), the licensee shall use only a respiratory protective device that is tested and certified, or has had certification extended, by the National Institute for Occupational Safety and Health.

(b) If the licensee wishes to use equipment that has not been tested or certified by the National Institute for Occupational Safety and Health, or for which there is no schedule for testing or certification, the licensee shall submit an application for authorized use of that equipment. The application must include evidence that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use. The evidence must be acquired from tests performed on the equipment by the licensee or based on information obtained from other reliable tests that have been performed on the equipment.

(c) The licensee shall implement and maintain a program for respiratory protection that includes, without limitation:

(1) A sampling of the air that is sufficient to identify any potential hazard, permit the proper selection of equipment and estimate doses;

(2) Surveys and bioassays, as necessary, to evaluate actual intakes;

(3) Testing respiratory protective devices for operability immediately before each use, including, without limitation, user-performed seal checks for face-sealing respirators and functional checks for all other respirators;

(4) Written procedures regarding:

(I) Testing, including, without limitation, fit testing;

(II) The supervision and training of users of respiratory protective devices;

(III) Recordkeeping;

(IV) Monitoring, including, without limitation, sampling air and bioassays;

(V) Selection of respiratory protective devices;

(VI) Breathing air quality;

(VII) Inventory and control of respiratory protective devices;

(VIII) Storage, issuance, maintenance, repair and quality assurance of respiratory protective devices; and

(IX) Limitations on periods of use of respiratory protective devices and relief from use of respiratory

protective devices; and

(5) The determination by a physician that each user of a face-sealing respirator or nonface-sealing respirator is medically fit to use the respirator before the initial fitting of a face-sealing respirator or before the first use of a nonface-sealing respirator and:

(I) At least once every 12 months after the initial fitting; or

(II) Periodically at a frequency that is determined by the physician.

(d) The licensee shall perform fit testing for a respirator before the first field use of a respirator with a tight-fitting facepiece and not less than annually thereafter. The fit test must be performed with the facepiece of the respirator operating in the negative pressure mode and the fit factor:

(1) For a negative pressure respirator must be greater than or equal to 10 times the air pressure flow; and

(2) For a positive pressure, continuous flow or pressure demand respirator must exceed 500.

(e) The licensee shall advise each user of a respiratory protective device that the user may leave the area at any time for relief from the use of the respiratory protective device if:

(1) The device malfunctions;

(2) He suffers physical or psychological distress;

(3) There is a failure of communication or procedures;

(4) There is a significant deterioration in the operating conditions; or

(5) There are any other conditions that might require relief from use of the device.

(f) The licensee shall:

(1) Consider limitations appropriate to the type of respiratory protective device and the intended mode of use of the respiratory protective device;

(2) When selecting a respiratory protective device, provide for vision correction, adequate communication, low-temperature work environments and the concurrent use of other safety and radiological protection

equipment; and

(3) Use equipment in a manner that does not interfere with the proper operation of the respiratory protective device.

(g) The licensee shall provide standby rescue personnel when a person is using a one-piece atmosphere-supplying suit or any combination of a supplied-air respirator and personnel protective equipment from which the person would have difficulty extricating himself. The standby rescue personnel must:

(1) Be equipped with respiratory protective devices or other equipment appropriate to the potential hazards.

(2) Visually observe the person who is using a one-piece atmosphere-supplying suit or any combination of a supplied-air respirator and personnel protective equipment or maintain continuous communication with such person through visual, voice, signal line, telephone, radio or other suitable means of communication.

(3) Be immediately available to assist the person who is using a one-piece atmosphere-supplying suit or any combination of a supplied-air respirator and personnel protective equipment in case of a failure of air supply or for any other reason that requires relief from distress.

(4) Be sufficient in number and training to provide immediate assistance to the person who is using a one-piece atmosphere-supplying suit or any combination of a supplied-air respirator and personnel protective equipment and to provide effective emergency rescue if needed.

(h) The licensee shall ensure that atmosphere-supplying respirators are supplied with desirable air of grade D quality or better as defined in Publication G-7.1, *Commodity Specification for Air* (1997), and the provisions of 29 C.F.R. §§ 1910.134(i)(1)(ii)(A) to 1910.134(i)(1)(ii)(E), inclusive. A hard copy of Publication G-7.1, *Commodity Specification for Air* (1997), published by the Compressed Gas Association, may be obtained at a cost of \$32 for a member of the Compressed Gas Association or \$58 for a nonmember at the Internet address <http://www.cganet.com/publication.asp>. An electronic copy of the publication may be obtained free of charge for a member of the Compressed Gas Association or at a cost of \$44 for a nonmember at the Internet address <http://www.cganet.com/publication.asp>.

(i) The licensee shall ensure that no objects, materials or substances, including, without limitation, facial hair, or any conditions which could interfere with the face-to-facepiece seal or valve function and which are under the control of the user of the respirator are present between the skin of the face of the user of the respirator and the sealing surface of a tight-fitting facepiece.

(j) In measuring the dose to persons from the intake of airborne radioactive material, the licensee must assume initially that the concentration of radioactive material in the air that is inhaled when a respirator is worn is the ambient concentration of radioactive material in the air without a respirator divided by the assigned protection factor of the respirator. If the licensee later finds that the actual dose is greater than the estimated dose, the actual dose must be used. If the actual dose is later found to be less than the estimated dose, the actual dose may be used.

2. A licensee shall obtain authorization from the Division before using assigned respiratory protection factors in excess of those specified in Appendix A. The Division may authorize a licensee to use higher assigned protection factors upon receipt of an application that:

(a) Describes the situation for which a need exists for higher protection factors; and

(b) Demonstrates that the respiratory protective device provides these higher protection factors under the proposed conditions of use.

3. In addition to any restrictions imposed pursuant to the provisions of this section and [NAC 459.347](#), the Division may impose restrictions on the use of respiratory protective devices by a licensee to:

(a) Ensure that the respiratory protection program of the licensee is adequate to limit doses to persons from the intake of airborne radioactive material consistent with maintaining the total effective dose equivalent as low as is reasonably achievable; and

(b) Limit the extent to which a licensee may use respiratory protective devices instead of processes or engineering controls to limit doses to persons from the intake of airborne radioactive material.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; A by R085-06, 11-13-2006)

NAC 459.352 Precautionary procedures: Radiation machines. ([NRS 459.201](#)) All radiation machines must be labeled in a manner which cautions people that radiation is produced when the machine is being operated. [Bd. of Health, Radiation Control Reg. § 4.3.3.7, eff. 2-28-80]

NAC 459.3525 Precautionary procedures: Control of licensed radioactive material and radiation machines in unrestricted areas and not in storage. ([NRS 459.201](#))

1. A licensee shall control and maintain constant surveillance of licensed radioactive material that is in an unrestricted area and that is not in storage or related to the care of a patient.

2. A registrant shall maintain control of radiation machines that are in an unrestricted area and that are not in storage.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.353 Precautionary procedures: Security of stored material. ([NRS 459.201](#)) A licensee or registrant shall secure from unauthorized removal or access licensed or registered sources of radiation that are stored in unrestricted areas.

(Added to NAC by Bd. of Health, eff. 1-18-94)

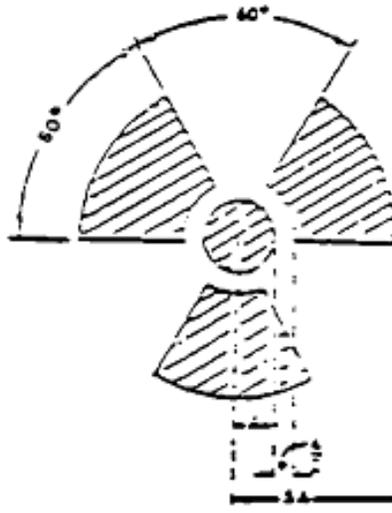
NAC 459.354 Precautionary procedures: Instruction of personnel. ([NRS 459.201](#)) Instructions are required for persons working in or frequenting any portion of a restricted area as specified in [NAC 459.784](#). [Bd. of Health, Radiation Control Reg. § 4.3.5, eff. 2-28-80]

NAC 459.355 Precautionary procedures: Radiation symbol; labels; additional information. ([NRS 459.201](#))

1. Except as otherwise provided in this section or as otherwise authorized by the Division, a licensee or registrant shall use a radiation symbol with a three-bladed design as follows:

- (a) Each cross-hatched area must be magenta, purple or black; and
- (b) The background must be yellow.

Radiation symbol



2. A licensee may label sources of radiation, holders for sources of radiation or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation symbols that do not comply with the requirements for color set forth in subsection 1.

3. In addition to the contents of signs and labels required by [NAC 459.010](#) to [459.950](#), inclusive, a licensee or registrant shall provide, on or near the required signs and labels, additional information, as appropriate, to make persons aware of potential exposures and to minimize those exposures.

4. A radiation symbol or the labels described in [NAC 459.010](#) to [459.950](#), inclusive, must only be used when conditions exist that warrant their use.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.3555 Precautionary procedures: Requirements for posting signs. ([NRS 459.201](#)) Except as otherwise provided in [NAC 459.3565](#):

1. A licensee or registrant shall post in each radiation area a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."

2. A licensee or registrant shall post in each high radiation area a conspicuous sign or signs bearing the

radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."

3. A licensee or registrant shall post in each very high radiation area a conspicuous sign or signs bearing the radiation symbol and the words "GRAVE DANGER, VERY HIGH RADIATION AREA."

4. A licensee shall post in each area of airborne radioactivity a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA."

5. A licensee shall post in each area or room in which there is used or stored an amount of licensed radioactive material exceeding 10 times the quantity of such material specified in Appendix C a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)."

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.3565 Precautionary procedures: Exceptions to requirements for posting signs. ([NRS 459.030](#), [459.201](#))

1. A licensee or registrant is not required to post signs pursuant to [NAC 459.3555](#) in an area or room containing sources of radiation for periods of less than 8 hours if:

(a) The sources of radiation are constantly attended during these periods by a person who takes the precautions necessary to prevent the exposure of persons to sources of radiation in excess of the limits established in [NAC 459.325](#), [459.331](#), [459.333](#) and [459.335](#); and

(b) The area or room is subject to the control of the licensee or registrant.

2. A room or other area in a hospital that is occupied by a patient is not required to be posted with signs pursuant to [NAC 459.3555](#) if:

(a) The patient is being treated with sealed sources of radiation or has been treated with unsealed radioactive material in quantities of less than 30 millicuries (1.11 gigabecquerels), or the measured dose rate at 1 meter from the patient is less than 0.005 rem (0.05 millisievert) per hour;

(b) The licensee is authorized to release the patient from confinement pursuant to 10 C.F.R. § 35.75; and

(c) There are personnel in attendance who will take the necessary precautions to prevent the exposure of persons to radiation or radioactive materials in excess of the limits specified in [NAC 459.325](#), [459.331](#), [459.333](#) and [459.335](#), and to maintain the level of radiation at a level which is as low as is reasonably achievable.

3. A room or area is not required to be posted with signs pursuant to [NAC 459.3555](#) because of the presence of a sealed source of radiation if the level of radiation at 30 centimeters from the surface of the container or housing for the sealed source does not exceed 0.005 rem (0.05 millisievert) per hour.

4. A room in a hospital or clinic that is used for teletherapy is not required to be posted with signs pursuant to [NAC 459.3555](#) if there are personnel in attendance who will take the necessary precautions to prevent the exposure of any person to radiation or radioactive materials in excess of the limits established in [NAC 459.325](#), [459.331](#), [459.333](#) and [459.335](#), and to maintain the level of radiation at a level that is as low as is reasonably achievable.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R085-06, 11-13-2006)

NAC 459.357 Precautionary procedures: Requirements for labeling containers and radiation machines. ([NRS 459.201](#)) Except as otherwise provided in [NAC 459.3575](#):

1. Each licensee shall ensure that each container of licensed radioactive material bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label must provide information to permit persons handling or using the container, or working in the vicinity of the container, to take precautions to avoid or minimize exposures. The information on the label may include, but is not limited to:

(a) The radionuclides present;

(b) An estimate of the quantity of radioactivity;

(c) The date for which the activity is estimated;

(d) The levels of radiation;

(e) The kinds of radioactive materials present; and

(f) The mass enrichment.

2. Each licensee shall, before the removal or disposal of empty uncontaminated containers in unrestricted areas, remove or deface the label required pursuant to subsection 1, or otherwise clearly indicate that the container no longer contains radioactive material.

3. Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner which cautions persons that radiation is produced when the machine is energized.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.3575 Precautionary procedures: Exceptions to requirements for labeling containers. (NRS 459.201) A licensee is not required to label a container pursuant to [NAC 459.357](#) if the container is:

1. Holding licensed radioactive material in quantities that are less than the quantities listed in Appendix C.

2. Holding licensed radioactive material in concentrations that are less than those specified in Table III of Appendix B.

3. Attended by a person who takes the precautions necessary to prevent the exposure of persons in excess of the limits established by [NAC 459.010](#) to [459.950](#), inclusive.

4. In transport and is packaged and labeled in accordance with the regulations of the United States Department of Transportation.

5. Accessible only to persons authorized to work in the vicinity of the container or authorized to handle or use the container, if the contents of the container are identified to those persons by a readily available written record which is retained while the container is in use for the purpose indicated on the record.

6. Installed manufacturing or process equipment.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.3585 Precautionary procedures: Receiving, monitoring and opening packages. (NRS 459.201)

1. Each licensee who expects to receive a package containing quantities of radioactive material in excess of a type A quantity, as defined in 10 C.F.R. § 71.4, as that section existed on January 1, 1993, shall make arrangements to receive:

(a) The package when the carrier offers it for delivery; or

(b) Notification of the arrival of the package at the terminal of the carrier and to take possession of the package expeditiously.

2. Except as otherwise provided in subsection 6, each licensee shall monitor the external surfaces of a package known to contain radioactive material for radioactive contamination and radiation levels if the package:

(a) Is labeled as containing radioactive material; or

(b) Has evidence of potential contamination.

3. The licensee shall perform the monitoring required pursuant to subsection 2 as soon as practicable after receipt of the package, but not later than 3 hours after the package is received at the facility of the licensee if the package is received during the normal working hours of the licensee. If the package is received after the normal working hours of the licensee, the monitoring must be performed not later than 3 hours after the beginning of the next normal working day of the licensee.

4. A licensee shall immediately notify the carrier who made the final delivery of a package and, by telephone and telegram, mailgram or facsimile, the Division, if:

(a) Removable radioactive contamination on the surface of the package is detected that exceeds 22,000 disintegrations per minute per 100 square centimeters of package surface; or

(b) The radiation level at 1 meter from the surface of the package exceeds 10 milliroentgens per hour.

5. Each licensee shall:

(a) Establish, maintain and retain written procedures for safely opening packages in which radioactive material is received; and

(b) Ensure that the procedures established pursuant to paragraph (a) are followed and that consideration is given to any special instructions for the type of package being opened.

6. A licensee transferring a source of radiation in a special form in a motor vehicle owned or operated by the licensee to and from a work site is not required to comply with the requirements of subsection 2, but shall ensure that the source of radiation is still properly lodged in its shield.

7. For the purposes of this section, the State Board of Health hereby adopts by reference 10 C.F.R. § 71.4, as that section existed on January 1, 1993. A copy of the volume containing that section may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the price of \$21.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.359 Disposal of waste: General requirements. (NRS 459.201)

1. A licensee shall dispose of licensed radioactive material only:

(a) By transfer to an authorized recipient as provided in [NAC 459.180](#) to [459.314](#), inclusive, and [459.8231](#) to [459.950](#), inclusive;

(b) By decay in storage;

(c) By release in effluents within the limits specified in [NAC 459.335](#); or

(d) As authorized pursuant to [NAC 459.3595](#) to [459.3615](#), inclusive.

2. A person must be licensed by the Division to receive waste containing licensed radioactive material from other persons for:

(a) Treatment before disposal;

(b) Treatment or disposal by incineration;

(c) Decay in storage;

(d) Disposal at a land disposal facility licensed pursuant to [NAC 459.806](#) to [459.8225](#), inclusive; or

(e) Storage until it is transferred to a storage or disposal facility authorized to receive the waste.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.3595 Disposal of waste: Application for approval of proposed procedures. (NRS 459.201) A licensee or applicant for a license may apply to the Division for approval of proposed procedures, not otherwise authorized pursuant to [NAC 459.010](#) to [459.950](#), inclusive, to dispose of licensed radioactive material generated in the operations of the licensee. Each application must include:

1. A description of the waste containing the licensed radioactive material to be disposed of, including, without limitation, the physical and chemical properties that have an impact on evaluating the risk of the proposed procedures, and the proposed manner and conditions of disposing of the waste;

2. An analysis and evaluation of pertinent information related to the impact of the proposed procedures on the environment;

3. The nature and location of other potentially affected facilities; and

4. Analyses and procedures to ensure that doses are maintained as low as are reasonably achievable and within the limits specified in [NAC 459.325](#), [459.331](#), [459.333](#) and [459.335](#).

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.3605 Disposal of waste: Release into sanitary sewerage. (NRS 459.201)

1. Except as otherwise provided in subsection 2, a licensee may discharge licensed radioactive material into sanitary sewerage only if each of the following conditions is satisfied:

(a) The material is readily soluble in water or is readily dispersible biological material in water.

(b) The quantity of all radioactive material that the licensee releases into the sanitary sewerage in 1 month divided by the average monthly volume of water released into the sanitary sewerage by the licensee does not exceed the concentration of radioactive material listed in Table III of Appendix B.

(c) The total quantity of all radioactive material that the licensee releases into the sanitary sewerage in 1 year does not exceed 5 curies of hydrogen-3, 1 curie of carbon-14 and 1 curie of all other radioactive materials combined.

(d) If more than one radionuclide is released:

(1) The licensee determines the fraction of the limits in Table III of Appendix B represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sanitary sewerage by the concentration of that radionuclide listed in Table III of Appendix B; and

(2) The sum of the fractions for each radionuclide required by subparagraph (1) does not exceed unity.

2. Excreta from persons undergoing medical diagnosis or therapy with radioactive material is not subject to the limitations contained in subsection 1.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.361 Disposal of waste: Treatment or disposal by incineration. (NRS 459.201) A licensee may treat or dispose of licensed radioactive material by incineration only in the amounts and forms:

1. Specified in [NAC 459.3615](#); or

2. Approved by the Division pursuant to [NAC 459.3595](#).

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.3615 Disposal of waste: Specific wastes. ([NRS 459.201](#))

1. Except as otherwise provided in subsection 2, a licensee may dispose of the following licensed radioactive material as if it were not radioactive:

(a) Not more than 0.05 microcurie of hydrogen-3 or carbon-14 per gram of medium used for liquid scintillation counting; and

(b) Not more than 0.05 microcurie of hydrogen-3 or carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.

2. A licensee shall not dispose of tissue under paragraph (b) of subsection 1 in a manner that would permit its use either as food for humans or as feed for animals.

3. The licensee shall maintain records of the disposal of radioactive material described in this section until the Division terminates his license.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.362 Quantities of radioactive materials for signs, labels and signals; disposal of waste. ([NRS 459.201](#)) The following quantities must be used for the purposes of subsection 1 of [NAC 459.1955](#):

Radioactive material	Microcuries
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Americium 241	0.01
Antimony 122	100
Antimony 124	10
Antimony 125	10
Arsenic 73	100
Arsenic 74	10
Arsenic 76	10
Arsenic 77	100
Barium 131	10
Barium 133	10
Barium 140	10
Bismuth 210	1
Bromine 82	10
Cadmium 109	10
Cadmium 115m	10
Cadmium 115	100
Calcium 45	10
Calcium 47	10
Carbon 14	100
Cerium 141	100
Cerium 143	100
Cerium 144	1
Cesium 131	1,000
Cesium 134m	100
Cesium 134	1
Cesium 135	10
Cesium 136	10
Cesium 137	10

Chlorine 36	10
Chlorine 38	10
Chromium 51	1,000
Cobalt 58m	10
Cobalt 58	10
Cobalt 60	1
Copper 64	100
Dysprosium 165	10
Dysprosium 166	100
Erbium 169	100
Erbium 171	100
Europium 152 (9.2 h)	100
Europium 152 (13 yr)	1
Europium 154	1
Europium 155	10
Fluorine 18	1,000
Gadolinium 153	10
Gadolinium 159	100
Gallium 72	10
Germanium 71	100
Gold 198	100
Gold 199	100
Hafnium 181	10
Holmium 166	100
Hydrogen 3	1,000
Indium 113m	100
Indium 114m	10
Indium 115m	100
Indium 115	10
Iodine 125	1
Iodine 126	1
Iodine 129	0.1
Iodine 131	1
Iodine 132	10
Iodine 133	1
Iodine 134	10
Iodine 135	10
Iridium 192	10
Iridium 194	100
Iron 55	100
Iron 59	10
Krypton 85	100
Krypton 87	10
Lanthanum 140	10
Lutetium 177	100
Manganese 52	10
Manganese 54	10
Manganese 56	10
Mercury 197m	100
Mercury 197	100
Mercury 203	10

Molybdenum 99	100
Neodymium 147	100
Neodymium 149	100
Nickel 59	100
Nickel 63	10
Nickel 65	100
Niobium 93m	10
Niobium 95	10
Niobium 97	10
Osmium 185	10
Osmium 191m	100
Osmium 191	100
Osmium 193	100
Palladium 103	100
Palladium 109	100
Phosphorus 32	10
Platinum 191	100
Platinum 193m	100
Platinum 193	100
Platinum 197m	100
Platinum 197	100
Plutonium 239	0.01
Polonium 210	0.1
Potassium 42	10
Praseodymium 142	100
Praseodymium 143	100
Promethium 147	10
Promethium 149	10
Radium 226	0.01
Rhenium 186	100
Rhenium 188	100
Rhodium 103m	100
Rhodium 105	100
Rubidium 86	10
Rubidium 87	10
Ruthenium 97	100
Ruthenium 103	10
Ruthenium 105	10
Ruthenium 106	1
Samarium 151	10
Samarium 153	100
Scandium 46	10
Scandium 47	100
Scandium 48	10
Selenium 75	10
Silicon 31	100
Silver 105	10
Silver 110m	1
Silver 111	100
Sodium 24	10
Strontium 85	10

Strontium 89	1
Strontium 90	0.1
Strontium 91	10
Strontium 92	10
Sulphur 35	100
Tantalum 182	10
Technetium 96	10
Technetium 97m	100
Technetium 97	100
Technetium 99m	100
Technetium 99	10
Tellurium 125m	10
Tellurium 127m	10
Tellurium 127	100
Tellurium 129m	10
Tellurium 129	100
Tellurium 131m	10
Tellurium 132	10
Terbium 160	10
Thallium 200	100
Thallium 201	100
Thallium 202	100
Thallium 204	10
Thorium (natural) ¹	100
Thulium 170	10
Thulium 171	10
Tin 113	10
Tin 125	10
Tungsten 181	10
Tungsten 185	10
Tungsten 187	100
Uranium (natural) ²	100
Uranium 233	0.01
Uranium 234	0.01
Uranium 235	0.01
Vanadium 48	10
Xenon 131m	1,000
Xenon 133	100
Xenon 135	100
Ytterbium 175	100
Yttrium 90	10
Yttrium 91	10
Yttrium 92	100
Yttrium 93	100
Zinc 65	10
Zinc 69m	100
Zinc 69	1,000
Zirconium 93	10
Zirconium 95	10
Zirconium 97	10

Any alpha emitting radionuclide

not listed above or mixtures of
alpha emitters of unknown
composition. 0.01

Any radionuclide other than alpha
emitting radionuclides, not listed
above or mixtures of beta emitters
of unknown composition.

0.1

¹ Based on alpha disintegration rate of Th 232, Th 230, and their daughter products.

² Based on alpha disintegration rate of U 238, U 234, and U 235.

[Bd. of Health, Radiation Control Reg. Art. 4, Appendix B, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.3625 General requirements for preparation and retention of records. (NRS 459.030, 459.201)

1. Except as otherwise provided in subsection 5, each licensee and registrant shall use the units curie, rad, rem and roentgen, including multiples and subdivisions thereof, to prepare the records required by [NAC 459.010](#) to [459.950](#), inclusive, and shall clearly indicate the units of all quantities entered on those records.

2. The licensee or registrant shall make a clear distinction among the quantities entered on the records required by [NAC 459.010](#) to [459.950](#), inclusive, including, without limitation:

- (a) Committed effective dose equivalent;
- (b) Deep-dose equivalent;
- (c) Lens dose equivalent;
- (d) Shallow-dose equivalent; and
- (e) Total effective dose equivalent.

3. The licensee may record, in parentheses following the unit measurements required pursuant to subsection 1, the equivalent quantities expressed as unit measurements pursuant to the International System of Units (SI).

4. A discontinuance or curtailment of the activities of a licensee or registrant does not relieve that licensee or registrant of the responsibility for retaining all records required by [NAC 459.010](#) to [459.950](#), inclusive. A licensee or registrant may request the Division to retain such records. An acceptance of the records by the Division relieves the licensee or registrant of subsequent responsibility only in respect to their retention as required by this section.

5. Each licensee or registrant shall use to prepare shipment manifests required pursuant to [NAC 459.8231](#):

- (a) The International System of Units (SI); or
- (b) The International System of Units (SI) and the units set forth in subsection 1.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.363 Authorized forms of records for purposes of legibility; safeguards. (NRS 459.201)

1. Each record required by [NAC 459.010](#) to [459.950](#), inclusive, must be legible throughout the specified period of retention. The record must be:

- (a) The original;
- (b) A reproduced copy or a microform, if the copy or microform is authenticated by authorized personnel and, if microform is used, the microform is capable of producing a clear copy throughout the specified period of retention; or
- (c) Stored in electronic media with the capability for producing legible, accurate and complete records during the specified period of retention.

2. A licensee or registrant shall maintain adequate safeguards to prevent tampering with and the loss of records.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.3635 Records of program for protection against radiation. (NRS 459.201)

1. Each licensee and registrant shall maintain records of its program for protection against radiation required pursuant to [NAC 459.321](#), including:

- (a) The provisions of the program; and

(b) The results of audits and other reviews of the content and implementation of the program.

2. The licensee or registrant shall retain the records required by paragraph (a) of subsection 1 until the Division terminates each license or registration requiring the record. The licensee or registrant shall retain each record required by paragraph (b) of subsection 1 for at least 3 years after the record is made.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.3645 Records of surveys and calibrations. ([NRS 459.201](#))

1. Each licensee and registrant shall maintain records showing the results of surveys and calibrations required pursuant to [NAC 459.337](#) and [459.3585](#). The licensee or registrant shall retain each such record for at least 3 years after the record is made.

2. A licensee or registrant shall retain each of the following records until the Division authorizes their disposal:

(a) Records of the results of surveys used to determine the dose from external sources of radiation and, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents;

(b) Records of the results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment of internal doses;

(c) Records showing the results of sampling air and surveys and bioassays required pursuant to subparagraphs (1) and (2) of paragraph (c) of subsection 1 of [NAC 459.349](#); and

(d) Records of the results of measurements and calculations used to evaluate the release of radioactive effluents into the environment.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.365 Records of prior occupational doses. ([NRS 459.201](#))

1. For each person who is likely to receive, in 1 year, an occupational dose requiring monitoring pursuant to [NAC 459.339](#), the licensee or registrant shall:

(a) Determine the occupational dose received by that person during the current year; and

(b) Attempt to obtain the records of the lifetime cumulative occupational dose received by that person.

2. Before permitting a person to participate in a planned special exposure, the licensee or registrant shall determine:

(a) The internal and external doses received by that person from all previous planned special exposures;

(b) All doses in excess of the limits, including, without limitation, doses received during accidents and emergencies, received during the lifetime of the person; and

(c) All lifetime cumulative occupational doses.

3. To comply with the requirements of subsection 1, a licensee or registrant may:

(a) Accept, as a record of the occupational dose that the person received during the current year, a signed written statement from the person, or from his most recent employer for work involving exposure to radiation, that discloses the nature and the amount of any occupational dose that the person received during the current year.

(b) Accept, as the record of the lifetime cumulative dose received by a person, a current form regarding history of cumulative occupational exposure, signed by the person and countersigned by:

(1) An appropriate official of the most recent employer of the person for work involving exposure to radiation; or

(2) The current employer of the person, if the person is not employed by the licensee or registrant.

(c) Obtain reports regarding the dose equivalent of a person from his most recent employer for work involving exposure to radiation, or the current employer of the person if he is not employed by the licensee or registrant, by telephone, telegram, facsimile, electronic media or letter. The licensee or registrant shall request a written verification of the data if the authenticity of the transmitted report cannot be established.

4. A licensee or registrant shall record the history of exposure of each person, as required by subsection 1, on a form regarding history of cumulative occupational exposure, and shall include all the information required by that form. The form must show each period in which the person received occupational exposure to radiation or radioactive material and must be signed by that person. For each period for which the licensee or registrant obtains a report, the licensee or registrant shall use the dose shown in the report in preparing the form regarding history of cumulative occupational exposure. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on the form regarding history of cumulative occupational exposure indicating the periods for which data is not available.

5. Licensees and registrants are not required to reevaluate the separate dose equivalents received from sources

of radiation outside the body and committed dose equivalents or intakes of radionuclides received from radioactive material taken into the body that are assessed before January 18, 1994. Histories of occupational exposure obtained and recorded on the form regarding history of cumulative occupational exposure before January 18, 1994, may be used in the absence of specific information regarding the intake of radionuclides by the person.

6. If the licensee or registrant is unable to obtain a complete record of the current and previously accumulated occupational dose of a person, the licensee or registrant shall:

- (a) In establishing administrative controls pursuant to subsection 6 of [NAC 459.325](#) for the current year, assume that the allowable limits for the person are reduced by 1.25 rems for each quarter for which records were unavailable and the person was engaged in activities that could have resulted in occupational exposure; and
- (b) Assume that the person is not available for planned special exposures.

7. The licensee or registrant shall retain the records on the form regarding history of cumulative occupational exposure until the Division terminates each license or registration requiring the records. The licensee or registrant shall retain each record used in preparing the form regarding history of cumulative occupational exposure for at least 3 years after that record is made.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.3655 Records of planned special exposures. ([NRS 459.201](#))

1. For each planned special exposure authorized by a licensee or registrant pursuant to [NAC 459.329](#), that licensee or registrant shall maintain records that describe:

- (a) The exceptional circumstances requiring the use of a planned special exposure;
- (b) The name of the management official who authorized the planned special exposure and a copy of the signed authorization;
- (c) What actions were necessary;
- (d) Why those actions were necessary;
- (e) What precautions were taken to ensure that doses were maintained at a level which was as low as was reasonably achievable;
- (f) What individual and collective doses were expected to result; and
- (g) The doses actually received in the planned special exposure.

2. The licensee or registrant shall retain the records required pursuant to subsection 1 until the Division authorizes their disposal.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.3665 Records of results from individual monitoring. ([NRS 459.030](#), [459.201](#))

1. Each licensee and registrant shall maintain records of doses received by all persons for whom monitoring is required pursuant to [NAC 459.339](#), and records of doses received by persons during planned special exposures, accidents and emergency conditions. These records must include, when applicable:

- (a) The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin and shallow-dose equivalent to the extremities;
- (b) The estimated intake of radionuclides;
- (c) The committed effective dose equivalent assigned to the intake of radionuclides;
- (d) The specific information used to calculate the committed effective dose equivalent pursuant to [NAC 459.3275](#) and, when required, pursuant to [NAC 459.339](#);
- (e) The total effective dose equivalent, when required pursuant to [NAC 459.3255](#); and
- (f) The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose.

2. The licensee or registrant shall make entries of the records specified in this section at intervals not to exceed 1 year.

3. The licensee or registrant shall maintain the records required pursuant to this section on a record of occupational exposure for a monitoring period, in accordance with the instructions for that form provided by the Division.

4. The licensee or registrant shall maintain the records of doses to an embryo with the records of doses to the woman carrying the embryo who has declared her pregnancy. The records of the declaration of pregnancy, including the estimated date of conception, must also be maintained, but may be maintained separately from the records regarding doses.

5. The licensee or registrant shall retain each form or record required by this section until the Division

authorizes its disposal.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.367 Records of dose to individual members of public. (NRS 459.201)

1. Each licensee and registrant shall maintain records sufficient to demonstrate compliance with the limits specified in [NAC 459.335](#) for members of the public.

2. The licensee or registrant shall retain the records required by this section until the Division authorizes their disposal.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.3673 Records of disposal of waste. (NRS 459.201) Each licensee shall maintain records of the disposal of licensed radioactive materials made pursuant to the provisions of [NAC 459.010](#) to [459.950](#), inclusive, including any burial authorized before April 27, 1984. The licensee shall retain the records required by this section until the Division terminates each license or registration requiring the records.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.3675 Records of tests on entry control devices for very high radiation areas. (NRS 459.201)

1. Each licensee and registrant shall maintain records of tests made pursuant to [NAC 459.345](#) on entry control devices for very high radiation areas. These records must include the date, time and results of each such test of function.

2. The licensee or registrant shall retain each record required by this section for at least 3 years after the record is made.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.368 Notice and reports to persons exposed to radiation or radioactive material. (NRS 459.070, 459.201)

1. Requirements for notification and reports to persons of exposure to radiation or radioactive material are specified in [NAC 459.786](#).

2. When a licensee or registrant is required by [NAC 459.371](#) to report to the Division any exposure of a person to radiation or radioactive material, the licensee or registrant shall also notify the person who was exposed. The notice must be transmitted at a time not later than the transmittal to the Division, and the notice must comply with the provisions of subsection 1 of [NAC 459.786](#).

[Bd. of Health, Radiation Control Reg. §§ 4.5.6 & 4.5.6.1, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.369 Requirements for report of lost, stolen or missing licensed radioactive material or radiation machines. (NRS 459.201)

1. Each licensee and registrant shall report to the Division by telephone:

(a) Any lost, stolen or missing licensed radioactive material in an aggregate quantity which is equal to or greater than 1,000 times the quantity specified in Appendix C, if it appears to the licensee that an exposure could result to persons in unrestricted areas. The report must be made immediately after the occurrence becomes known to the licensee.

(b) Any lost, stolen or missing licensed radioactive material in an aggregate quantity which is greater than 10 times the quantity specified in Appendix C within 30 days after the occurrence becomes known to the licensee. The report is not required if the material is located or otherwise recovered by the licensee or registrant within the specified 30-day period.

(c) A lost, stolen or missing radiation machine. The report must be made immediately after the occurrence becomes known to the registrant.

2. Each licensee and registrant required to make a report pursuant to subsection 1 shall, within 30 days after making the report by telephone, file a written report with the Division setting forth the following information:

(a) A description of the licensed or registered source of radiation that is lost, stolen or missing, including:

(1) For licensed radioactive material, the kind, quantity, and chemical and physical form of the material;

and

(2) For a radiation machine, the manufacturer and model and serial number of the machine and the type and maximum energy of radiation emitted from the machine.

(b) A description of the circumstances under which the loss or theft occurred.

(c) A statement of disposition, or probable disposition, of the licensed or registered source of radiation.

(d) Exposures of persons to radiation emitted from the licensed or registered source of radiation, the circumstances under which the exposures occurred and the possible total effective dose equivalent to persons in unrestricted areas.

(e) Actions that have been taken, or will be taken, to recover the source of radiation.

(f) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.

3. After filing the report required pursuant to subsection 2, the licensee or registrant shall, within 30 days after he learns of any additional substantive information regarding the loss or theft, file an additional written report with the Division.

4. The licensee or registrant shall prepare any report filed with the Division pursuant to this section so that the names of persons who may have received exposure to radiation are stated in a separate and detachable portion of the report.

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.3695 Report of certain incidents. ([NRS 459.030](#), [459.070](#), [459.201](#))

1. Each licensee and registrant shall immediately report to the Division each event involving a source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause:

(a) A person to receive:

(1) A total effective dose equivalent of 25 rems (250 millisieverts) or more;

(2) A lens dose equivalent of 75 rems (750 millisieverts) or more; or

(3) A shallow-dose equivalent to the skin or extremities or a total organ dose equivalent of 250 rads (2.5 grays) or more.

(b) The release of radioactive material, inside or outside a restricted area, in a manner in which, had a person been present for 24 hours, the person could have received an intake of radiation that is five times the annual limit on intake for occupational exposure. The provisions of this paragraph do not apply to an area where personnel are not normally stationed during routine operations.

2. Except as otherwise provided in [NAC 459.369](#), each licensee and registrant shall, within 24 hours after discovery, report to the Division each event involving the loss of control of a licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause:

(a) A person to receive, in a period of 24 hours:

(1) A total effective dose equivalent exceeding 5 rems (50 millisieverts);

(2) A lens dose equivalent exceeding 15 rems (150 millisieverts); or

(3) A shallow-dose equivalent to the skin or extremities or a total organ dose equivalent exceeding 50 rems (500 millisieverts).

(b) The release of radioactive material, inside or outside a restricted area, in a manner in which, had a person been present for 24 hours, the person could have received an intake of radiation that is more than the annual limit on intake for occupational exposure. The provisions of this paragraph do not apply to an area where personnel are not normally stationed during routine operations.

3. The licensee or registrant shall prepare each report filed with the Division pursuant to this section so that the names of persons who have received exposure are stated in a separate and detachable portion of the report.

4. Licensees or registrants shall make the reports required by subsections 1 and 2 to the Division by telephone, telegram, mailgram or facsimile.

5. The provisions of this section do not apply to doses that result from planned special exposures, if such doses are within the limits for planned special exposures and are reported pursuant to [NAC 459.371](#).

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.371 Submission of written reports for certain occurrences; contents of reports. ([NRS 459.030](#), [459.070](#), [459.201](#))

1. In addition to the notification required by [NAC 459.3695](#), each licensee and registrant shall submit a written report to the Division within 30 days after learning of any of the following occurrences:

(a) Incidents for which notification is required pursuant to [NAC 459.3695](#).

(b) Doses in excess of:

- (1) The limits for an occupational dose for an adult specified in [NAC 459.325](#);
- (2) The limits for an occupational dose for a minor specified in [NAC 459.331](#);
- (3) The limits for an embryo of a woman who has declared her pregnancy specified in [NAC 459.333](#);
- (4) The limits for a member of the public specified in [NAC 459.335](#);
- (5) Any applicable limits set forth in the license or registration; or
- (6) The constraints on air emissions of radioactive material, excluding radon 222 and its decay products, specified in subsection 2 of [NAC 459.321](#).

(c) Levels of radiation or concentrations of radioactive material in:

- (1) A restricted area in excess of any applicable limits set forth in the license or registration; or
- (2) An unrestricted area in excess of 10 times the applicable limits set forth in [NAC 459.010](#) to [459.950](#),

inclusive, or in the license or registration.

(d) For licensees subject to the provisions of the generally applicable environmental standards for radiation of the United States Environmental Protection Agency set forth in 40 C.F.R. Part 190, levels of radiation or releases of radioactive material in excess of those standards, or of conditions set forth in the license related to those standards.

2. Each report required pursuant to subsection 1 must describe the extent of exposure of persons to radiation and radioactive material, including, as appropriate:

- (a) Estimates of the dose of each person;
- (b) The levels of radiation and concentrations of radioactive material involved;
- (c) The cause of the elevated exposures, dose rates or concentrations; and

(d) Corrective steps taken or planned to ensure against a recurrence, including, without limitation, the schedule for achieving conformance with applicable limits, constraints on air emissions of radioactive material, excluding radon 222 and its decay products, specified in subsection 2 of [NAC 459.321](#), generally applicable environmental standards for radiation of the United States Environmental Protection Agency and associated conditions set forth in the license or registration.

3. Each report filed pursuant to this section must include, for each person exposed, his name, social security number and date of birth. With respect to reports of exposure to an embryo, the information must relate to the woman carrying the embryo. The report must be prepared so that the information required by this subsection is stated in a separate and detachable portion of the report.

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.3715 Submission of written reports after planned special exposures. ([NRS 459.201](#)) Each licensee and registrant shall submit a written report to the Division within 30 days following any planned special exposure conducted in accordance with [NAC 459.329](#) informing the Division that a planned special exposure was conducted, and including the date the planned special exposure occurred and the information required by [NAC 459.3655](#).

(Added to NAC by Bd. of Health, eff. 1-18-94)

NAC 459.373 Additional reporting requirements. ([NRS 459.201](#)) In addition to complying with any other reporting requirements specified in [NAC 459.010](#) to [459.950](#), inclusive, a licensee shall comply with the following reporting requirements:

1. Each licensee shall notify the Division as soon as possible, but not later than 4 hours, after the discovery of an event that prevents immediate protective actions to be taken that are necessary to avoid exposure to radiation or radioactive materials that could exceed the limits specified in [NAC 459.010](#) to [459.950](#), inclusive.

2. Each licensee shall notify the Division within 24 hours after the discovery of any of the following events involving licensed radioactive material:

(a) An unplanned event causing radioactive contamination that:

(1) Requires access to the contaminated area by workers or members of the public to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area, if such a restriction is imposed for any reason other than to allow isotopes with a half-life of less than 24 hours to decay in storage before decontamination; and

(2) Involves a quantity of radioactive material which is greater than five times the lowest annual limit on intake specified in Appendix B for that material.

(b) An event in which equipment is disabled or fails to function as designed if:

(1) The equipment is required pursuant to [NAC 459.010](#) to [459.950](#), inclusive, or as a condition of a license, to prevent releases of or exposure to radioactive materials exceeding the limits specified in [NAC 459.010](#) to [459.950](#), inclusive, or to mitigate the consequences of an accident;

(2) The equipment is required to be available and operable when it is disabled or fails to function; and

(3) Other equipment is not available and operable to perform the required safety function.

(c) An event that requires unplanned medical treatment at a medical facility for a person who has spreadable radioactive contamination on his clothing or body.

(d) An unplanned fire or explosion damaging any licensed radioactive material or any device, container or equipment containing licensed radioactive material if:

(1) The quantity of radioactive material involved is greater than five times the lowest annual limit on intake specified in Appendix B for that radioactive material; and

(2) The damage affects the integrity of the licensed radioactive material or its container.

3. Reports made by a licensee pursuant to this section must be made as follows:

(a) A licensee shall make the reports required by subsections 1 and 2 by telephone. To the extent that the information is available at the time of notification by telephone, the information provided in these reports must include, without limitation:

(1) The name and telephone number of the caller;

(2) A description of the event, including, without limitation, the date and time of the event;

(3) The exact location of the event;

(4) The isotopes, quantities and chemical and physical form of the licensed radioactive material involved;

and

(5) Any data regarding the exposure of persons to radiation because of the event.

(b) Except as otherwise provided in paragraph (c) of this subsection, each licensee who makes a report by telephone shall submit a written report to the Division within 30 days after the report by telephone is made. The written report must contain:

(1) A description of the event, including, without limitation, the probable cause of the event and the manufacturer and model number of any equipment that failed or malfunctioned;

(2) The exact location of the event;

(3) The isotopes, quantities and chemical and physical form of the licensed radioactive material involved;

(4) The date and time of the event;

(5) Any corrective actions taken or planned regarding the event;

(6) The results of any evaluations or assessments regarding the event; and

(7) The extent of any exposure of persons to radiation or to radioactive materials because of the event, without identifying those persons by name.

(c) A licensee is not required to comply with the provisions of paragraph (b) if a report submitted pursuant to [NAC 459.010](#) to [459.950](#), inclusive, contains all the information required by paragraph (b).

(Added to NAC by Bd. of Health, eff. 1-18-94; A by R084-98, 1-26-99)

NAC 459.374 Notice of intent to vacate premises. ([NRS 459.201](#)) Each specific licensee must, no less than 30 days before vacating or relinquishing possession or control of premises which may have been contaminated with radioactive material as a result of his activities, notify the Division in writing of intent to vacate. When deemed necessary by the Division, the licensee shall decontaminate the premises in the manner specified by the Division.

[Bd. of Health, Radiation Control Reg. § 4.5.5, eff. 2-28-80]

Radioactive Materials in the Healing Arts

NAC 459.3801 Restricted area: Release for unrestricted use. ([NRS 459.201](#)) A restricted area in which a licensee has used or stored radioactive material must not be released for unrestricted use until the Division has given its approval in writing.

(Added to NAC by Bd. of Health, eff. 11-1-95)

NAC 459.3805 Restricted area: Persons authorized to enter. ([NRS 459.201](#)) Only those persons who perform work in a restricted area are authorized to enter such areas. A licensee shall not allow any other person to

enter a restricted area.

(Added to NAC by Bd. of Health, eff. 11-1-95)

X rays in the Healing Arts

NAC 459.400 Definitions. As used in [NAC 459.400](#) to [459.624](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.402](#) to [459.546](#), inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification)

NAC 459.402 “Accessible surface” defined. ([NRS 459.201](#)) “Accessible surface” means the external surface of the enclosure or housing provided by the manufacturer.

[Bd. of Health, Radiation Control Reg. § 6.2.1, eff. 2-28-80]

NAC 459.404 “Added filtration” defined. ([NRS 459.201](#)) “Added filtration” means any filtration added to the inherent filtration.

[Bd. of Health, Radiation Control Reg. § 6.2.2, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.406 “Aluminum equivalent” defined. ([NRS 459.201](#)) “Aluminum equivalent” means the thickness of aluminum (type 1100 alloy) affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99 percent minimum aluminum, 0.12 percent copper.

[Bd. of Health, Radiation Control Reg. § 6.2.3, eff. 2-28-80]

NAC 459.408 “Attenuation block” defined. ([NRS 459.201](#)) “Attenuation block” means a block or stack having the dimensions 20 cm by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

[Bd. of Health, Radiation Control Reg. § 6.2.4, eff. 2-28-80]

NAC 459.410 “Automatic exposure control” defined. ([NRS 459.201](#)) “Automatic exposure control” means a device which automatically controls one or more technique factors in order to obtain at a preselected location a required quantity of radiation.

[Bd. of Health, Radiation Control Reg. § 6.2.5, eff. 2-28-80]

NAC 459.412 “Beam axis” defined. ([NRS 459.201](#)) “Beam axis” means a line from the source through the centers of the X-ray fields.

[Bd. of Health, Radiation Control Reg. § 6.2.6, eff. 2-28-80]

NAC 459.414 “Beam-limiting device” defined. ([NRS 459.201](#)) “Beam-limiting device” means a device which provides a means to restrict the dimensions of the X-ray field.

[Bd. of Health, Radiation Control Reg. § 6.2.7, eff. 2-28-80]

NAC 459.416 “Changeable filters” defined. ([NRS 459.201](#)) “Changeable filters” means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical or physical process.

[Bd. of Health, Radiation Control Reg. § 6.2.8, eff. 2-28-80]

NAC 459.418 “Coefficient of variation” defined. ([NRS 459.201](#)) “Coefficient of variation,” abbreviated as “C,” means the ratio of the standard deviation to the mean value of a population of observations. It is estimated using the following equation:

$$C \text{ (Coefficient of Variation)} = \frac{s}{\bar{x}}$$

where

s = Estimated standard deviation of the population.



\bar{X} = Mean value of observations in sample.

X_i = i th observation in sample.

n = Number of observations in sample.

[Bd. of Health, Radiation Control Reg. § 6.2.9, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.420 “Contact therapy system” defined. ([NRS 459.201](#)) “Contact therapy system” means a system in which an X-ray tube port is put in contact with or within 5 centimeters of the surface being treated.

[Bd. of Health, Radiation Control Reg. § 6.2.10, eff. 2-28-80]

NAC 459.422 “Control panel” defined. ([NRS 459.201](#)) “Control panel” means that part of the X-ray control where the switches, knobs, pushbuttons and other hardware are mounted which are necessary for manually setting the technique factors.

[Bd. of Health, Radiation Control Reg. § 6.2.11, eff. 2-28-80]

NAC 459.424 “Cooling curve” defined. ([NRS 459.201](#)) “Cooling curve” means the graphical relationship between heat units stored and cooling time.

[Bd. of Health, Radiation Control Reg. § 6.2.12, eff. 2-28-80]

NAC 459.426 “Dead-man switch” defined. ([NRS 459.201](#)) “Dead-man switch” means a switch constructed so that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

[Bd. of Health, Radiation Control Reg. § 6.2.13, eff. 2-28-80]

NAC 459.428 “Diagnostic source assembly” defined. ([NRS 459.201](#)) “Diagnostic source assembly” means the tube housing assembly with a beam-limiting device attached.

[Bd. of Health, Radiation Control Reg. § 6.2.14, eff. 2-28-80]

NAC 459.430 “Diagnostic-type protective tube housing” defined. ([NRS 459.201](#)) “Diagnostic-type protective tube housing” means a tube housing so constructed that the leakage radiation measured at a distance of 1 meter from the source does not exceed 100 mr in 1 hour when the tube is operated at its leakage technique factors.

[Bd. of Health, Radiation Control Reg. § 6.2.15, eff. 2-28-80]

NAC 459.432 “Diagnostic X-ray system” defined. ([NRS 459.201](#)) “Diagnostic X-ray system” means an X-ray system designed for irradiation of any part of the human body for diagnosis or visualization.

[Bd. of Health, Radiation Control Reg. § 6.2.16, eff. 2-28-80]

NAC 459.434 “Direct scattered radiation” defined. ([NRS 459.201](#)) “Direct scattered radiation” means scattered radiation which has been deviated in direction only by materials irradiated by the useful beam.

[Bd. of Health, Radiation Control Reg. § 6.2.17, eff. 2-28-80]

NAC 459.436 “Entrance exposure rate” defined. ([NRS 459.201](#)) “Entrance exposure rate” means the roentgens per unit of time at the point where the center of the useful beam enters the patient.

[Bd. of Health, Radiation Control Reg. § 6.2.18, eff. 2-28-80]

NAC 459.440 “Field emission equipment” defined. ([NRS 459.201](#)) “Field emission equipment” means equipment which uses an X-ray tube in which electron emission from the cathode is due solely to the action of an electric field.

[Bd. of Health, Radiation Control Reg. § 6.2.20, eff. 2-28-80]

NAC 459.442 “Filter” defined. ([NRS 459.201](#)) “Filter” means material placed in the useful beam to absorb preferentially selected radiations.

[Bd. of Health, Radiation Control Reg. § 6.2.21, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.444 “Fluoroscopic imaging assembly” defined. ([NRS 459.201](#)) “Fluoroscopic imaging assembly” means a component which comprises a reception system in which X-ray photons produce a fluoroscopic image. It includes equipment housings, electrical interlocks, if any, the primary protective barrier and structural material providing linkage between the image receptor and the diagnostic source assembly.
[Bd. of Health, Radiation Control Reg. § 6.2.22, eff. 2-28-80]

NAC 459.446 “General purpose radiographic X-ray system” defined. ([NRS 459.201](#)) “General purpose radiographic X-ray system” means any radiographic X-ray system which by design is not limited to radiographic examination of specific anatomical regions.

[Bd. of Health, Radiation Control Reg. § 6.2.23, eff. 2-28-80]

NAC 459.448 “Gonadal shield” defined. ([NRS 459.201](#)) “Gonadal shield” means a protective barrier for the testes or ovaries.

[Bd. of Health, Radiation Control Reg. § 6.2.24, eff. 2-28-80]

NAC 459.450 “Half-value layer” defined. ([NRS 459.201](#)) “Half-value layer,” abbreviated as “HVL,” means the thickness of specified material which attenuates the beam of radiation to an extent that the exposure rate is reduced to one-half of its original value. In this definition the contribution of all scattered radiation, other than any which may be present initially in the beam concerned, is considered excluded.

[Bd. of Health, Radiation Control Reg. § 6.2.25, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.452 “Image intensifier” defined. ([NRS 459.201](#)) “Image intensifier” means a device, including housing, which instantaneously converts an X-ray pattern into a corresponding light image of higher energy density.

[Bd. of Health, Radiation Control Reg. § 6.2.26, eff. 2-28-80]

NAC 459.454 “Image receptor” defined. ([NRS 459.201](#)) “Image receptor” means any device, such as a fluorescent screen or radiographic film, which transforms incident X-ray photons either into a visible image or into another form which can be made into a visible image by further transformations.

[Bd. of Health, Radiation Control Reg. § 6.2.27, eff. 2-28-80]

NAC 459.456 “Inherent filtration” defined. ([NRS 459.201](#)) “Inherent filtration” means the filtration permanently in the useful beam; it includes the window of the X-ray tube and any permanent tube or source enclosure.

[Bd. of Health, Radiation Control Reg. § 6.2.28, eff. 2-28-80]

NAC 459.458 “Kilowatt second” defined. ([NRS 459.201](#)) “Kilowatt second,” abbreviated as “kWs,” is equal to the product of peak kilovolts, amperes and seconds or (1000) (kV) (mA) (sec).

[Bd. of Health, Radiation Control Reg. § 6.2.29, eff. 2-28-80]

NAC 459.460 “Lead equivalent” defined. ([NRS 459.201](#)) “Lead equivalent” means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

[Bd. of Health, Radiation Control Reg. § 6.2.30, eff. 2-28-80]

NAC 459.462 “Leakage radiation” defined. ([NRS 459.201](#)) “Leakage radiation” means radiation emanating from the diagnostic or therapeutic source assembly except for:

1. The useful beam; and
2. Radiation produced when the exposure switch or timer is not activated.

[Bd. of Health, Radiation Control Reg. §§ 6.2.31-6.2.31.2, eff. 2-28-80]

NAC 459.464 “Leakage technique factors” defined. ([NRS 459.201](#)) “Leakage technique factors” means the technique factors associated with the tube housing assembly which are used in measuring leakage radiation. They are defined as follows:

1. For capacitor energy storage equipment, the maximum rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs)

or the minimum obtainable from the unit, whichever is larger.

2. For field emission equipment rated for pulsed operation, the maximum rated number of X-ray pulses in an hour for operation at the maximum rated peak tube potential.

3. For all other equipment, the maximum rated continuous tube current for the maximum rated peak tube potential.

[Bd. of Health, Radiation Control Reg. §§ 6.2.32-6.2.32.3, eff. 2-28-80]

NAC 459.466 “Light field” defined. ([NRS 459.201](#)) “Light field” means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

[Bd. of Health, Radiation Control Reg. § 6.2.33, eff. 2-28-80]

NAC 459.468 “Maximum line current” defined. ([NRS 459.201](#)) “Maximum line current” means the root mean square (rms) current in the supply line of an X-ray machine operating at its maximum rating.

[Bd. of Health, Radiation Control Reg. § 6.2.34, eff. 2-28-80]

NAC 459.470 “Mobile equipment” defined. ([NRS 459.201](#)) “Mobile equipment” means X-ray equipment mounted on a permanent base with wheels or castors for movement while completely assembled.

[Bd. of Health, Radiation Control Reg. § 6.2.35, eff. 2-28-80]

NAC 459.472 “Peak tube potential” defined. ([NRS 459.201](#)) “Peak tube potential” means the maximum value of the potential difference across the X-ray tube during an exposure.

[Bd. of Health, Radiation Control Reg. § 6.2.36, eff. 2-28-80]

NAC 459.474 “Phototimer” defined. ([NRS 459.201](#)) “Phototimer” means a method for controlling radiation exposure to image receptors by the amount of radiation which reaches a radiation monitoring device or devices. The radiation monitoring device or devices are part of an electronic circuit which controls the duration of time the tube is activated.

[Bd. of Health, Radiation Control Reg. § 6.2.37, eff. 2-28-80]

NAC 459.476 “Portable equipment” defined. ([NRS 459.201](#)) “Portable equipment” means X-ray equipment designed to be hand carried.

[Bd. of Health, Radiation Control Reg. § 6.2.38, eff. 2-28-80]

NAC 459.478 “Position indicating device” defined. ([NRS 459.201](#)) “Position indicating device” means a device on dental X-ray equipment used to indicate the beam position and to establish a definite source-surface or skin distance. It may or may not incorporate or serve as a beam-limiting device.

[Bd. of Health, Radiation Control Reg. § 6.2.39, eff. 2-28-80]

NAC 459.480 “Primary protective barrier” defined. ([NRS 459.201](#)) “Primary protective barrier” means the material, excluding filters, placed in the useful beam, for protection purposes, to reduce the radiation exposure.

[Bd. of Health, Radiation Control Reg. § 6.2.41.1, eff. 2-28-80]

NAC 459.482 “Protective apron” defined. ([NRS 459.201](#)) “Protective apron” means an apron made of radiation absorbing materials, used to reduce radiation exposure.

[Bd. of Health, Radiation Control Reg. § 6.2.40, eff. 2-28-80]

NAC 459.484 “Protective barrier” defined. ([NRS 459.201](#)) “Protective barrier” means a barrier of radiation absorbing material or materials used to reduce radiation exposure.

[Bd. of Health, Radiation Control Reg. § 6.2.41, eff. 2-28-80]

NAC 459.486 “Protective glove” defined. ([NRS 459.201](#)) “Protective glove” means a glove made of radiation absorbing materials used to reduce radiation exposure.

[Bd. of Health, Radiation Control Reg. § 6.2.42, eff. 2-28-80]

NAC 459.488 “Qualified expert” defined. ([NRS 459.201](#)) “Qualified expert” means a person who has demonstrated to the satisfaction of the Division that he possesses the knowledge and training to measure ionizing radiation, to evaluate safety techniques and to advise regarding radiation protection needs.

[Bd. of Health, Radiation Control Reg. § 6.2.43, eff. 2-28-80]

NAC 459.490 “Radiograph” defined. ([NRS 459.201](#)) “Radiograph” means an image receptor on which the image is created directly or indirectly by an X-ray pattern and results in a permanent record.

[Bd. of Health, Radiation Control Reg. § 6.2.44, eff. 2-28-80]

NAC 459.492 “Radiographic imaging system” defined. ([NRS 459.201](#)) “Radiographic imaging system” means any system in which a permanent or semipermanent image is recorded on an image receptor by the action of ionizing radiation.

[Bd. of Health, Radiation Control Reg. § 6.2.45, eff. 2-28-80]

NAC 459.494 “Rating” defined. ([NRS 459.201](#)) “Rating” means the operating limits specified by the component manufacturer.

[Bd. of Health, Radiation Control Reg. § 6.2.46, eff. 2-28-80]

NAC 459.496 “Recording” defined. ([NRS 459.201](#)) “Recording” means producing a permanent form of an image resulting from X-ray photons, for example, a film or videotape.

[Bd. of Health, Radiation Control Reg. § 6.2.47, eff. 2-28-80]

NAC 459.500 “Response time” defined. ([NRS 459.201](#)) “Response time” means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero sufficient to provide a steady state midscale reading.

[Bd. of Health, Radiation Control Reg. § 6.2.49, eff. 2-28-80]

NAC 459.502 “Scattered radiation” defined. ([NRS 459.201](#)) “Scattered radiation” means radiation that, during passage through matter, has been deviated in direction.

[Bd. of Health, Radiation Control Reg. § 6.2.50, eff. 2-28-80]

NAC 459.504 “Secondary protective barrier” defined. ([NRS 459.201](#)) “Secondary protective barrier” means a barrier sufficient to attenuate the stray radiation to the required degree.

[Bd. of Health, Radiation Control Reg. § 6.2.41.2, eff. 2-28-80]

NAC 459.506 “Source” defined. ([NRS 459.201](#)) “Source” means the focal spot of the X-ray tube.

[Bd. of Health, Radiation Control Reg. § 6.2.51, eff. 2-28-80]

NAC 459.508 “Source-image receptor distance” defined. ([NRS 459.201](#)) “Source-image receptor distance” means the distance from the source to the center of the input surface of the image receptor.

[Bd. of Health, Radiation Control Reg. § 6.2.52, eff. 2-28-80]

NAC 459.510 “Spot film” defined. ([NRS 459.201](#)) “Spot film” means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

[Bd. of Health, Radiation Control Reg. § 6.2.53, eff. 2-28-80]

NAC 459.512 “Stationary equipment” defined. ([NRS 459.201](#)) “Stationary equipment” means X-ray equipment which is installed in a fixed location.

[Bd. of Health, Radiation Control Reg. § 6.2.54, eff. 2-28-80]

NAC 459.514 “Stray radiation” defined. ([NRS 459.201](#)) “Stray radiation” means the sum of leakage and scattered radiation.

[Bd. of Health, Radiation Control Reg. § 6.2.55, eff. 2-28-80]

NAC 459.516 “Technique factors” defined. ([NRS 459.201](#)) “Technique factors” means the conditions of operation. They are specified as follows:

1. For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs.
2. For field emission equipment rated for pulsed operation, peak tube potential in kV and number of X-ray pulses.
3. For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

[Bd. of Health, Radiation Control Reg. §§ 6.2.56-6.2.56.3, eff. 2-28-80]

NAC 459.518 “Therapeutic-type protective tube housing” defined. ([NRS 459.201](#)) “Therapeutic-type protective tube housing” means the tube housing with tube installed and it includes high voltage or filament transformers, or both, and other appropriate elements when they are contained within that housing.

[Bd. of Health, Radiation Control Reg. § 6.2.57, eff. 2-28-80]

NAC 459.520 “Transportable equipment” defined. ([NRS 459.201](#)) “Transportable equipment” means X-ray equipment installed in a vehicle or trailer.

[Bd. of Health, Radiation Control Reg. § 6.2.58, eff. 2-28-80]

NAC 459.522 “Tube” defined. ([NRS 459.201](#)) “Tube” means an X-ray tube, unless otherwise specified.

[Bd. of Health, Radiation Control Reg. § 6.2.59, eff. 2-28-80]

NAC 459.524 “Tube housing assembly” defined. ([NRS 459.201](#)) “Tube housing assembly” means the tube housing with tube installed. It includes high-voltage or filament transformers, or both, and other appropriate elements when they are contained within the tube housing.

[Bd. of Health, Radiation Control Reg. § 6.2.60, eff. 2-28-80]

NAC 459.526 “Tube rating chart” defined. ([NRS 459.201](#)) “Tube rating chart” means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

[Bd. of Health, Radiation Control Reg. § 6.2.61, eff. 2-28-80]

NAC 459.528 “Useful beam” defined. ([NRS 459.201](#)) “Useful beam” means the radiation which passes through the tube housing port and the aperture of the beam-limiting device when the exposure switch or timer is activated.

[Bd. of Health, Radiation Control Reg. § 6.2.62, eff. 2-28-80]

NAC 459.530 “Variable aperture beam-limiting device” defined. ([NRS 459.201](#)) “Variable aperture beam-limiting device” means a beam-limiting device which has capacity for stepless adjustment of the X-ray field size at a given source-image receptor distance.

[Bd. of Health, Radiation Control Reg. § 6.2.63, eff. 2-28-80]

NAC 459.532 “Visible area” defined. ([NRS 459.201](#)) “Visible area” means that portion of the input surface of the image receptor over which incident X-ray photons produce a visible image.

[Bd. of Health, Radiation Control Reg. § 6.2.64, eff. 2-28-80]

NAC 459.534 “X-ray control” defined. ([NRS 459.201](#)) “X-ray control” means a device which controls input power to the X-ray high-voltage generator or the X-ray tube. It includes equipment which controls the technique factors of an X-ray exposure.

[Bd. of Health, Radiation Control Reg. § 6.2.65, eff. 2-28-80]

NAC 459.536 “X-ray equipment” defined. ([NRS 459.201](#)) “X-ray equipment” means an X-ray system, subsystem or component. This term includes mobile, portable, stationary and transportable X-ray equipment.

[Bd. of Health, Radiation Control Reg. § 6.2.66, eff. 2-28-80]

NAC 459.538 “X-ray field” defined. ([NRS 459.201](#)) “X-ray field” means the area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

[Bd. of Health, Radiation Control Reg. § 6.2.67, eff. 2-28-80]

NAC 459.540 “X-ray high-voltage generator” defined. ([NRS 459.201](#)) “X-ray high-voltage generator” means a device which transforms electrical energy from the potential supplied by the X-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the X-ray tube or tubes, high-voltage switches, electrical protective devices and other appropriate elements.

[Bd. of Health, Radiation Control Reg. § 6.2.68, eff. 2-28-80]

NAC 459.542 “X-ray system” defined. ([NRS 459.201](#)) “X-ray system” means an assemblage of components for the controlled production of X rays. It includes minimally an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

[Bd. of Health, Radiation Control Reg. § 6.2.69, eff. 2-28-80]

NAC 459.544 “X-ray subsystem” defined. ([NRS 459.201](#)) “X-ray subsystem” means any combination of two or more components of an X-ray system for which there are requirements specified in [NAC 459.400](#) to [459.624](#), inclusive.

[Bd. of Health, Radiation Control Reg. § 6.2.70, eff. 2-28-80]

NAC 459.546 “X-ray tube” defined. ([NRS 459.201](#)) “X-ray tube” means any electron tube which is designed for the conversion of electrical energy into X-radiation.

[Bd. of Health, Radiation Control Reg. § 6.2.71, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.550 Scope. ([NRS 459.201](#)) [NAC 459.400](#) to [459.624](#), inclusive, establishes requirements, binding upon registrants, for use of X-ray equipment by prescription from or under the supervision of a person authorized by and licensed in accordance with state statutes to engage in the healing arts or veterinary medicine. Those sections are in addition to other applicable provisions of [NAC 459.010](#) to [459.794](#), inclusive.

[Bd. of Health, Radiation Control Reg. § 6.1, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.552 Administrative controls: Direction of operation by registrants. ([NRS 459.201](#))

1. The registrant is responsible for the operation of the X-ray machines which he has registered with the Division. He shall ensure that the provisions of [NAC 459.400](#) to [459.624](#), inclusive, are met in the operation of the X-ray machine or machines.

2. An X-ray system which does not meet the provisions of [NAC 459.400](#) to [459.624](#), inclusive, must not be operated for diagnostic or therapeutic purposes if the Division prohibits such operation.

3. Persons who will be operating the X-ray system must be adequately instructed in the safe operating procedures and be competent in the safe use of the equipment.

4. In the vicinity of each control panel for an X-ray system a chart must be provided, which specifies for all examinations which are performed by that system a listing of information, including but not limited to the following, for each projection within that examination:

- (a) Patient’s anatomical size versus technique factors to be utilized;
- (b) Type of and size of the film or film-screen combination to be used;
- (c) Type of grid to be used, if any, and focal distance;
- (d) Source to image receptor distance to be used; and
- (e) Type and location of placement of gonadal shielding to be used.

5. Written safety procedures and rules must be provided to each person operating X-ray equipment, including any restrictions of the operating technique required for the safe operation of the particular X-ray system. The operator must be able to demonstrate familiarity with these rules.

[Bd. of Health, Radiation Control Reg. §§ 6.3-6.3.1.1.4, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.554 Administrative controls: Radiographic exposure. (NRS 459.201)

1. Except for patients who cannot be moved out of the room, only the staff and ancillary personnel required for the medical procedure or training may be in the room during the radiographic exposure. Other than the patient being examined:

(a) All persons must be positioned so that no part of the body which is not protected by 0.5 mm lead equivalent will be struck by the useful beam.

(b) Staff and ancillary personnel must be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent.

(c) A patient who cannot be removed from the room must be protected from the direct scatter radiation by a whole body protective barrier of 0.25 mm lead equivalent or be so positioned that the nearest portion of the body is at least 2 meters from both the tube head and the nearest edge of the image receptor.

(d) When a portion of the body of any member of the staff or ancillary personnel is potentially subjected to stray radiation which could result in his receiving 10 percent of the maximum permissible dose, as defined in [NAC 459.320](#) to [459.374](#), inclusive, additional protective devices must be employed.

2. Gonadal shielding of not less than 0.25 mm lead equivalent must be used for potentially procreative patients during radiographic procedures in which the gonads are in the direct or useful beam, except for cases in which this would interfere with the diagnostic procedure.

3. Persons must not be exposed to the useful beam except for the purposes of the healing arts where each exposure has been authorized by a licensed practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(a) Exposure of a person for training, demonstration or other purposes unless there are also healing arts requirements and proper prescription has been provided.

(b) Exposure of a person for the purpose of healing arts screening without prior written approval of the Division. Screening means an exposure of a person without a prior examination by a licensed practitioner.

4. When a patient or film must be provided with auxiliary support during a radiation exposure:

(a) Mechanical holding devices must be used when the technique permits. The safety rules, required by [NAC 459.552](#) to [459.558](#), inclusive, must include individual protections where holding devices cannot be utilized;

(b) Written safety procedures required by subsection 5 of [NAC 459.552](#) must indicate the requirements for selecting a holder and include the procedure the holder must follow;

(c) The human holder must be protected as required by subsection 1;

(d) No person may be used routinely to hold film or patients;

(e) In those cases where the patient must hold the film, except during intraoral examinations, any portion of the body other than the area of clinical interest struck by the useful beam must be protected by not less than 0.5 mm lead equivalent material; and

(f) Such holding is permitted only in very unusual and rare situations.

[Bd. of Health, Radiation Control Reg. §§ 6.3.1.1.5-6.3.1.1.8.6, eff. 2-28-80]—(NAC A 1-18-94; R085-06, 11-13-2006)

NAC 459.556 Administrative controls: Minimum exposure techniques. (NRS 459.201) Procedures and auxiliary equipment designed to minimize exposure to the patient and personnel commensurate with obtaining the needed diagnostic information must be utilized, including the following:

1. The speed of film or screen and film combinations must be the fastest speed consistent with the diagnostic objective of the examination;

2. The radiation exposure to the patient must be the minimum exposure required to produce images of good diagnostic quality; and

3. Portable or mobile equipment may be used only for examinations where it is impractical to transfer the patient to a stationary radiographic installation.

[Bd. of Health, Radiation Control Reg. §§ 6.3.1.1.9-6.3.1.1.9.3, eff. 2-28-80]

NAC 459.558 Personnel monitoring. (NRS 459.201) All persons who are associated with the operation of an X-ray system are subject to the occupational exposure limits and the requirements for the determination of the doses which are stated in [NAC 459.325](#) and [459.365](#). When protective clothing or devices are worn on portions of the body and a monitoring device or devices are required, at least one device must be utilized as follows:

1. When an apron is worn, the monitoring device must be worn at the collar outside the apron.

2. The dose to the whole body, based on the maximum dose attributed to any one critical organ, which are the

gonads, the blood forming organs, head and trunk or lens of the eye, must be recorded in the reports required by [NAC 459.3665](#). If more than one device is used and a record is made of the data, each dose must be identified with the area where the device was worn on the body.

Ⓔ Exposure of a personnel monitoring device to indicate deceptively a dose delivered to a person is prohibited. [Bd. of Health, Radiation Control Reg. §§ 6.3.1.1.10-6.3.1.1.-10.2, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.564 Diagnostic X-ray systems. ([NRS 459.201](#)) In addition to other requirements of [NAC 459.400](#) to [459.624](#), inclusive, all diagnostic X-ray systems must meet the following requirements:

1. The control panel containing the main power switch must bear the warning statement, legible and accessible to view: “WARNING: This X-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed.”
2. On battery-powered generators, visual means must be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.
3. The leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source must not exceed 100 milliroentgens in 1 hour when the X-ray tube is operated at its leakage technique factors. Compliance will be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.
4. The radiation emitted by a component other than the diagnostic source assembly must not exceed 2 milliroentgens in 1 hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled X-ray system under any conditions for which it was designed. Compliance will be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.
5. The requisites for quality of the beam are:
 - (a) The half-value layer of the useful beam for a given X-ray tube potential must not be less than the values shown in Table I. If it is necessary to determine the half-value layer at X-ray tube potential which is not listed in Table I, linear interpolation or extrapolation may be made.

TABLE I

Design operating range (Kilovolts peak)	Measured potential (Kilovolts peak)	Half-value layer (Millimeters of aluminum)
Below.....	30	0.3
	40	0.4
	49	0.5
50 to 70.....	50	1.2
	60	1.3
	70	1.5
Above 70.....	71	2.1
	80	2.3
	90	2.5
	100	2.7
	110	3.0
	120	3.2
	130	3.5
	140	3.8
	150	4.1

(b) The half-value layer criteria will have been met if it can be demonstrated that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in Table II.

TABLE II

Filtration Required vs. Operating Voltage

Operating Voltage (kVp)	Total Filtration (inherent plus added) (millimeters aluminum equivalent)
Below 50.....	0.5 millimeters
50-70.....	1.5 millimeters
Above 70.....	2.5 millimeters

(c) Beryllium window tubes must have a minimum of 0.5 mm aluminum equivalent filtration permanently mounted in the useful beam.

(d) For capacitor energy storage equipment, compliance will be determined with the maximum quantity of charge per exposure.

(e) The required minimal aluminum equivalent filtration must include the filtration contributed by all materials which are always present between the focal spot of the tube and the patient, for example, a tabletop when the tube is mounted under the table and inherent filtration of the tube.

6. Where two or more radiographic tubes are controlled by one exposure switch, the tube or tubes which have been selected must be clearly indicated before initiation of the exposure. This indication must be on the X-ray control.

7. The tube housing assembly supports must be adjusted so that the tube housing assembly will remain stable during an exposure unless the tube housing movement is a designed function of the X-ray system.

8. The technique factors to be used during an exposure must be indicated before the exposure begins. If automatic exposure controls are used, the technique factors which are set before the exposure must be indicated. On equipment having fixed technique factors, this requirement may be met by permanent markings. Indication of technique factors must be visible from the operator's position except in the case of spot films made by the fluoroscopist.

[Bd. of Health, Radiation Control Reg. §§ 6.4-6.4.8.2, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.566 Fluoroscopic X-ray systems: Limitation of useful beam; spot filming. ([NRS 459.201](#)) All fluoroscopic X-ray systems must meet the following requirements:

1. The fluoroscopic tube must not produce X rays unless the primary protective barrier is in position to intercept the entire useful beam at all times.

2. The entire cross section of the useful beam must be intercepted by the primary protective barrier of the fluoroscopic image assembly at any source-image receptor distance.

3. The X-ray field produced by fluoroscopic equipment without image intensification must not extend beyond the entire visible area of the image receptor. This requirement applies to field size during both fluoroscopic procedures and spot-filming procedures.

4. During fluoroscopic or spot-filming procedures, neither the length nor the width of the X-ray field in the plane of the image receptor may exceed the visible area of the image receptor by more than 3 percent of the source-image receptor distance. The sum of the excess length and the excess width must be no greater than 4 percent of the source-image receptor distance.

5. Compliance will be determined with the beam axis perpendicular to the image receptor. For rectangular X-ray fields used with circular image reception, the error in alignment will be determined along the length and width dimensions of the X-ray field which pass through the center of the visible area of the image receptor.

6. In addition to other requirements of [NAC 459.400](#) to [459.624](#), inclusive, for new equipment installed after February 28, 1980:

(a) A means must be provided between the source and the patient for adjustment of the X-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot-film selector. Such an adjustment must be automatically accomplished except when the X-ray field size in the plane of the film is smaller than that of the selected portion of the film.

(b) It must be possible to adjust the X-ray field size in the plane of the film to a size smaller than the selected position of the film. The minimum field size at the greatest source-image receptor distance must be equal to or less than 5 by 5 centimeters.

(c) The center of the X-ray field in the plane of the film must be aligned with the center of the selected portion of the film to within 2 percent of the source-image receptor distance.

[Bd. of Health, Radiation Control Reg. §§ 6.5-6.5.1.3.3.3, eff. 2-28-80]

NAC 459.568 Fluoroscopic X-ray systems: Activation of the tube. ([NRS 459.201](#)) X-ray production in the fluoroscopic mode must be controlled by a device which requires continuous pressure by the fluoroscopist for the entire time of any exposure. When recording serial fluoroscopic images, the fluoroscopist must be able to terminate the X-ray exposure at any time, but means may be provided to permit completion of any single exposure of the series in process.

[Bd. of Health, Radiation Control Reg. § 6.5.2, eff. 2-28-80]

NAC 459.570 Fluoroscopic X-ray systems: Exposure rate limits. ([NRS 459.030](#), [459.201](#))

1. The exposure measured at the point where the center of the useful beam enters the patient must not exceed 10 roentgens (100 millisieverts) per minute, except during recording of fluoroscopic images or when provided with optional high level control.

2. When provided with optional high level control, the equipment must not be operable at any combination of tube potential and current which will result in an exposure rate, measured at the point where the center of the useful beam enters the patient, in excess of:

(a) Five roentgens (50 millisieverts) per minute if the high level control is not activated; and

(b) Twenty roentgens (200 millisieverts) per minute if the high level control is activated and the unit was manufactured on or after May 19, 1995.

È Special means of activation of high level controls, such as additional pressure applied continuously by the operator, will be required to avoid accidental use. A continuous signal audible to the fluoroscopist must indicate activation and use of the high level control.

3. Any new equipment installed after February 28, 1980, which does not incorporate an automatic exposure control, for example, an automatic brightness control or ionization chamber control, must not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 5 roentgens (50 millisieverts) per minute at the point where the center of beam enters the patient except during recording of fluoroscopic images or when provided with an optional high level control.

4. Compliance with this section is determined as follows:

(a) If the source is below the table, exposure rate must be measured 1 centimeter above the tabletop or cradle.

(b) If the source is above the table, the exposure rate must be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(c) In a C-arm type of fluoroscope, the exposure rate must be measured 30 centimeters from the input surface of the fluoroscopic imaging assembly.

(d) In a miniature C-arm type of fluoroscope, the exposure rate must be measured with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(e) In a lateral type of fluoroscope, the exposure rate must be measured at a point 15 centimeters from the centerline of the tabletop and in the direction of the X-ray source, with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it must be positioned as closely as possible to the lateral X-ray source.

5. Periodic measurements of the exposure rate must be made annually or after any maintenance of the system which might affect the exposure rate. If the equipment is provided with optional high level control, measurements of the exposure rates must be made both with and without the high level control activated.

6. Results of these measurements must be made available at a place where any fluoroscopist will have ready access to them while using that fluoroscope. Results of the measurements must include the maximum possible r/minute, as well as the physical factors used to determine all data, the name of the person performing the

measurements and the date the measurements were performed.

7. Use of monitoring devices, for example, commercially available film badges, thermoluminescence dosimeters or low energy dosimeters, may be used to perform the test if the measurements are made as in subsection 8.

8. The measurement must be made under the conditions that satisfy the requirements of subsection 4:

(a) The kVp must be the peak kV that the X-ray system is capable of producing;

(b) If determining the maximum dose rate below 5 roentgens (50 millisieverts) per minute, the high level control, if present, must not be activated;

(c) The X-ray system that incorporates automatic exposure control, for example, automatic brightness control, must have sufficient material, for example, lead or lead equivalent, placed in the useful beam to produce the maximum radiation output of the X-ray system; and

(d) The X-ray system that does not incorporate automatic exposure control must utilize the maximum milliamperage of the X-ray system. The material, for example, an attenuation block, must be placed in the useful beam to protect the imaging system.

[Bd. of Health, Radiation Control Reg. §§ 6.5.3-6.5.3.1.5.4.5, eff. 2-28-80]—(NAC A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.572 Fluoroscopic X-ray systems: Barrier-rate limits. ([NRS 459.201](#))

1. The exposure rate resulting from transmission through the primary protective barrier with the attenuation block in the useful beam, combined with radiation from the image intensifier, if provided, must not exceed 2 milliroentgens per hour at 10 centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor for each roentgen per minute of entrance exposure rate.

2. The exposure rate due to transmission through the primary protective barrier combined with radiation from the image intensifier must be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

3. If the source is below the tabletop, the measurement must be made with the input surface of the fluoroscopic imaging assembly positioned 30 centimeters above the tabletop.

4. If the source is above the tabletop and the source-image receptor distance is variable, the measurement must be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, but it must not be closer than 30 centimeters.

5. The attenuation block must be positioned in useful beam 10 centimeters from the point of measurement of entrance exposure rate and between this point and the input surface of the fluoroscopic imaging assembly.

[Bd. of Health, Radiation Control Reg. §§ 6.5.4-6.5.4.2.4, eff. 2-28-80]

NAC 459.574 Fluoroscopic X-ray systems: Indication of potential and current; source-skin distance; exceptions for fluoroscopy imaging system. ([NRS 459.030](#), [459.201](#))

1. During fluoroscopy and cinefluorography, X-ray tube potential and current must be continuously indicated.

2. Except as otherwise provided in subsection 3, the source to skin distance must not be less than:

(a) Thirty-eight centimeters on stationary fluoroscopes installed after February 28, 1980;

(b) Thirty-five and five-tenths centimeters on stationary fluoroscopes which are in operation before February 28, 1980;

(c) Thirty centimeters on all mobile fluoroscopes; and

(d) Twenty centimeters for image intensified fluoroscopes used for specific surgical application. The users' operating manual must provide precautionary measures to be followed during the use of this device.

3. A fluoroscopy imaging system, including a small format type and miniature C-arm type, used to perform low power, X-ray image intensified fluoroscopy on extremities must:

(a) Be operated only by a licensed practitioner of the healing arts.

(b) Possess a positive, nonremovable means to ensure a source-skin distance during operation of not less than 9 centimeters, unless a different distance is approved by the Food and Drug Administration.

(c) Be clearly labeled as for use only on extremities.

(d) Bear a certification label that includes:

(1) The statement "This product is in conformity with the performance standards for diagnostic X-ray systems and their major components set forth in 21 C.F.R. § 1020"; and

(2) If the Food and Drug Administration grants a variance from any performance standards for diagnostic X-ray systems and their major components set forth in 21 C.F.R. § 1020, a statement of the variance and the identification number assigned to the variance by the Food and Drug Administration.

(e) Include an operating manual that contains:

- (1) Any special instructions that may be necessary because of the unique features of the system, including, without limitation, special instructions concerning exposure rates, safety procedures and precautions; and
- (2) Recommended machine settings for representative sample fluoroscopic examinations for which the system is designed, including data on skin and tabletop exposures resulting from these settings.

[Bd. of Health, Radiation Control Reg. §§ 6.5.5-6.5.6.4, eff. 2-28-80]—(NAC A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.576 Fluoroscopic X-ray systems: Fluoroscopic timer; mobile fluoroscopes. ([NRS 459.201](#))

1. A means must be provided to preset the cumulative on-time of the fluoroscopic tube. The maximum cumulative time of the timing device must not exceed 5 minutes without resetting.
 2. A signal audible to the fluoroscopist must indicate the completion of any preset cumulative on-time. Such a signal must continue to sound while X rays are produced until the timing device is reset. In addition to the other requirements of [NAC 459.566](#) to [459.578](#), inclusive, mobile fluoroscopes must provide image intensification.
- [Bd. of Health, Radiation Control Reg. §§ 6.5.7-6.5.8, eff. 2-28-80]

NAC 459.578 Fluoroscopic X-ray systems: Control of scattered radiation. ([NRS 459.201](#))

1. Fluoroscopic table designs when combined with procedures utilized, must be such that no unprotected part of any staff or ancillary person's body will be exposed to unattenuated scattered radiation which originates from under the table. The attenuation required must be not less than 0.25 mm lead equivalent.
 2. Equipment configuration, when combined with procedures, must be such that no portion of any staff or ancillary person's body, except the extremities, are exposed to the unattenuated scatter radiation emanating from above the tabletop unless the person:
 - (a) Is at least 120 cm from the center of the useful beam; or
 - (b) The radiation has passed through not less than 0.25 mm lead equivalent material, for example, drapes, Bucky-slot cover, sliding or folding panel or self-supporting curtains, in addition to any lead equivalency provided by the protective apron referred to in subsection 1 of [NAC 459.554](#).
 3. Upon application to the Division with adequate justification, exceptions to subsection 2 may be made in some special procedures where a sterile field will not permit the use of the normal protective barriers or where the protective barriers would interfere with the procedures.
- [Bd. of Health, Radiation Control Reg. §§ 6.5.9-6.5.9.2.3, eff. 2-28-80]

NAC 459.580 Intraoral dental radiographic systems. ([NRS 459.201](#))

1. In addition to the provisions of [NAC 459.552](#) to [459.558](#), inclusive, and [459.564](#), these requirements apply to X-ray equipment and associated facilities used for dental radiography. The criteria for extraoral dental radiographic systems are covered in [NAC 459.616](#) to [459.624](#), inclusive.
2. X-ray systems designed for use with an intraoral image receptor must be provided with means to limit source-to-skin distance of not less than:
 - (a) Eighteen centimeters if operable above 50 kilovolts peak; or
 - (b) Ten centimeters if not operable above 50 kilovolts peak.
3. Radiographic systems which are designed for use with an intraoral image receptor must be provided with means to limit the X-ray beam so that:
 - (a) If the minimum source-to-skin distance is 18 centimeters or more, the X-ray field at the minimum source-to-skin distance is containable in a circle having a diameter of no more than 7 centimeters; and
 - (b) If the minimum source-to-skin distance is less than 18 centimeters, the X-ray field at the minimum source-to-skin distance is containable in a circle having a diameter of no more than 6 centimeters.
4. A means must be provided to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor. In addition:
 - (a) Termination of exposure must cause automatic resetting of the timer to its initial setting or to zero; and
 - (b) It must not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.
5. When four timer tests taken at identical timer settings equal 0.5 seconds or less, the average time period (T) must be greater than or equal to five times the difference between the maximum period (T max) and the minimum period (T min) in accordance with the formula: $T \geq 5(T_{max} - T_{min})$.
6. All timers must be accurate to within ± 20 percent of the selected value.

7. A control must be incorporated into each X-ray system so that an exposure can be terminated at any time, except for exposures of one-half second or less. The control switch must be of the dead-man type.
 8. Each X-ray control must be located to meet the following criteria:
 - (a) Each installation must be provided with a protective barrier for the operator or must be so arranged that the operator can stand at least 6 feet from the patient and well away from the useful beam; and
 - (b) The X-ray control must provide visual indication observable at or from the operator's protected position whenever X rays are produced. In addition, a signal audible to the operator must indicate that the exposure has terminated.
 9. The exposure produced must be reproducible to within the following criteria: When all technique factors are held constant, the coefficient of variation must not exceed 0.10. This requirement is met if, when four exposures at identical technique factors are made, the value of the average exposure (E) is greater than or equal to five times the difference between the maximum exposure (E max) and the minimum exposure (E min) in accordance with the formula: $E \geq 5 (E_{\max} - E_{\min})$.
 10. Patient and film holding devices must be used when the techniques permit.
 11. Neither the tube housing nor the position indicating device may be handheld during an exposure.
 12. The X-ray system must be arranged and operated in such a manner that the useful beam at the patient's skin does not exceed the dimensions specified in subsection 3.
 13. Dental fluoroscopy without image intensification must not be used.
 14. Each patient undergoing dental radiography must be draped with a protective apron of not less than 0.25 millimeters lead-equivalent to cover the gonadal area.
- [Bd. of Health, Radiation Control Reg. §§ 6.7-6.7.6.5, eff. 2-28-80]

NAC 459.582 Therapeutic X-ray systems: Leakage radiation; diaphragms and beam-limiting devices. ([NRS 459.201](#))

1. When the tube is operated at its leakage technique factors, the leakage radiation must not exceed the value specified at the distance specified for the classification of that X-ray system.
 2. For systems of contact therapy, leakage radiation must not exceed 100 mR/hr at 5 centimeters from the tube housing and must meet the following standards:
 - (a) In 0-150 kVp systems which are manufactured or installed prior to February 28, 1980, the leakage radiation must not exceed 1 R in 1 hour at 1 meter from the source.
 - (b) In 0-150 kVp systems which are manufactured on or after February 28, 1980, the leakage radiation must not exceed 100 mR in 1 hour at 1 meter from the source.
 - (c) In 151 to 999 kVp systems, the leakage radiation must not exceed 1 R in 1 hour at 1 meter from the source except systems that operate in excess of 500 kVp may have a leakage radiation at 1 meter from the source equivalent to the useful beam multiplied by a factor of 0.001.
 3. Permanent fixed diaphragms or cones used for collimating the useful beam must provide the same degree of protection as required by the tube housing assembly.
 4. Removable beam-limiting devices such as diaphragms or cones must, for the portion of the useful beam to be blocked by these devices, transmit not more than 1 percent of the original X-ray beam at the maximum kilovoltage and maximum treatment filter.
 5. Adjustable beam-limiting devices installed after February 28, 1980, must meet the criteria of subsection 4.
 6. Adjustable beam-limiting devices installed before February 28, 1980, must, for the portion of the X-ray beam to be blocked by these devices, transmit not more than 5 percent of the original X-ray beam at the maximum kilovoltage and maximum treatment filter.
- [Bd. of Health, Radiation Control Reg. §§ 6.8-6.8.1.3.3, eff. 2-28-80]

NAC 459.584 Therapeutic X-ray systems: Filter systems, tube housing. ([NRS 459.201](#))

1. The filter system must be designed so that:
 - (a) Filters cannot be accidentally displaced from the useful beam at any possible tube orientation.
 - (b) Each filter is marked as to its material of construction and its thickness or wedge angle for wedge filters. The filters must be individually distinguishable.
 - (c) The operator must be able to determine the presence or absence of each filter and the orientation of each wedge filter in the useful beam when he is at his position at the control panel either by display at the control panel or by direct observation.
 - (d) The filters and filter insertion slot opening must be so designed that the radiation at 5 cm from the filter insertion slot opening does not exceed 30 roentgens per hour under all operating conditions.

(e) Each machine equipped with a beryllium or other low filtration window must be clearly labeled as such upon the tube head housing and upon the control panel.

2. The tube housing assembly must be immobilized during stationary treatments.
 3. The tube housing assembly must be marked so that it is possible to determine the location of the focal spot to within 5 millimeters and the marking must be readily accessible for use during calibration procedures.
 4. Contact therapy tube housing assemblies must have a removable shield of 0.5 mm lead equivalency at 100 kVp that must be positioned over the entire useful beam exit port during periods when the beam is not in use.
- [Bd. of Health, Radiation Control Reg. §§ 6.8.1.4-6.8.1.7, eff. 2-28-80]

NAC 459.586 Therapeutic X-ray systems: Beam monitor. (NRS 459.201) Equipment installed after February 28, 1980, of greater than 150 kVp must be provided with a beam monitor system as follows:

1. It must include a transmission detector which is a full beam detector and which is placed on the patient side of any fixed added filters other than a wedge filter;
2. It must have the detector interlocked to prevent incorrect positioning in the useful beam;
3. It must have a display at the control panel from whose reading in dose monitor units the absorbed dose at a reference point in the treatment volume can be calculated;
4. The control panel display must maintain the reading until intentionally reset to zero;
5. In the event of electrical power failure the reading at the control panel display must be recoverable at a later time;
6. Irradiation may be allowed only after a selection of a number of dose monitor units has been made at the treatment control panel;
7. It must be capable of independently terminating irradiation when a preselected number of dose monitor units has been reached; and
8. The control panel display must have only one scale, no scale multiplying factors, and be designed so that an increasing dose is displayed by increasing numbers and that in the event of an overdosage of radiation the absorbed dose may be accurately determined.

[Bd. of Health, Radiation Control Reg. §§ 6.8.1.8-6.8.1.8.8, eff. 2-28-80]

NAC 459.588 Therapeutic X-ray systems: Timer; control panel. (NRS 459.201)

1. A timer must be provided which has a display at the treatment control panel. The timer must have a preset timer selector and an elapsed time indicator.
2. The timer must be a cumulative timer which switches on and off with the radiation and retains its reading after irradiation is interrupted or terminated. It must be necessary to zero the elapsed time indicator and the preset time selector after irradiation is terminated.
3. The timer must terminate irradiation when a preselected time has elapsed.
4. The control panel must have:
 - (a) An indication of whether electrical power is present and activation of the X-ray tube is possible;
 - (b) An indication of whether X rays are being produced;
 - (c) The means for indicating kilovoltage and X-ray tube current;
 - (d) The means for terminating an exposure at any time;
 - (e) A locking device which will prevent unauthorized use of the X-ray system; and
 - (f) For new equipment installed after February 28, 1980, a positive display of specific filter or filters in the beam.
5. When a control panel may energize more than one X-ray tube:
 - (a) It must be possible to activate only one X-ray tube during any one time interval;
 - (b) There must be an indication at the control panel identifying which X-ray tube is energized; and
 - (c) There must be an indication at the X-ray tube housing assembly when that tubehead is energized.
6. There must be means of determining the target to patient distance to within 1 centimeter.
7. Unless it is possible to bring the X-ray output to the prescribed exposure parameters within 5 seconds, the entire useful beam must be attenuated by a shutter having a lead equivalency not less than that of the tube housing. In addition:
 - (a) After the unit is at the selected operating parameters, the shutter must be controlled electrically by the operator from the control panel; and
 - (b) An indication of shutter position must appear at the control panel.

[Bd. of Health, Radiation Control Reg. §§ 6.8.1.9-6.8.1.13.2, eff. 2-28-80]

NAC 459.590 Therapeutic X-ray systems: Requirements for design of treatment room. (NRS 459.201)

In addition to providing shielding adequate to meet the requirements of [NAC 459.320](#) to [459.374](#), inclusive, the design of the treatment room must meet the following requirements:

1. Treatment rooms to which access is possible through more than one entrance must be provided with warning lights in a readily observable position near the outside of all access doors, preferably at eye level, which will indicate when the useful beam is on.
 2. Provision must be made for two-way aural communication with the patient from the control room.
 3. Windows, mirror systems or closed-circuit television viewing screens or equivalent systems must be provided to permit continuous observation of the patient during irradiation and must be so located that the operator may see the patient and the control panel from the same position. When the viewing system is by electronic means, for example, television, an alternate viewing system must be available as a backup in case of electronic failure.
 4. Facilities which contain an X-ray system which may be operated above 150 kVp must:
 - (a) Have all necessary shielding, except for any beam interceptor, provided by fixed barriers;
 - (b) Have the control panel in a protected area which is outside the treatment room or within a protective booth which has a door electrically connected to the control panel so that X-ray production cannot occur unless the door is closed;
 - (c) Have all entrance doors of the treatment room electrically connected to the control panel so that X-ray production cannot occur unless all doors are closed;
 - (d) Be arranged so that if the doors referred to in paragraphs (b) and (c) are opened when the therapy tubehead is activated:
 - (1) The machine will shut off within 2 seconds; or
 - (2) The radiation at a distance of 1 meter from the target will be reduced to 10 mR/hr or less within 2 seconds; and
 - (e) Be so designed that if the radiation output of the tubehead is affected by any door opening, the machine can be restored to full operation only by:
 - (1) Closing the door; and
 - (2) Subsequently reinitiating the exposure by manual action at the control panel.
- [Bd. of Health, Radiation Control Reg. §§ 6.8.2-6.8.2.4.5.1, eff. 2-28-80]—(NAC A 4-27-84; 1-18-94)

NAC 459.592 Therapeutic X-ray systems: Surveys; calibration; operating procedures. (NRS 459.201)

1. All new facilities and existing facilities not previously surveyed must have a radiation protection survey made by, or under the direction of, a qualified expert. This survey must also be done after any change in the facility which might produce a radiation hazard. The expert shall report his findings, in writing, to the person in charge of the facility and a copy of the report must be transmitted by the registrant to the Division within 30 days.
2. The radiation output of each therapeutic X-ray machine must be calibrated by, or under the direction of, a qualified expert who is physically present at the facility during the calibration procedure. The calibration must be repeated after any change in, or replacement of, components of the X-ray generating equipment which could cause a change in X-ray output. Calibration of the therapy beam must be performed with a measuring instrument the calibration of which is directly traceable to national standards of exposure or absorbed dose and which has been calibrated within the preceding year. Records of the calibrations must be provided to and maintained by the registrant. In addition:
 - (a) Each therapeutic X-ray machine must have the calibrations repeated at time intervals not exceeding 1 year. The calibration must include at least the following determinations:
 - (1) The accurate determination of the air dose rate or the dose rate in a suitable phantom, as appropriate, for a sufficient number of operating parameters for each effective energy to permit the determination of the dose received by the patient;
 - (2) Verification that the equipment is operating in accordance with the design specifications concerning the congruence between the radiation field and light localizer, when a localizer is used, and for beam flatness and symmetry at the specified depths;
 - (3) The effective energy, for example, half-value layer when appropriate, for every combination of kVp and filter used for radiation therapy;
 - (4) The uniformity of the radiation field and its dependence upon the direction of the useful beam; and
 - (5) The calibration determinations must be provided in sufficient detail so that the absorbed dose in rads to tissue adjacent to, as well as in the useful beam, may be calculated to within ± 5 percent of the intended absorbed dose.

(b) Therapeutic X-ray systems capable of operation at greater than 150 kVp must, in addition to the annual calibration required in paragraph (a) have spot checks performed which meet the following criteria:

(1) A spot check must be made at least monthly or after 50 operating hours, whichever is shorter, and must include carefully selected representative or indicative measurements which will demonstrate the consistency of relevant machine operating characteristics or the lack of such characteristics.

(2) The spot-check methods must be in writing and have been designed by a qualified expert. Spot checks must include verification of continued congruency between the radiation field and localizing device where an optical field illuminator is used.

(3) Spot checks which are erratic or inconsistent with calibration data must be investigated promptly.

(4) For machines in which beam quality may vary significantly, spot checks must include beam quality checks.

(5) Whenever a spot check indicates a significant change, as specified in the qualified expert's spot check design, in the operating characteristics of a machine, the machine must be recalibrated as required in paragraph (a).

(6) A log must be kept of all spot-check measurements.

(c) In the therapeutic application of X-ray equipment constructed with beryllium or other low-filtration windows, the registrant must ensure that the unfiltered radiation reaches only the part intended and that the useful beam port is blocked at all times except when actually being used.

(d) Therapeutic X-ray machines must not be left unattended unless the locking device, required by paragraph (e) of subsection 4 of [NAC 459.588](#), is set to prevent activation of the useful beam.

(e) Except as provided in paragraph (f) of subsection 4 of [NAC 459.554](#), no person other than the patient may be in the treatment room during exposures unless he is protected by a barrier sufficient to meet the requirements of [NAC 459.325](#), and no person other than the patient may be in the treatment room when the kVp exceeds 150 during exposures except in emergency situations.

(f) The tube housing assembly must not be held by anyone during exposures.

(g) When a patient must be held in position for radiation therapy, mechanical restraining devices must be used. [Bd. of Health, Radiation Control Reg. §§ 6.8.3-6.8.3.2.7, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.594 X-ray and electron therapy installations: General requirements. ([NRS 459.201](#)) All of the provisions of [NAC 459.740](#) to [459.752](#), inclusive, except subsections 3 and 4 of [NAC 459.750](#), apply to medical facilities using medical therapy equipment with energies 1 MeV and above.

[Bd. of Health, Radiation Control Reg. § 6.9, eff. 2-28-80]

NAC 459.596 X-ray and electron therapy installations: Leakage radiation; beam-limiting devices. ([NRS 459.201](#))

1. For existing equipment and new equipment manufactured or installed after February 28, 1980:

(a) The leakage radiation, excluding neutrons, at a distance of 1 meter from the source must not exceed 0.1 percent of the useful beam dose rate at 1 meter from the source for any of its operating conditions.

(b) Within 1 year after February 28, 1980, the registrant must determine or obtain from the manufacturer for each machine the leakage radiation of electrons, X rays or neutrons, existing at the points specified in paragraph (a) of this subsection, for specified operating conditions. Records on radiation leakage must be maintained at the installation.

(c) The Division may by specific order impose upon any user of equipment from which neutron leakage may be a hazard such additional requirements as it deems appropriate or necessary to protect health or minimize danger to life or property.

2. Adjustable or interchangeable beam-limiting devices must be provided.

3. For existing equipment and new equipment manufactured or installed after February 28, 1980:

(a) Adjustable or interchangeable beam-limiting devices must attenuate the radiation incident on the beam-limiting devices so that the dose equivalent in rems at any distance from the source does not exceed 2 percent of the maximum dose equivalent in the useful beam measured at an equal distance from the radiation source.

(b) If the beam-limiting device does not meet the specifications in paragraph (a) of this subsection, the Division may accept auxiliary equipment or methods for accomplishing attenuation.

4. Dose equivalent measurements may be averaged over an area up to but not exceeding 100 cm² at a distance of 1 meter from the target. In case of overlapping beam-limiting devices, the leakage through each set must be measured independently.

[Bd. of Health, Radiation Control Reg. §§ 6.9.1-6.9.1.2.2, eff. 2-28-80]

NAC 459.598 X-ray and electron therapy installations: Filters; beam monitors. ([NRS 459.201](#))

1. In equipment which uses a system of wedge filters, interchangeable field flattening filters or beam scattering filters:
 - (a) Irradiation must not be possible until a selection of filter has been made at the treatment control panel;
 - (b) An interlock system must be provided to prevent irradiation if the filter is not in the correct position; and
 - (c) A display must be provided at the treatment control panel showing the filter, filters or zero filter in use.
2. Existing equipment and new equipment manufactured or installed after February 28, 1980, must be provided with at least one radiation detector in the radiation head. This detector must be incorporated into a primary system. Each detector:
 - (a) Must be capable of independently monitoring and controlling the useful beam; and
 - (b) Must form part of a dose monitoring system from whose readings in dose monitor units the absorbed dose at a reference point in the treatment volume can be calculated.
3. Each dose monitoring system must have a legible display at the treatment control panel which must:
 - (a) Maintain a reading until intentionally reset;
 - (b) In the event of power failure, have the capability of retrieving the information displayed at the time of failure; and
 - (c) Be designed so that increasing doses are displayed by increasing numbers and in any over-dosage of radiation the absorbed dose may be accurately determined.

[Bd. of Health, Radiation Control Reg. §§ 6.9.1.3-6.9.1.4.3.3, eff. 2-28-80]

NAC 459.600 X-ray and electron therapy installations: Dose monitors. ([NRS 459.201](#))

1. Irradiation must not be possible until a selection of a number of dose monitor units has been made at the treatment control panel.
2. After useful beam termination, it must be necessary to reset the preselected dose monitor units before treatment can be reinitiated.
3. The preselected number of dose monitor units must be displayed at the treatment control panel until reset for the next irradiation.
4. Each of the monitoring systems must be capable of independently terminating irradiation. Provisions must be made to test the correct operation of each system.
5. Each primary system must terminate irradiation when the preselected number of dose monitor units has been reached and each secondary system must be used as a backup.

[Bd. of Health, Radiation Control Reg. §§ 6.9.1.5-6.9.1.6.2, eff. 2-28-80]

NAC 459.602 X-ray and electron therapy installations: Switches; timers. ([NRS 459.201](#))

1. It must be possible to terminate irradiation and equipment movements or to go from an interruption condition to termination conditions at any time from the treatment control panel.
2. It must be possible to interrupt irradiation and equipment movements at any time from the treatment control panel. Following an interruption it must be possible to restart irradiation by operator action without any reselection of operating conditions.
3. A timer must be provided which has a display at the treatment control panel. The timer must have a preset time selector and an elapsed time indicator.
4. The timer must be a cumulative timer which switches on and off with the radiation and retains its reading after irradiation is interrupted or terminated. It must be necessary to zero and reset the elapsed time indicator and the preset time selector after irradiation is terminated before irradiation will again be possible.
5. To guard against failure of the dose monitoring systems, the timer must terminate irradiation when a preselected time has elapsed.

[Bd. of Health, Radiation Control Reg. §§ 6.9.1.7-6.9.1.9.3, eff. 2-28-80]

NAC 459.604 X-ray and electron therapy installations: Selections of radiation type, energy, and stationary or moving beam. ([NRS 459.201](#))

1. In equipment capable of both X-ray therapy and electron therapy:
 - (a) Irradiation must not be possible until a selection of radiation types, either X rays or electrons, has been made at the treatment control panel; and
 - (b) The radiation type selected must be displayed at the treatment control panel before and during irradiation.

2. In equipment capable of generating radiation beams of different energies:

(a) Irradiation must not be possible until a selection of energy has been made at the treatment control panel;

and

(b) The energy and type of irradiation selected, either X rays or electrons, must be displayed at the treatment control panel before and during irradiation.

3. In equipment capable of both stationary-beam therapy and moving-beam therapy:

(a) Irradiation must not be possible until a selection of stationary-beam therapy or moving-beam therapy has been made at the treatment control panel;

(b) Moving-beam therapy must be controlled so that the required dose monitor units per degree of rotation is obtained; and

(c) The mode of operation must be displayed at the treatment control panel.

[Bd. of Health, Radiation Control Reg. §§ 6.9.1.10-6.9.1.12.3, eff. 2-28-80]

NAC 459.606 X-ray and electron therapy installations: Focal spot; beam orientation; system checks. ([NRS 459.201](#))

1. The registrant must determine or obtain from the manufacturer the location with reference to an accessible point on the radiation head of:

(a) The X-ray target and the virtual source of X rays;

(b) The electron window or the scattering foil, or both; and

(c) All possible orientations of the useful beam.

2. Facilities must be provided so that all radiation safety interlocks can be checked. When preselection of any of the operating conditions requires action in the treatment room and at the treatment control panel, selection at one location must not give a display at the other location until the requisite selected operations in both locations have been completed.

[Bd. of Health, Radiation Control Reg. §§ 6.9.1.13-6.9.1.14, eff. 2-28-80]

NAC 459.608 X-ray and electron therapy installations: Shielding requirements. ([NRS 459.201](#))

Shielding must be adequate to meet the requirements of [NAC 459.320](#) to [459.374](#), inclusive. In addition, each of the following design requirements apply:

1. Except for entrance doors, all the required barriers must be fixed barriers.

2. The control panel must be located outside the treatment room or within a protective booth equipped with an interlocked door which is electrically connected to the control panel so that the door must be closed during radiation production.

3. Windows, mirror systems, closed-circuit television viewing screens or other equivalent viewing systems must be provided to permit continuous observation of the patient during irradiation and must be located so that the operator may see the patient and the control panel from the same position. When the viewing system is by electronic means, for example, television, an alternate viewing system must be provided for use in any failure of the primary system.

4. Provisions must be made for two-way aural communication with the patient from the control station.

5. Treatment rooms to which access is possible through more than one entrance must be provided with warning lights in a readily observable position near the outside of all access doors which will indicate when the useful beam is on.

6. Interlocks must be provided so that all entrance doors must be closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it must be possible to restore the machine to operation only by closing the door and subsequently reinitiating exposure by manual action at the control panel.

[Bd. of Health, Radiation Control Reg. §§ 6.9.2-6.9.2.6, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.610 X-ray and electron therapy installations: Surveys; operating procedure; calibration. ([NRS 459.201](#))

1. All new facilities and existing facilities not previously surveyed must have a survey of radiation protection made by, or under the direction of, a qualified expert. This survey must also be done after any change in the facility or equipment which might cause a significant increase in radiation hazard.

2. The expert must report his findings in writing to the person in charge of the facility, and a copy of the report must be transmitted by the registrant to the Division.

3. The survey and report must indicate all instances where, in the opinion of the qualified expert, the installation is in violation of any applicable regulation for protection against radiation and must cite the sections

violated.

4. No person other than the patient may be in the treatment room during treatment. When a patient must be held in position for radiation therapy, mechanical supporting or restraining devices must be used.

5. The output of each therapeutic X-ray machine must be calibrated by a qualified expert, before the machine is first used for medical purposes. Calibrations must be repeated at least once every 12 months and after any change which might significantly increase radiation hazards. Records of calibrations must be provided to and maintained by the registrant. The calibration must include at least the following determinations:

(a) Verification that the equipment is operating in compliance with the design specifications concerning the light localizer, the side light and backpointer alignment with the isocenter, when applicable, variation in the axis of rotation for the table, gantry and jaw system and beam flatness and symmetry at the specified depths.

(b) The exposure rate or dose rate for the range and field sizes used and for each effective energy and for each treatment distance used for radiation therapy.

(c) The effective energy, for example, half-value layer when appropriate, for every combination of kVp and filter used for radiation therapy.

(d) The congruence between the radiation field and the field indicated by the localizing device when localizing devices are used for radiation therapy.

(e) The uniformity of the radiation field and its dependence upon the direction of the useful beam.

(f) The calibration determinations must be provided in sufficient detail so that the absorbed dose in rads to tissue adjacent to, as well as in the useful beam, may be calculated to within ± 5 percent of the intended absorbed dose.

[Bd. of Health, Radiation Control Reg. §§ 6.9.3-6.9.3.3.6, eff. 2-28-80]

NAC 459.612 X-ray and electron therapy installations: Spot checks. ([NRS 459.201](#))

1. A spot check must be made daily with use and include carefully selected representative or indicative measurements which will demonstrate the consistency of relevant machine operating characteristics or lack of those characteristics.

2. The spot-check methods must be in writing and have been designed by a qualified expert.

3. Spot checks which are erratic or inconsistent with calibration data must be investigated promptly.

4. For machines in which beam quality may vary significantly, spot checks must include quality checks.

5. Whenever a spot check indicates a significant change, as specified in the qualified expert's spot-check design, in the operating characteristics of a machine, the machine must be recalibrated as required in subsection 5 of [NAC 459.610](#).

6. Where a machine has built-in devices which provide a self-check of any parameter during irradiation, that parameter may be spot checked weekly instead of daily.

7. A log must be kept of all spot-check measurements.

[Bd. of Health, Radiation Control Reg. §§ 6.9.3.4-6.9.3.4.7, eff. 2-28-80]

NAC 459.614 Veterinary medicine radiographic installations. ([NRS 459.201](#))

1. The protective tube housing must be of the diagnostic type.

2. Diaphragms or cones must be provided for collimating the useful beam to the area of clinical interest and must provide the same degree of protection as is required of the housing.

3. The total filtration permanently in the useful beam must not be less than 0.5 millimeters aluminum equivalent for machines operating up to 50 kVp, 1.5 millimeters aluminum equivalent for machines operating between 50-70 kVp, and 2.5 millimeters aluminum equivalent for machines operating above 70 kVp.

4. A device must be provided to terminate the exposure after a preset time or exposure.

5. A dead-man type of exposure switch must be provided together with an electrical cord of sufficient length so that the operator can stand out of the useful beam and at least 6 feet from the animal during all X-ray exposures.

6. All wall, ceiling and floor areas must be equivalent to or provided with applicable protective barriers as required in [NAC 459.325](#), [459.331](#) and [459.335](#).

7. The operator shall stand well away from the useful beam and the animal during radiographic exposures.

8. No person other than the operator may be in the X-ray room while exposures are being made unless the person's assistance is required.

9. When an animal must be held in position during radiography, mechanical supporting or restraining devices should be used. If the animal must be held by a person, he must be protected with appropriate shielding devices, such as protective gloves and apron, and he must be positioned so that no part of his body will be struck by the

useful beam. The exposure of any person used for this purpose must be monitored and permanently recorded.
[Bd. of Health, Radiation Control Reg. §§ 6.10-6.10.3.3, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.616 Other radiographic systems: Beam limitation. ([NRS 459.201](#)) The useful beam must be limited to the area of clinical interest.

[Bd. of Health, Radiation Control Reg. §§ 6.6 & 6.6.1, eff. 2-28-80]

NAC 459.618 General purpose X-ray systems: Stationary and mobile. ([NRS 459.201](#))

1. A means must be provided for stepless adjustment of the size of the X-ray field.
2. A means must be provided for visually defining the perimeter of the X-ray field. The total misalignment of the edges of the visually defined field with the respective edges of the X-ray field along either the length or width of the visually defined field must not exceed 2 percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the X-ray beam.
3. The Division may grant an exemption from subsections 1 and 2 for an uncertified X-ray system if the registrant makes a written application for the exemption and in his application demonstrates that:
 - (a) It is impractical to comply with subsections 1 and 2; and
 - (b) The purpose of [NAC 459.400](#) to [459.624](#), inclusive, will be met by other means.
4. All stationary general purpose X-ray systems must meet the following additional requirements:
 - (a) The beam-limiting device must numerically indicate the field size in the plane of the image receptor to which it is adjusted;
 - (b) Indication of field size dimensions and source-image receptor distances must be specified in inches or centimeters, or both, and must be such that aperture adjustments result in X-ray field dimensions in the plane of the image receptor which correspond to those of the image receptor to within 2 percent of the source-image receptor distance when the beam axis is perpendicular to the plane of the image receptor; and
 - (c) A means must be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor, to align the center X-ray field with respect to the center of the image receptor to within 2 percent of the source-image receptor distance, and to indicate the source-image receptor distance to within 2 percent.
5. Radiographic equipment designed for only one image receptor size at a fixed source-image receptor distance must be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the X-ray field with the center of the image receptor to within 2 percent of the source-image receptor distance.

[Bd. of Health, Radiation Control Reg. §§ 6.6.1.1-6.6.1.3, eff. 2-28-80]—(NAC A 4-27-84)

NAC 459.620 Other radiographic systems: Special purpose systems. ([NRS 459.201](#)) For special purpose X-ray systems:

1. A means must be provided to limit the X-ray field in the plane of the image receptor so that the field does not exceed each dimension of the image receptor by more than 2 percent of the source-image receptor distance when the axis of the X-ray beam is perpendicular to the plane of the image receptor.
2. A means must be provided to align the center of the X-ray field with the center of the image receptor to within 2 percent of the source-image receptor distance.
3. Subsections 1 and 2 may be met with a system that meets the requirements for a general purpose X-ray system as specified in [NAC 459.618](#), or, when alignment means are also provided, may be met with either:
 - (a) An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and source-image receptor distance for which the unit is designed with each such device having clear and permanent markings to indicate the image receptor size and source-image receptor distance for which it is designed; or
 - (b) A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and source-image receptor distance for which the unit is designed. Permanent, clearly legible markings must indicate the image receptor size and source-image receptor distance for which each aperture is designed and indicate which aperture is in position for use.

[Bd. of Health, Radiation Control Reg. §§ 6.6.1.4-6.6.1.4.3.2, eff. 2-28-80]

NAC 459.622 Devices to control exposures. ([NRS 459.201](#))

1. A means must be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses or a preset radiation exposure to the image receptor. In addition:

- (a) Termination of exposure must cause automatic resetting of the timer to its initial setting or to zero; and
 - (b) It must not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.
2. A control must be incorporated into each X-ray system so an exposure can be terminated at any time except for:
- (a) Exposure of one-half second or less; or
 - (b) During serial radiography when means must be provided to permit completion of any single exposure of the series in process.
3. Each X-ray control must be located so that it meets the following criteria:
- (a) For stationary X-ray systems, and mobile and portable X-ray systems used as stationary X-ray systems, the control must be permanently mounted in a protected area. The operator shall remain in the protected area during the entire exposure.
 - (b) For mobile and portable X-ray systems, the exposure switch cord must be at least 6 feet long.
 - (c) The X-ray control must provide visual indication observable at or from the operator's protected position whenever X rays are produced. In addition, a signal audible to the operator must indicate that the exposure has terminated.
4. When an automatic exposure control is provided:
- (a) Indication must be made on the control panel when this mode of operation is selected;
 - (b) When the X-ray tube potential is equal to or greater than 50 kVp, the minimum exposure time for field emission equipment rated for pulsed operation must be equal to or less than a time interval equivalent to two pulses;
 - (c) The minimum exposure time for all equipment other than that specified in paragraph (b) of this subsection must be equal to or less than one-sixtieth of a second or a time interval required to deliver 5 mAs, whichever is greater;
 - (d) Either the product of peak X-ray tube potential, current, and exposure time must be limited to not more than 60 kW per exposure or the product of X-ray tube current and exposure time must be limited to not more than 600 mAs per exposure except when the X-ray tube potential is less than 50 kVp, in which case the product of X-ray tube current and exposure time must be limited to not more than 2000 mAs per exposure; and
 - (e) A visible signal must indicate when an exposure has been terminated at the limits described in paragraph (d), and manual resetting must be required before further automatically timed exposures can be made.
5. With a timer setting of 0.5 seconds or less, the average exposure period (T) must be greater than or equal to five times the maximum exposure period (T max) minus the minimum exposure period (T min) when four timer tests are performed, for example, $T \geq 5(T_{\max} - T_{\min})$.
6. All timers must be accurate to within ± 20 percent of the selected value.
[Bd. of Health, Radiation Control Reg. §§ 6.6.2-6.6.2.2.5, eff. 2-28-80]

NAC 459.624 Other radiographic systems: Source to skin distance; exposure reproducibility; standby radiation. ([NRS 459.201](#))

- 1. All mobile or portable radiographic systems must be provided with a means to limit the source to skin distance to not less than 30 centimeters.
- 2. The exposure produced must be reproducible to the following criteria: When all technique factors are held constant, the coefficient of variation must not exceed 0.10. This requirement is met if, when four exposures at identical technique factors are made, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (E max) minus the minimum exposure (E min) in accordance with the formula: $E \geq 5(E_{\max} - E_{\min})$.
- 3. Radiation emitted from the X-ray tube when the exposure switch or timer is not activated must not exceed a rate of 2 milliroentgens per hour at 5 centimeters from any accessible surface of the diagnostic source assembly, with the beam-limiting device fully open.
[Bd. of Health, Radiation Control Reg. §§ 6.6.3-6.6.5, eff. 2-28-80]

Radiation Safety Requirements for Analytical X-ray Equipment

NAC 459.640 Definitions. As used in [NAC 459.640](#) to [459.664](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.642](#) to [459.654](#), inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification)

NAC 459.642 “Analytical X-ray equipment” defined. ([NRS 459.201](#)) “Analytical X-ray equipment” means equipment used for X-ray diffraction or fluorescence analysis.

[Bd. of Health, Radiation Control Reg. § 8.2.1, eff. 2-28-80]

NAC 459.644 “Analytical X-ray system” defined. ([NRS 459.201](#)) “Analytical X-ray system” means a group of local and remote components utilizing X rays to determine the elemental composition or to examine the microstructure of materials.

[Bd. of Health, Radiation Control Reg. § 8.2.2, eff. 2-28-80]

NAC 459.646 “Fail-safe characteristics” defined. ([NRS 459.201](#)) “Fail-safe characteristics” means design features which cause beam port shutters to close or which otherwise prevent emergence of the primary beam upon the failure of a safety or warning device.

[Bd. of Health, Radiation Control Reg. § 8.2.3, eff. 2-28-80]

NAC 459.648 “Local components” defined. ([NRS 459.201](#))

1. “Local components” means part of an analytical X-ray system and includes areas exposed to X rays, such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors and shielding.

2. The term does not include power supplies, transformers, amplifiers, readout devices and control panels.

[Bd. of Health, Radiation Control Reg. § 8.2.4, eff. 2-28-80]

NAC 459.650 “Normal operating procedures” defined. ([NRS 459.030](#), [459.201](#)) “Normal operating procedures” means operating procedures necessary to accomplish the X-ray procedure being performed, including, without limitation, positioning of the equipment and the object being examined, alignment of the equipment, routine maintenance of the equipment and the procedures for recording data relating to radiation safety.

[Bd. of Health, Radiation Control Reg. § 8.2.5, eff. 2-28-80]—(NAC A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.652 “Open-beam configuration” defined. ([NRS 459.201](#)) “Open-beam configuration” means an analytical X-ray system in which a person could accidentally place some part of his body in the primary beam path during a normal operation.

[Bd. of Health, Radiation Control Reg. § 8.2.6, eff. 2-28-80]

NAC 459.654 “Primary beam” defined. ([NRS 459.201](#)) “Primary beam” means ionizing radiation which passes through an aperture of the source housing by a direct path from the X-ray tube or a radioactive source located in the radiation source housing.

[Bd. of Health, Radiation Control Reg. § 8.2.7, eff. 2-28-80]

NAC 459.656 Scope. ([NRS 459.030](#), [459.201](#)) The provisions of [NAC 459.640](#) to [459.664](#), inclusive, establish requirements, binding upon registrants, for use of analytical X-ray equipment. These requirements are in addition to, and not in substitution for, other applicable requirements of [NAC 459.010](#) to [459.794](#), inclusive.

[Bd. of Health, Radiation Control Reg. § 8.1, eff. 2-28-80]—(NAC A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.658 Equipment requirements. ([NRS 459.201](#))

1. A safety device which prevents the entry of any portion of a person’s body into the primary X-ray beam path or which causes the beam to be shut off upon entry into its path must be provided on all open-beam configurations. A registrant or licensee may apply to the Division for an exemption from the requirements of a safety device. Such an application must include:

(a) A description of the various safety devices that have been evaluated;

(b) The reason each of these devices cannot be used; and

(c) A description of the alternative methods that will be employed to minimize the possibility of an accidental exposure, including procedures to ensure that operators and others in the area will be informed of the absence of

safety devices.

2. Open-beam configuration must be provided with a readily discernible indication of:

- (a) X-ray tube status whether on or off, located near the radiation source housing if the primary beam is controlled in this manner; or
- (b) Shutter status whether open or closed, located near each port on the radiation source housing if the primary beam is controlled in this manner.

3. Warning devices must be so labeled that their purpose is easily identified. On equipment installed after February 28, 1980, warning devices must have fail-safe characteristics.

4. Unused ports on radiation source housings must be secured in the closed position in a manner which will prevent casual openings.

5. All analytical X-ray equipment must be labeled with a readily discernible sign bearing the radiation caution symbol and the words:

- (a) "CAUTION - HIGH INTENSITY X-RAY BEAM," or words having a similar intent, on the X-ray source housing; and
- (b) "CAUTION RADIATION - THIS EQUIPMENT PRODUCES RADIATION WHEN ENERGIZED," or words having a similar intent, near any switch that energizes an X-ray tube if the radiation source is an X-ray tube; or
- (c) "CAUTION - RADIOACTIVE MATERIAL," or words having a similar intent, on the source housing if the radiation source is a radionuclide.

6. On open-beam configurations installed after February 28, 1980, each port on the radiation source housing must be equipped with a shutter that cannot be opened unless a collimator or a coupling has been connected to the port.

7. An easily visible warning light labeled with the words "X RAY ON," or words having a similar intent, must be located:

- (a) Near any switch that energizes an X-ray tube and be illuminated only when the tube is energized; or
- (b) In the case of a radioactive source, near any switch that opens a housing shutter and be illuminated only when the shutter is open.

8. On equipment installed after February 28, 1980, warning lights must have fail-safe characteristics.

9. Each X-ray tube housing must be constructed so that with all shutters closed the leakage radiation measured at a distance of 5 cm from its surface is not capable of producing a dose in excess of 2.5 mrem in 1 hour at any specified tube rating. If radioactive sources are used, corresponding dose limits must not exceed 2 mrem per hour.

10. Each X-ray generator must be supplied with a protective cabinet which limits leakage radiation measured at a distance of 5 cm from its surface so that it is not capable of producing a dose in excess of 0.25 mrem in 1 hour.

[Bd. of Health, Radiation Control Reg. §§ 8.3-8.3.8, eff. 2-28-80]

NAC 459.660 Area requirements. ([NRS 459.201](#))

1. The local components of an analytical X-ray system must be so located and arranged to include sufficient shielding or access control so that no radiation levels exist in any area surrounding the local component group which could result in a dose to a person present therein in excess of the dose limits given in [NAC 459.335](#). For systems utilizing X-ray tubes, these levels must be met at any specified tube rating.

2. Radiation surveys, as required by [NAC 459.337](#), of all analytical X-ray systems sufficient to show compliance with subsection 1 must be performed:

- (a) Upon installation of the equipment and at least every 12 months thereafter;
- (b) Following any change in the initial arrangement, number or type of local components in the system;
- (c) Following any maintenance requiring the disassembly or removal of a local component in the system;
- (d) During the performance of maintenance and alignment procedures if the procedures require the presence of a primary X-ray beam when any local component in the system is disassembled or removed;
- (e) Any time a visual inspection of the local components in the system reveals an abnormal condition; and
- (f) Whenever personnel monitoring devices show a significant increase over the previous monitoring period or when the readings are approaching the radiation dose limits specified in [NAC 459.320](#) to [459.374](#), inclusive.

3. Radiation survey measurements are not required if a registrant or licensee can demonstrate compliance with subsection 1 to the satisfaction of the Division in some other manner.

4. Each area or room containing analytical X-ray equipment must be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words "CAUTION - X-RAY EQUIPMENT," or words having

a similar intent.

[Bd. of Health, Radiation Control Reg. §§ 8.4-8.4.3, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.662 Operating requirements. ([NRS 459.201](#))

1. Normal operating procedures must be written and made available to all workers on analytical X-ray equipment. No person may operate analytical X-ray equipment in any manner other than that specified in the procedures unless he has obtained written approval of the person responsible for radiation safety.

2. No person may bypass a safety device unless he has obtained the approval of the person responsible for radiation safety. Such an approval must be for a specified period. When a safety device has been bypassed, a readily discernible sign bearing the words “SAFETY DEVICE NOT WORKING,” or words having a similar meaning, must be placed on the radiation source housing and the control panel.

[Bd. of Health, Radiation Control Reg. §§ 8.5-8.5.2, eff. 2-28-80]

NAC 459.664 Personnel requirements. ([NRS 459.201](#))

1. No person may operate or maintain analytical X-ray equipment unless he has received instruction in and demonstrated competence with regard to:

(a) Identification of radiation hazards associated with the use of the equipment;

(b) Significance of the various radiation warning and safety devices incorporated into the equipment, or the reasons they have not been installed on certain pieces of equipment and the extra precautions required in such cases;

(c) Proper operating procedures for the equipment;

(d) Symptoms of an acute localized exposure; and

(e) Proper procedures for reporting an actual or suspected exposure.

2. Each licensee or registrant shall maintain, for inspection by the Division, records of training which demonstrate that the requirements of subsection 1 have been met.

3. Finger or wrist dosimetric devices must be provided to and used by:

(a) Workers on analytical X-ray equipment having an open-beam configuration and not equipped with a safety device; and

(b) Personnel maintaining analytical X-ray equipment if the maintenance procedures require the presence of a primary X-ray beam when any local component in the analytical X-ray system is disassembled or removed.

4. Reported dose values may not be used for the purpose of determining compliance with [NAC 459.325](#) unless evaluated by a qualified expert.

[Bd. of Health, Radiation Control Reg. §§ 8.6-8.6.2.2, eff. 2-28-80]—(NAC A 1-18-94)

Radiation Safety Requirements for X-ray Industrial Radiography

NAC 459.680 Definitions. ([NRS 459.030](#), [459.201](#)) As used in [NAC 459.680](#) to [459.733](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.684](#) to [459.7037](#), inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification; A by Bd. of Health, 4-27-84; 1-21-94; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.684 “Cabinet X-ray system” defined. ([NRS 459.030](#), [459.201](#)) “Cabinet X-ray system” means an X-ray system with the X-ray tube installed in a cabinet that, independent of existing architectural structures except for the floor on which it may be placed, is intended to contain at least that portion of the material that is being irradiated, provide radiation attenuation and exclude personnel from its interior during generation of X radiation. Included are all X-ray systems designed primarily for the inspection of carry-on baggage at airline, railroad and bus terminals and in similar facilities. An X-ray tube used within a shielded part of a building, or X-ray equipment which may temporarily or occasionally incorporate portable shielding, is not considered a cabinet X-ray system.

[Bd. of Health, Radiation Control Reg. § 5.3.1.1.1, eff. 2-28-80]—(NAC A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.6843 “Control panel” defined. ([NRS 459.030](#)) “Control panel” has the meaning ascribed to in [NAC 459.422](#).

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.6847 “Direct reading pocket dosimeter” defined. ([NRS 459.030](#)) “Direct reading pocket dosimeter” means an ion-chamber pocket dosimeter or an electronic personal dosimeter.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.7015 “Storage area” defined. ([NRS 459.030](#), [459.201](#)) “Storage area” means any location, facility or vehicle used to store or secure an X-ray system when it is not in use.

(Added to NAC by Bd. of Health, eff. 1-21-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.703 “Temporary job site” defined. ([NRS 459.030](#), [459.201](#)) “Temporary job site” means any place where sources of X-ray radiation are present and X-ray industrial radiography is performed.

(Added to NAC by Bd. of Health, eff. 1-21-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.7033 “X-ray industrial radiography” defined. ([NRS 459.030](#)) “X-ray industrial radiography” means the examination of the macroscopic structure of materials by nondestructive methods utilizing X-ray sources of radiation.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.7037 “X-ray system” defined. ([NRS 459.030](#)) “X-ray system” has the meaning ascribed to it in [NAC 459.542](#).

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.704 Purpose; applicability. ([NRS 459.030](#), [459.201](#))

1. The provisions of [NAC 459.680](#) to [459.733](#), inclusive, establish radiation safety requirements for persons engaged in X-ray industrial radiography. These requirements are in addition to and not in substitution for other applicable requirements of [NAC 459.010](#) to [459.950](#), inclusive.

2. The provisions of [NAC 459.680](#) to [459.733](#), inclusive, apply to all registrants who engage in X-ray industrial radiography.

[Bd. of Health, Radiation Control Reg. §§ 5.1 & 5.2, eff. 2-28-80]—(NAC A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.705 X-ray systems: Training requirements for operators. ([NRS 459.030](#))

1. A person who operates an X-ray system for X-ray industrial radiography must:

(a) Be trained in the:

(1) Normal operating procedures for each X-ray system he operates; and

(2) Emergency procedures related to radiation safety for each facility at which he operates; and

(b) Receive the information, instruction or advice set forth in subsection 1 of [NAC 459.784](#).

2. A registrant engaged in X-ray industrial radiography shall make a record of all such training and maintain such records for not less than 3 years after the termination of the employee.

3. As used in this section, “normal operating procedures” has the meaning ascribed to it in [NAC 459.650](#).

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.707 X-ray systems: Warning devices. ([NRS 459.030](#)) An X-ray system used in X-ray industrial radiography must:

1. Have an indication light that indicates when the X-ray system is operating. The light must be clearly visible from any area with access to the X-ray system.

2. If it is a cabinet X-ray system, comply with [NAC 459.737](#).

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.708 X-ray systems: Locking systems. ([NRS 459.030](#), [459.201](#))

1. An X-ray system that is located in an unrestricted area must be provided with a lock on the control panel of the system which is designed to prevent unauthorized use of the system or accidental production of radiation.

2. If an X-ray system, other than a cabinet X-ray system, is placed in a storage area, the X-ray system must be

locked with the key removed.

[Bd. of Health, Radiation Control Reg. §§ 5.4.2 & 5.4.2.2, eff. 2-28-80]—(NAC A 4-27-84; 1-21-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.710 X-ray systems: Securing systems. ([NRS 459.030](#), [459.201](#)) An X-ray system must be physically secured to prevent tampering or removal by unauthorized personnel.

[Bd. of Health, Radiation Control Reg. § 5.4.3, eff. 2-28-80]—(NAC A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.712 Equipment control: Radiation survey instruments. ([NRS 459.030](#), [459.201](#))

1. The registrant shall maintain sufficient calibrated and operable radiation survey instruments at each location where radioactive producing equipment is used to make the radiation surveys as required by [NAC 459.337](#) and [459.737](#). Instrumentation required by this section must have a range such that 2 millirems (0.02 millisievert) per hour through 1 rem (0.01 sievert) per hour can be measured.

2. Each radiation survey instrument must be calibrated:

(a) Against appropriate energy at intervals not exceeding 6 months and, except for battery changes, after each servicing of the instrument;

(b) So that accuracy within plus or minus 20 percent can be demonstrated at each point checked; and

(c) At two or more widely separated points, other than zero, on each scale, as follows:

(1) For linear scale instruments, at two points located approximately one-third and two-thirds of full scale on each scale;

(2) For logarithmic scale instruments, at the mid-range of each decade and at two points of at least one decade; and

(3) For digital instruments, at 3 points between 2 millirems (0.02 millisievert) per hour and 1 rem (0.01 sievert) per hour.

3. Records of these calibrations must be maintained for at least 3 years after the calibration date for inspection by the Division.

[Bd. of Health, Radiation Control Reg. §§ 5.4.4-5.4.4.3, eff. 2-28-80]—(NAC A 1-18-94; 1-21-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.716 Equipment control: Inspection and maintenance. ([NRS 459.030](#), [459.201](#))

1. The registrant shall perform visual and operability checks of the indication lights and warning lights of an X-ray system before use each day the X-ray system is used to ensure that the X-ray system is in good working order. If this check reveals damage to or other problems with the X-ray system or any component thereof, the licensee or registrant shall make a record of the problem.

2. Each licensee shall conduct a program of at least semiannual inspection and routine maintenance of X-ray systems and the components thereof, including, without limitation, interlocks, indication lights, exposure switches, warning lights and cables.

3. Records of inspection and maintenance, and records of defects or problems created pursuant to subsection 1, must be kept for inspection by the Division for not less than 3 years.

4. If any check or inspection conducted pursuant to this section reveals damage to or other problems with an X-ray system or any component thereof, the X-ray system must be removed from service until repairs have been made.

[Bd. of Health, Radiation Control Reg. §§ 5.4.8-5.4.8.2, eff. 2-28-80]—(NAC A 4-27-84; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.719 Precautionary procedures: Posting of signs. ([NRS 459.030](#)) A registrant that engages in X-ray industrial radiology shall post with signs, in the manner set forth in subsection 2 of [NAC 459.3555](#), any pathway leading to a high radiation area and any barrier, including a temporary barrier, that is intended to prevent unauthorized access to a high radiation area.

(Added to NAC by Dep't of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.7234 Requirements for radiation safety officer. ([NRS 459.030](#), [459.201](#))

1. A registrant that engages in the practice of X-ray industrial radiography shall appoint a radiation safety officer for the radiographic operation.

2. A radiation safety officer shall:

(a) Ensure that the daily operation of X-ray industrial radiography is conducted in accordance with the provisions of this chapter.

(b) Establish and oversee operating and emergency procedures and procedures to ensure that the level of radiation is as low as is reasonably achievable. The radiation safety officer shall review these procedures at least once each year to ensure that the procedures conform to the requirements set forth in this chapter.

(c) Approve and oversee all phases of the training program for radiographic personnel to ensure that they receive training in appropriate and effective protection practices.

(d) Ensure that the required surveys are performed and documented in accordance with applicable regulations and that corrective measures are taken if the levels of radiation exceed the levels established in this chapter.

(e) Ensure that monitoring devices are calibrated and used properly by personnel who are performing X-ray industrial radiography and the results of exposures to radiation are properly recorded and notices of those exposures are submitted on a timely basis.

(f) Ensure that the radiographic operations are conducted safely and institute corrective actions if necessary, including terminating the operations in an emergency or if unsafe conditions exist.

(Added to NAC by Bd. of Health, eff. 1-21-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.724 Safety requirements for operators of X-ray systems. ([NRS 459.030](#), [459.201](#))

1. A registrant shall not permit any person to operate an X-ray system to conduct X-ray industrial radiography unless, at all times during radiographic operations, the person wears a film badge or a thermoluminescence dosimeter and, if the X-ray industrial radiography takes place at a temporary job site or in a room or building that does not meet the requirements of [NAC 459.335](#), a direct reading pocket dosimeter.

2. Direct reading pocket dosimeters must have a range from zero to 200 millirems (2 millisieverts) and be recharged at the start of each shift. Each film badge or thermoluminescence dosimeter must be assigned to and worn by only one person. A film badge must not be replaced less often than once a month. A thermoluminescence dosimeter must not be replaced less often than once every 3 months.

3. Direct reading pocket dosimeters must be read and exposures recorded daily. A person's film badge or thermoluminescence dosimeter must be immediately processed if his pocket dosimeter is discharged beyond its range. Reports received from the film badge or thermoluminescence dosimeter processor and records of the pocket dosimeter readings must be maintained for inspection by the Division for not less than 3 years after the records are made.

4. Each direct reading pocket dosimeter must be checked at periods not to exceed 1 year for response to radiation. To be acceptable, a dosimeter must read within plus or minus 20 percent of the true radiation exposure.

5. If the ion-chamber pocket dosimeter of a person is found to be off scale, or if the electronic personal dosimeter of a person reads greater than 200 millirems (2 millisieverts), and the possibility of radiation exposure cannot be ruled out as the cause:

(a) The film badge or thermoluminescence dosimeter of that person must be sent for processing within 24 hours; and

(b) The person shall not resume work with sources of radiation until a determination of his radiation exposure has been made.

6. For the purposes of this section, a person performing maintenance on an X-ray system shall be deemed to be operating the system if the X-ray beam is on at any time during the performance of the maintenance.

[Bd. of Health, Radiation Control Reg. §§ 5.5-5.5.3.2, eff. 2-28-80]—(NAC A 4-27-84; 1-18-94; 1-21-94, eff. 4-22-94; 1-21-94, eff. 5-22-94; R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.733 Safety requirements at temporary job sites, rooms or buildings. ([NRS 459.030](#), [459.201](#))

A licensee or registrant who is responsible for providing X-ray industrial radiography at a temporary job site or in a room or building that does not meet the requirements of [NAC 459.335](#) shall ensure that the temporary job site, room or building is under constant surveillance and immediate action is taken by the person conducting the surveillance to prevent unauthorized entry into an area with high radiation.

(Added to NAC by Bd. of Health, eff. 1-21-94; A by Dep't of Human Resources by R137-01, 5-30-2003)

Radiation Safety Requirements for Use of Sealed Source for Industrial Radiography

NAC 459.737 Adoption by reference of certain provisions of Code of Federal Regulations; revision of certain terms. ([NRS 459.030](#))

1. In addition to any applicable requirement of [NAC 459.010](#) to [459.794](#), inclusive, a person registered with the Division to use a sealed source to engage in industrial radiography shall comply with all applicable requirements of, and may rely on all applicable exclusions or exemptions included in, the provisions of Part 34 of Title 10 of the Code of Federal Regulations, as adopted by reference in this section.

2. Part 34 of Title 10 of the Code of Federal Regulations, as those provisions existed on January 1, 2001, is hereby adopted by reference, subject to the following:

(a) Except as otherwise provided in this section, any reference to “Commission’s regulations,” “federal regulations” or “NRC regulations” shall be deemed a reference to “[NAC 459.010](#) to [459.950](#), inclusive”;

(b) Except in 10 C.F.R. § 34.20 and as otherwise provided in this section, any reference to the “Commission” or “NRC” shall be deemed a reference to the “Division”;

(c) Except as otherwise provided in this section, any reference to “NRC or an Agreement State,” “Commission or an Agreement State” or “Commission or by an Agreement State” shall be deemed a reference to “Division, Nuclear Regulatory Commission or an agreement state”;

(d) Except as otherwise provided in this section, any reference to “NRC license” shall be deemed a reference to “license issued by the Division pursuant to [NAC 459.010](#) to [459.950](#), inclusive”;

(e) Any reference to “10 CFR part 19” or “10 CFR 19” shall be deemed a reference to “[NAC 459.780](#) to [459.794](#), inclusive”;

(f) Any reference to “10 CFR part 20” or “10 CFR 20” shall be deemed a reference to “[NAC 459.320](#) to [459.374](#), inclusive”;

(g) Any reference to “10 CFR 20.1601(a)(1)” or “§ 20.1601(a)(1)” shall be deemed a reference to “paragraph (a) of subsection 1 of [NAC 459.341](#)”;

(h) Any reference to “10 CFR 20.1902” or “§ 20.1902” shall be deemed a reference to “[NAC 459.3555](#)”;

(i) Any reference to “10 CFR 20.1903” or “§ 20.1903” shall be deemed a reference to “[NAC 459.3565](#)”;

(j) Any reference to “10 CFR 20.2203” or “§ 20.2203” shall be deemed a reference to “[NAC 459.371](#)”;

(k) The full text of a sentence that contains any reference to “10 CFR part 21” or “10 CFR 21” shall be deemed omitted;

(l) The full text of a sentence that contains any reference to “10 CFR 30.7,” “§ 30.7,” “10 CFR 30.9,” “§ 30.9,” “10 CFR 30.10” or “§ 30.10” shall be deemed omitted;

(m) Any reference to “10 CFR 30.33” or “§ 30.33” shall be deemed a reference to “[NAC 459.238](#)”;

(n) Any reference to “10 CFR 30.50” or “§ 30.50” shall be deemed a reference to “[NAC 459.373](#)”;

(o) Any reference to “10 CFR part 34” or “10 CFR 34” shall be deemed a reference to “this section”;

(p) Any reference to “10 CFR 34.111” shall be deemed a reference to “[NAC 459.120](#)”;

(q) Any reference to “10 CFR 71,” “10 CFR part 71,” “10 CFR 71.5,” “§ 71.5,” or “49 CFR parts 171-173” shall be deemed a reference to “[NAC 459.314](#)”;

(r) Any reference to “10 CFR 150.20” or “§ 150.20” shall be deemed a reference to “[NAC 459.210](#)”;

(s) In 10 C.F.R. § 34.3, any reference to “offshore platform radiography” shall be deemed a reference to “platform radiography”;

(t) In 10 C.F.R. § 34.27(d), any reference to:

(1) “Commission regulations” shall be deemed a reference to “[NAC 459.307](#)”; and

(2) “Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001” or “Administrator of the appropriate Nuclear Regulatory Commission’s Regional Office listed in appendix D of 10 CFR part 20 of this chapter ‘Standards for Protection Against Radiation’ ” shall be deemed a reference to “Division pursuant to [NAC 459.307](#)”;

(u) In 10 C.F.R. § 34.43(a)(2), any reference to “Commission” shall be deemed a reference to “Division, Nuclear Regulatory Commission or an agreement state”;

(v) In 10 C.F.R. § 34.89, any reference to “Agreement State” shall be deemed a reference to “Nuclear Regulatory Commission or an agreement state”;

(w) In 10 C.F.R. § 34.101(a), any reference to “U.S. Nuclear Regulatory Commission, Division of Industrial and Medical Nuclear Safety, Washington, D.C. 20555-0001, with a copy to the Director, Office for Analysis and Evaluation of Operation Data, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001,” shall be deemed a reference to “Division”;

(x) In 10 C.F.R. § 34.101(c), any reference to “appropriate NRC regional office listed in § 30.6(a)(2) of this chapter” shall be deemed a reference to “Division”; and

(y) In Appendix A to Part 34 of Title 10 of the Code of Federal Regulations:

(1) The reference in item 12 of section I to “Commission and other independent certifying organizations and/or Agreement States” shall be deemed a reference to “Division, Nuclear Regulatory Commission, other independent certifying organizations and agreement states”;

(2) The reference in item 1 of section II to “Agreement State regulations” shall be deemed a reference to “regulations of the Nuclear Regulatory Commission or an agreement state”; and

(3) The reference in item 2 of section II to “an Agreement State or a NRC licensee” shall be deemed a reference to “a person that holds a license issued pursuant to [NAC 459.010](#) to [459.950](#), inclusive, by the Nuclear Regulatory Commission or an agreement state.”

3. The following sections of Part 34 of Title 10 of the Code of Federal Regulations, as those provisions existed on January 1, 2001, are not adopted by reference:

- (a) Section 34.1;
- (b) Section 34.5;
- (c) Section 34.8;
- (d) Section 34.11;
- (e) Section 34.45(a)(9);
- (f) Section 34.121; and
- (g) Section 34.123.

4. A copy of a publication that contains Part 34 of Title 10 of the Code of Federal Regulations may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, at the price of \$55.

(Added to NAC by Dep’t of Human Resources by R137-01, eff. 5-30-2003)

NAC 459.738 Compliance with certain provisions of Code of Federal Regulations regarding program for inspecting and maintaining transport containers. ([NRS 459.030](#)) A program for inspecting and maintaining transport containers that complies with the provisions of 10 CFR § 34.31(b), as those provisions existed on January 1, 2001, shall be deemed to comply with the applicable provisions of Part 71 of Title 10 of the Code of Federal Regulations, as those provisions existed on January 1, 2001.

(Added to NAC by Dep’t of Human Resources by R137-01, eff. 5-30-2003)

Radiation Safety Requirements for Particle Accelerators

NAC 459.740 Purpose; applicability. ([NRS 459.030](#), [459.201](#))

1. The provisions of [NAC 459.740](#) to [459.752](#), inclusive, establish procedures for the registration and the use of particle accelerators.

2. In addition to the requirements of [NAC 459.740](#) to [459.752](#), inclusive, all registrants are subject to the requirements of [NAC 459.010](#) to [459.166](#), inclusive, [459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive. Registrants engaged in X-ray industrial radiographic operations are subject to the requirements of [NAC 459.680](#) to [459.733](#), inclusive, and registrants engaged in the healing arts are subject to the requirements of [NAC 459.400](#) to [459.624](#), inclusive. Registrants engaged in the production of radioactive material are subject to the requirements of [NAC 459.180](#) to [459.314](#), inclusive.

[Bd. of Health, Radiation Control Reg. §§ 9.1-9.1.2, eff. 2-28-80]—(NAC A 1-18-94; R084-98, 1-26-99; A by Dep’t of Human Resources by R137-01, 5-30-2003)

NAC 459.742 Requirements for registration. ([NRS 459.201](#))

1. No person may receive, possess, use, transfer, own or acquire a particle accelerator except as authorized in a registration issued pursuant to [NAC 459.010](#) to [459.950](#), inclusive, or as otherwise provided for in those sections. The general procedures for registration of particle accelerator facilities are included in [NAC 459.150](#) to [459.166](#), inclusive.

2. In addition to the requirements of [NAC 459.150](#) to [459.166](#), inclusive, a registration application for use of a particle accelerator may be approved only if the Division determines that:

- (a) The applicant is qualified by reason of training and experience to use the accelerator in question for the purpose requested in accordance with [NAC 459.320](#) to [459.374](#), inclusive, [459.740](#) to [459.752](#), inclusive, and [459.780](#) to [459.794](#), inclusive, in such a manner as to minimize danger to public health and safety or property;
- (b) The applicant’s proposed or existing equipment, facilities, operating and emergency procedures are

adequate to protect health and minimize danger to public health and safety or property;

(c) The issuance of the registration will not be inimical to the health and safety of the public and the applicant satisfies any applicable special requirement in subsection 3;

(d) The applicant has appointed a safety officer in radiation;

(e) The applicant or the applicant's staff has substantial experience in the use of particle accelerators and training sufficient for application to its intended uses;

(f) The applicant has established a safety committee in radiation to approve, in advance, proposals for uses of the particle accelerator, whenever deemed necessary by the Division; and

(g) The applicant has an adequate training program for operators of the particle accelerator.

3. In addition to the requirements in [NAC 459.150](#) to [459.166](#), inclusive, a registration for use of a particle accelerator in the healing arts will be issued only if the following requirements are met:

(a) The applicant has appointed a medical committee of at least three members to evaluate all proposals for research, diagnostic and therapeutic use of the particle accelerator whenever deemed necessary by the Division. Membership of the committee should include physicians expert in internal medicine, hematology, therapeutic radiology and a person experienced in depth dose calculations and protection against radiation.

(b) The persons designated on the application as the users have substantial training and experience in deep therapy techniques or in the use of particle accelerators to treat humans.

(c) Any person designated on the application as the user is a physician.

[Bd. of Health, Radiation Control Reg. §§ 9.2-9.2.3.3, eff. 2-28-80]—(NAC A 1-18-94; R084-98, 1-26-99)

NAC 459.744 Safety requirements: Generally; operation. ([NRS 459.201](#))

1. [NAC 459.740](#) to [459.752](#), inclusive, establish radiation safety requirements for the use of particle accelerators. These provisions are in addition to, and not in substitution for, other applicable provisions of [NAC 459.010](#) to [459.794](#), inclusive.

2. The registrant is responsible for ensuring that all requirements of [NAC 459.740](#) to [459.752](#), inclusive, are met.

3. No registrant may permit any person to act as an operator of a particle accelerator until the person:

(a) Has been instructed in radiation safety and has demonstrated an understanding of it;

(b) Has received a copy of, and instruction in the requirements of, [NAC 459.740](#) to [459.752](#), inclusive, and the applicable provisions of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive, pertinent registration conditions and the registrant's operating and emergency procedures and has demonstrated an understanding of that material; and

(c) Has demonstrated competence to use the particle accelerator, related equipment and survey instruments which will be employed in his assignment.

4. Members of the safety committee in radiation and the safety officer in radiation must have the authority to terminate the operations at a particle accelerator facility if such action is deemed necessary to protect health and minimize danger to public health and safety or property.

[Bd. of Health, Radiation Control Reg. §§ 9.3-9.3.2.2, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.746 Safety requirements: Expert assistance; shielding; controls; interlock systems. ([NRS 459.201](#))

1. A qualified expert, specifically accepted by the Division, must be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation.

2. Each installation of a particle accelerator must be provided with such primary and secondary barriers as are necessary for compliance with [NAC 459.325](#) and [459.335](#).

3. Instrumentation, readouts and controls on the particle accelerator control console must be clearly identified and easily discernible.

4. All entrances into a target room or other area of high radiation must be provided with interlocks that shut down the machine when any entrance is penetrated.

5. After an interlock system has been tripped, it must be possible to resume operation of the accelerator only by manually resetting controls first at the position where the interlock has been tripped and last at the main control console.

6. Each safety interlock must be on a circuit which allows its operation independently of all other safety interlocks.

7. All safety interlocks must be fail safe, that is, designed so that any defect or component failure in the interlock system prevents operation of the accelerator.

8. A scram button or other emergency power cutoff switch must be located and easily identifiable in all designated areas of high radiation. Such a cutoff switch must include a manual reset so that the accelerator cannot be restarted from the accelerator control console without resetting the cutoff switch.

[Bd. of Health, Radiation Control Reg. §§ 9.3.3-9.3.4.6, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.748 Safety requirements: Warning devices; operating procedures. ([NRS 459.201](#))

1. All locations designated as areas of high radiation and all entrances to those locations must be equipped with easily observable flashing or rotating warning lights that operate when, but only when, radiation is being produced.

2. Except in facilities designed for human exposure, each area of high radiation must have an audible warning device which is activated for 15 seconds before the creation of high radiation within the area. The warning devices must be clearly audible in all high radiation areas and all radiation areas.

3. Entrances and pathways leading to high radiation areas must be identified in accordance with [NAC 459.355](#).

4. Particle accelerators, when not in operation, must be secured to prevent unauthorized use.

5. The safety interlock system must not be used to turn off the accelerator beam except in an emergency.

6. All safety and warning devices, including interlocks, must be checked for proper operability at intervals of not more than 3 months. Results of the checks must be maintained at the accelerator facility for inspection by the Division.

7. Diagrams of the electrical circuit of the accelerator and associated interlock systems must be kept current and maintained for inspection by the Division and must be available to the operator at each accelerator facility.

8. If it is necessary to bypass a safety interlock or interlocks intentionally, the bypass must be:

(a) Authorized by the radiation safety committee or radiation safety officer;

(b) Recorded in a permanent log and a notice posted at the accelerator control console; and

(c) Terminated as soon as possible.

9. A copy of the current operating and the emergency procedures must be maintained at the accelerator control panel.

[Bd. of Health, Radiation Control Reg. §§ 9.3.5-9.3.6.6, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.750 Safety requirements: Monitoring. ([NRS 459.201](#))

1. There must be available at each particle accelerator facility appropriate portable monitoring equipment which is operable and calibrated for the appropriate radiations being produced at the facility. This equipment must be tested for proper operation daily and calibrated at intervals of not more than 1 year and after each servicing and repair.

2. A radiation protection survey must be performed and documented by a qualified expert specifically approved by the Division when changes have been made in shielding, operation, equipment or occupancy of adjacent areas.

3. Radiation levels in all high radiation areas must be continuously monitored. The monitoring devices must be electrically independent of the accelerator control and interlock systems and capable of providing a remote and local readout with visual or audible alarms, or both, at the control panel, at the entrance to high radiation areas and at other appropriate locations so that persons entering or present become aware of the existence of the hazard.

4. All area monitors must be calibrated at intervals of not more than 1 year and after each servicing and repair.

5. Whenever applicable, periodic surveys must be made to determine the amount of airborne particulate radioactivity present in areas of airborne hazards.

6. Whenever applicable, periodic smear surveys must be made to determine the degree of contamination in target and other pertinent areas.

7. All area surveys must be made in accordance with the written procedures established by a qualified expert or the radiation safety officer of the particle accelerator facility.

8. Records of all radiation protection surveys, calibration results, instrumentation tests and smear results must be kept current and on file at each accelerator facility.

[Bd. of Health, Radiation Control Reg. §§ 9.3.7-9.3.7.8, eff. 2-28-80]

NAC 459.752 Safety requirements: Ventilation systems. ([NRS 459.201](#))

1. A means must be provided to ensure that personnel entering any area where airborne radioactivity may be produced will not be exposed to airborne radioactive material in excess of the limits specified in Table I of Appendix B.

2. A registrant, as required by [NAC 459.3355](#), shall not vent, release or otherwise discharge airborne radioactive material to an unrestricted area in excess of the limits specified in Table II of appendix B, except as authorized pursuant to [NAC 459.3355](#). For the purposes of [NAC 459.740](#) to [459.752](#), inclusive, concentrations may be averaged over a period not greater than 1 year. Every reasonable effort must be made to maintain releases of radioactive material to uncontrolled areas as far below these limits as is reasonably achievable.

[Bd. of Health, Radiation Control Reg. §§ 9.3.8-9.3.8.2, eff. 2-28-80]—(NAC A 1-18-94)

Radiation Safety Requirements for Well Logging

NAC 459.756 Definitions. ([NRS 459.201](#)) As used in [NAC 459.756](#) to [459.7745](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.757](#) to [459.763](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.757 “Field station” defined. ([NRS 459.201](#)) “Field station” means a facility where radioactive material may be stored or used and from which equipment is dispatched to temporary jobsites.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7575 “Fresh water aquifer” defined. ([NRS 459.201](#)) “Fresh water aquifer” means a geologic formation that is capable of yielding fresh water to a well or spring.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.758 “Injection tool” defined. ([NRS 459.201](#)) “Injection tool” means a device used for controlled subsurface injection of radioactive tracer material.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7585 “Irretrievable well logging source” defined. ([NRS 459.201](#)) “Irretrievable well logging source” means any sealed source containing radioactive material that is pulled off or not connected to the wireline that suspends the source in the well and for which all reasonable effort at recovery has been expended.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.759 “Logging assistant” defined. ([NRS 459.201](#)) “Logging assistant” means any person who, under the personal supervision of a logging supervisor, handles sealed sources or tracers that are not in logging tools or shipping containers or who performs surveys required by [NAC 459.7725](#).

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7595 “Logging supervisor” defined. ([NRS 459.201](#)) “Logging supervisor” means any person who uses radioactive material or provides personal supervision in the use of radioactive material at a temporary job site and who is responsible to the licensee for assuring compliance with the requirements of the Division’s regulations and the conditions of the license.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7598 “Logging tool” defined. ([NRS 459.201](#)) “Logging tool” means a device used below the surface to perform well logging.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7605 “Personal supervision” defined. ([NRS 459.201](#)) “Personal supervision” means guidance and instruction by a logging supervisor who:

1. Is physically present at a temporary job site;
2. Is in personal contact with logging assistants; and
3. Can give immediate assistance.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.761 “Radioactive marker” defined. ([NRS 459.201](#)) “Radioactive marker” means material used for depth determination or direction orientation. The term includes radioactive collar markers and radioactive iron nails.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7615 “Safety review” defined. ([NRS 459.201](#)) “Safety review” means a periodic review provided by the licensee for its employees on radiation safety as it relates to well logging. The review may include, as appropriate:

1. The results of internal inspections;
2. New procedures or equipment;
3. Accidents or errors that have been observed; and
4. Safety questions of employees.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7621 “Source holder” defined. ([NRS 459.201](#)) “Source holder” means a housing or assembly into which a sealed source is placed to facilitate the handling and use of the source in well logging.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7625 “Subsurface tracer study” defined. ([NRS 459.201](#)) “Subsurface tracer study” means the release of unsealed radioactive material or a substance labeled with radioactive material in a single well for the purpose of tracing the movement or position of the material or substance in the well or adjacent formation.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.763 “Surface casing” defined. ([NRS 459.201](#)) “Surface casing” means a pipe or tube used as a lining in a well to isolate fresh water aquifers from the well.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7635 Purpose and applicability. ([NRS 459.201](#)) The provisions of [NAC 459.756](#) to [459.7745](#), inclusive:

1. Establish radiation safety requirements for persons using sources of radiation for well logging which are in addition to and not in substitution for other applicable requirements of [NAC 459.010](#) to [459.950](#), inclusive;
2. Apply to all licensees or registrants who use sources of radiation for well logging; and
3. Apply to both radiation machines and radioactive materials unless the context otherwise requires.

(Added to NAC by Bd. of Health, eff. 9-6-88; A by R084-98, 1-26-99)

NAC 459.7641 Approval of operation required; submission of information to Division. ([NRS 459.201](#))

1. A person shall not perform a well logging operation without prior approval of the Division.
2. A person who wishes to perform a well logging operation shall submit to the Division a description of the operation which contains:
 - (a) A designation of the township, range and section in which the well is located;
 - (b) The distance in feet from the well to two different section lines;
 - (c) The name or number assigned to the well;
 - (d) The depth of the well and the surface casing in feet;
 - (e) The location and distance of any freshwater aquifers within 3 miles of the well which is to be logged and a determination of whether the well penetrates an aquifer; and
 - (f) The location and identification of any wells within 3 miles of the well which is to be logged that are producing water for human or animal consumption or irrigation and the depths of those wells and the depths of their surface casings.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7645 Agreement with owner or operator of well. ([NRS 459.201](#))

1. A licensee shall not perform well logging with a sealed source before entering into a written agreement with the owner or operator of the well who is employing him.
2. The written agreement required by subsection 1 must identify the person who will assure that:

- (a) If a sealed source becomes lodged in the well, a reasonable effort will be made to recover it;
 - (b) A person will not attempt to recover a sealed source in a manner which, in the licensee's opinion, could result in its rupture;
 - (c) The radiation monitoring required in [NAC 459.773](#) will be performed;
 - (d) If the environment or any personnel are contaminated with radioactive material, they will be decontaminated;
 - (e) If any equipment is contaminated with radioactive material it will be decontaminated before it is released from the job site or released for unrestricted use at the job site; and
 - (f) If a sealed source is classified as irretrievable after reasonable efforts at recovery have been expended, the following requirements will be carried out within 30 days:
 - (1) Each irretrievable well logging source must be immobilized and sealed in place with a cement plug;
 - (2) A mechanical device to prevent inadvertent intrusion on the irretrievable well logging source must be set at some point in the well above the cement plug, unless the cement plug and source are not accessible to any subsequent drilling operations; and
 - (3) A permanent identification plaque, constructed of long lasting material such as stainless steel, brass, bronze or monel, must be mounted at the surface of the well. The size of the plaque must be at least 7 inches square and 1/8-inch thick and contain:
 - (I) The word "CAUTION";
 - (II) The radiation caution symbol, but the color requirement in [NAC 459.355](#) need not be met;
 - (III) The date on which the irretrievable source was abandoned;
 - (IV) The name of the well owner or well operator, as appropriate;
 - (V) The name of the well and the well identification number or other designation;
 - (VI) An identification of the sealed source by radionuclide and quantity;
 - (VII) The depth of the sealed source and depth to the top of the plug; and
 - (VIII) An appropriate warning such as "DO NOT RE-ENTER THIS WELL."
3. A licensee shall retain a copy of the written agreement required by subsection 1 for 3 years after the completion of the well logging operation.

(Added to NAC by Bd. of Health, eff. 9-6-88; A 1-18-94)

NAC 459.765 Labeling of components and containers; transportation of radioactive material. ([NRS 459.201](#))

1. A licensee may not use a source, a source holder or a logging tool that contains radioactive material unless the smallest component that is transported as a separate piece of equipment with radioactive material inside bears a durable, legible and clearly visible marking or label. The marking or label must contain the radiation caution symbol specified in [NAC 459.355](#) without the conventional color requirements, and the wording "CAUTION (or DANGER) RADIOACTIVE MATERIAL."

2. A licensee may not use a container to store radioactive material unless the container has securely attached to it a durable, legible and clearly visible label. The label must contain the radiation caution symbol specified in [NAC 459.355](#) and the wording "CAUTION. (or DANGER.) RADIOACTIVE MATERIAL. NOTIFY CIVIL AUTHORITIES (or NAME OF COMPANY) IF FOUND."

3. A licensee may not transport radioactive material unless the material is packaged, labeled, marked and accompanied with appropriate shipping papers in accordance with regulations of the United States Department of Transportation.

(Added to NAC by Bd. of Health, eff. 9-6-88; A 1-18-94)

NAC 459.7655 Storage of radioactive material; securing packages for transportation. ([NRS 459.201](#)) A licensee shall:

1. Store each source containing radioactive material in a storage container or transportation package. The container or package must be locked and physically secured to prevent tampering or removal of radioactive material from storage by unauthorized persons.

2. Store radioactive material in a manner which will minimize danger from explosion or fire.

3. Lock and physically secure a transport package containing radioactive material in the transporting vehicle to prevent accidental loss, tampering or unauthorized removal of the radioactive material from the vehicle.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7661 Availability and calibration of instruments to survey and detect radiation. (NRS 459.201) A licensee shall:

1. Keep a calibrated and operable radiation survey instrument capable of detecting beta and gamma radiation at each field station and temporary job site to make the radiation surveys required by [NAC 459.337](#) and [459.7725](#). The radiation survey instrument must be capable of measuring as little as 0.1 milliroentgen per hour and as much as 50 milliroentgens per hour.
2. Have available additional calibrated and operable radiation detection instruments sensitive enough to detect the low radiation and contamination levels that could be encountered if a sealed source ruptured.
3. Have each radiation survey instrument required under subsection 1 calibrated:
 - (a) At intervals not to exceed 6 months; and
 - (b) In accordance with subsection 2 of [NAC 459.712](#).
 (Added to NAC by Bd. of Health, eff. 9-6-88; A 1-18-94)

NAC 459.7665 Inspection and maintenance of equipment; restrictions on handling sealed sources. (NRS 459.201)

1. Each licensee shall visually inspect source holders, logging tools and source handling tools for defects before each use to ensure that the equipment is in good working condition and that the required labeling is present.
2. If defects in equipment are found during the inspection required by subsection 1, the equipment must be removed from service until repaired and a record must be made listing:
 - (a) The date of inspection;
 - (b) The name of the licensee who performed the inspection;
 - (c) The equipment involved;
 - (d) The defects found; and
 - (e) The repairs made.
3. The records required by subsection 2 must be retained by the licensee for 3 years after the defect is found.
4. Each licensee must have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible.
5. If defects are found during the inspection required by subsection 4, the defective equipment must be removed from service until repaired and a record must be made listing:
 - (a) The date of inspection;
 - (b) The equipment involved;
 - (c) The inspection and maintenance operations performed;
 - (d) The defects found; and
 - (e) The repairs made.
6. The records required by subsection 5 must be retained by the licensee for 3 years after the defect is found.
7. A licensee shall not remove a sealed source from a source holder or logging tool or perform maintenance on a sealed source or source holder unless a written procedure developed for that purpose has been approved by the Division.
8. If a sealed source is stuck in a source holder a licensee shall not perform any operation to remedy the situation, such as drilling, cutting or chiseling on the source holder, unless the licensee is specifically approved by the Division to perform such an operation.
9. No person shall open, repair or modify any sealed source unless specifically approved by the Division to perform such an operation.
 (Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.767 Testing sealed sources for leakage. (NRS 459.201) A licensee shall test, as provided in [NAC 459.307](#), each sealed source for leakage of radioactive material, at intervals not to exceed 6 months.
 (Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7675 Semiannual inventories of radioactive material. (NRS 459.201)

1. Each licensee shall conduct a semiannual physical inventory to account for all radioactive material received and possessed under his license. The licensee must retain records of the physical inventory for 3 years after the date of the inventory for inspection by the Division.
2. The physical inventory required by subsection 1 must indicate:

- (a) The quantity and kind of radioactive material;
- (b) The location of the radioactive material;
- (c) The date of the inventory; and
- (d) The name of the person conducting the inventory.

3. Physical inventory records may be combined with the records of leak tests required by [NAC 459.767](#).
(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7681 Records of sources of radiation used. ([NRS 459.201](#))

1. Each licensee or registrant shall maintain records of each use of a source of radiation in well logging, which must include:

- (a) The make, model and number of sources of radiation used and a serial number or a description of each source of radiation;
- (b) The name of the logging supervisor who is responsible for the safe use of sources of radiation;
- (c) The names of logging assistants present; and
- (d) The location and date of use of the sources of radiation.

2. A licensee or registrant shall make available for inspection by the Division the records required by subsection 1 and must retain the records for 3 years after the date of the recorded use of a source of radiation in a well logging operation.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7685 Criteria for design and performance of sealed sources. ([NRS 459.201](#))

1. Except as otherwise provided in subsection 2, a licensee shall not use a sealed source in well logging unless the sealed source:

- (a) Is doubly encapsulated;
- (b) Contains radioactive material whose chemical and physical forms are as insoluble and nondispersible as practical; and
- (c) Has been tested as a prototype and found to maintain its integrity after:
 - (1) A temperature test in which the prototype is subjected to -40 degrees C for 20 minutes and is subjected to 600 degrees C for 1 hour and then is subjected to a thermal shock test in which the prototype is subjected to a temperature drop from 600 degrees C to 20 degrees C within 15 seconds;
 - (2) An impact test in which a 5 kg steel hammer measuring 2.5 cm in diameter is dropped from a height of 1 m onto the prototype;
 - (3) A vibration test in which the prototype is subjected to a vibration ranging from 25 Hz to 500 Hz at 5 g amplitude for 30 minutes;
 - (4) A puncture test in which a 1 gram hammer attached to pin measuring 0.3 cm in diameter is dropped from a height of 1 m onto the prototype; and
 - (5) A pressure test in which the prototype is subjected to an external pressure of 24,600 pounds per square inch absolute.

2. The requirements of subsection 1 do not apply to sealed sources that contain radioactive material in gaseous form.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.769 Use of sealed source in well without surface casing. ([NRS 459.201](#)) A licensee may use a sealed source to log a well that does not have a surface casing if:

- 1. The well does not penetrate a fresh water aquifer; and
- 2. The licensee follows a procedure which has been approved by the Division for reducing the probability of the source becoming lodged in the well.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7695 Use of radioactive markers and uranium sinker bars. ([NRS 459.201](#))

1. A licensee shall not use radioactive markers in wells if the individual markers contain quantities of radioactive material which exceed the quantities specified in [NAC 459.188](#).

2. The use of radioactive markers is subject to the requirements of [NAC 459.7675](#).

3. A licensee shall not use a uranium sinker bar in well logging if the bar is not legibly impressed with the words "CAUTION - RADIOACTIVE-DEPLETED URANIUM" and "NOTIFY CIVIL AUTHORITIES (or

COMPANY NAME) IF FOUND.”

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7701 Logging supervisors and assistants: Qualifications; safety reviews; records. ([NRS 459.201](#))

1. A licensee shall not permit a person to act as a logging supervisor until that person:

(a) Has completed training in the subjects set forth in [NAC 459.7705](#).

(b) Has received copies of, and instruction in:

(1) The regulations contained in [NAC 459.010](#) to [459.950](#), inclusive;

(2) The division license under which the logging supervisor will perform well logging; and

(3) The licensee's operating and emergency procedures required by [NAC 459.7715](#).

(c) Has completed on-the-job training and demonstrated his competence, in a field evaluation, in the use of:

(1) Radioactive materials;

(2) Remote handling tools; and

(3) Radiation survey instruments.

(d) Has demonstrated his understanding of the requirements of paragraphs (a) and (b) of subsection 1, by successfully completing a written test.

2. A licensee shall not permit a person to act as a logging assistant until that person:

(a) Has received instruction in the regulations contained in [NAC 459.010](#) to [459.950](#), inclusive;

(b) Has received copies of, and instruction in the licensee's operating and emergency procedures required by [NAC 459.7715](#);

(c) Has demonstrated his understanding of the materials listed in paragraphs (a) and (b) of this subsection by successfully completing a written or oral test; and

(d) Has received instruction appropriate for his job responsibilities in the use of:

(1) Radioactive materials;

(2) Remote handling tools; and

(3) Radiation survey instruments.

3. A licensee shall provide a safety review for logging supervisors and logging assistants at least once during each calendar year.

4. A licensee shall maintain a record of the training and safety review provided each logging supervisor and logging assistant. The records of training must include copies of written tests and dates of oral tests. The records of training must be retained for 3 years after the termination of employment of the supervisor or assistant.

Records of the annual safety reviews must list the topics discussed and be retained for 3 years.

(Added to NAC by Bd. of Health, eff. 9-6-88; A by R084-98, 1-26-99)

NAC 459.7705 Logging supervisors: Training. ([NRS 459.201](#)) A licensee shall include the following subjects in the training required by [NAC 459.7701](#):

1. Fundamentals of radiation safety, including:

(a) Characteristics of radiation;

(b) Units of radiation dosage and quantity of radioactivity;

(c) Hazards of exposure to radiation;

(d) Levels of radiation from radioactive material;

(e) Methods of controlling radiation dosage (time, distance and shielding); and

(f) Radiation safety practices, including prevention of contamination and methods of decontamination.

2. Radiation detection instruments, including:

(a) Use, operation, calibration and limitations of radiation survey instruments;

(b) Survey techniques; and

(c) Use of personnel monitoring equipment.

3. Equipment, including:

(a) Operation of equipment, including source handling equipment and remote handling tools;

(b) Storage, control and disposal of licensed material; and

(c) Maintenance of equipment.

4. The requirements of pertinent division regulations.

5. Case histories of accidents in well logging.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.771 Logging supervisors: Presence at temporary job sites; surveillance of operations. ([NRS 459.201](#))

1. A logging supervisor shall be physically present at a temporary job site when radioactive materials are being handled or are not stored and locked in a vehicle or storage place. The logging supervisor may leave the temporary job site in order to obtain assistance if a source becomes lodged in a well.

2. Except when radiation sources are below ground or in shipping or storage containers, a logging supervisor or other person designated by the logging supervisor shall, during well logging, maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in [NAC 459.090](#).

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7715 Operating and emergency procedures. ([NRS 459.201](#)) Each licensee shall develop and follow written operating and emergency procedures that cover:

1. The handling and use of radioactive materials including, if appropriate, the use of sealed sources in wells without surface casing;

2. The use of remote handling tools for handling sealed sources and radioactive tracer material, except low activity calibration sources;

3. Methods and occasions for conducting radiation surveys, including surveys for detecting contamination, as required by [NAC 459.7725](#);

4. Minimizing exposure of personnel to radiation including exposure from inhalation and ingestion of tracer radioactive materials;

5. Methods and occasions for locking and securing stored radioactive materials;

6. Equipment and procedures for monitoring personnel;

7. The transportation of radioactive materials to field stations or temporary jobsites, including:

(a) The packaging of radioactive materials for transport in vehicles;

(b) Placing placards on vehicles when needed; and

(c) Physically securing radioactive materials in transport vehicles during transportation to prevent accidental loss, tampering or unauthorized removal;

8. Picking up, receiving and opening packages containing radioactive materials, in accordance with [NAC 459.3585](#);

9. The use of tracers;

10. Decontamination of the environment, equipment and personnel;

11. Maintenance of records generated by logging personnel at temporary jobsites;

12. The inspection and maintenance of:

(a) Sealed sources;

(b) Source holders;

(c) Logging tools;

(d) Injection tools;

(e) Source handling tools;

(f) Storage containers;

(g) Transport containers; and

(h) Uranium sinker bars,

as required by [NAC 459.7665](#);

13. Actions to be taken if a sealed source is lodged in a well;

14. Notifying proper persons in the event of an accident; and

15. Actions to be taken if a sealed source is ruptured, including:

(a) Actions to prevent the spread of contamination and minimize inhalation and ingestion of radioactive materials; and

(b) Actions to determine the boundaries of radioactive contamination with suitable radiation survey instruments described in [NAC 459.7661](#).

(Added to NAC by Bd. of Health, eff. 9-6-88; A 1-18-94)

NAC 459.7721 Monitoring personnel. ([NRS 459.030](#), [459.201](#))

1. A licensee shall not permit a person to act as a logging supervisor or a logging assistant unless that person wears, at all times during the handling of radioactive materials, either a film badge or a thermoluminescence

dosimeter. Each film badge or thermoluminescence dosimeter must be assigned to, and worn by, only one person. Film badges must be replaced at least once every month, and thermoluminescence dosimeters must be replaced at least once every 3 months. After replacement, each film badge or thermoluminescence dosimeter must be promptly processed.

2. A licensee shall provide bioassay services to persons using radioactive materials in subsurface tracer studies if required by his license.

3. A licensee shall retain records of film badge, thermoluminescence dosimeter and bioassay results for inspection until the Division authorizes disposition of the records.

(Added to NAC by Bd. of Health, eff. 9-6-88; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.7725 Surveys of radiation: Requirements; records. ([NRS 459.201](#))

1. A licensee shall make radiation surveys of each area where radioactive materials are used and stored.

2. Before transporting radioactive materials, a licensee shall make a radiation survey of the position occupied by each person in the vehicle and of the exterior of each vehicle used to transport the materials.

3. If a sealed source assembly is removed from a logging tool before departure from a temporary job site, the licensee shall confirm that the logging tool is free of contamination by energizing the logging tool detector or by using a survey meter.

4. If a licensee has reason to believe that, as a result of any operation involving a sealed source, the encapsulation of the sealed source could have been damaged by the operation, the licensee shall conduct a radiation survey, including a contamination survey, during and after the operation.

5. A licensee shall make a radiation survey at a temporary job site before and after each subsurface tracer study to confirm the absence of contamination.

6. The results of surveys required by subsections 1 to 5, inclusive, must be recorded and must include:

- (a) The date of the survey;
- (b) The name of the person making the survey;
- (c) The identification of the survey instrument used; and
- (d) The location of the survey.

7. A licensee shall retain the records of surveys required by subsection 6, for inspection by the Division, for 3 years after they are made.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.773 Control of radioactive contamination. ([NRS 459.201](#))

1. If a licensee detects evidence that a sealed source has ruptured or radioactive materials have caused contamination, the licensee shall immediately initiate the emergency procedures required by [NAC 459.7715](#).

2. If contamination results from the use of radioactive material in well logging, a licensee shall decontaminate all work areas, equipment and unrestricted areas.

3. During efforts to recover a sealed source lodged in a well, a licensee shall continuously monitor, with an appropriate radiation detection instrument or logging tool with a radiation detector, the circulating fluids from the well, if any, to check for contamination resulting from damage to the sealed source.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7735 Prohibited acts. ([NRS 459.201](#))

1. A licensee shall not use sealed sources in a well that penetrates a fresh water aquifer if the well does not have a surface casing, or if the well has a surface casing that does not isolate the fresh water aquifer from the well.

2. A licensee shall not use sealed sources in any well that is producing water for human or animal consumption, or for irrigation purposes.

3. A licensee shall not release any tracer radioactive materials in a well unless a written authorization has been obtained from the Division for each specific operation.

4. A registrant shall not activate a radiation machine used in a well logging operation so that it emits radiation, unless the radiation machine is in the well and at least 10 feet below the surface of the ground.

(Added to NAC by Bd. of Health, eff. 9-6-88)

NAC 459.7741 Notifying Radiological Health Section of certain events; procedure when sealed source is not retrievable. ([NRS 459.201](#))

1. A licensee shall immediately notify the Radiological Health Section of the Division by telephone and

subsequently, within 30 days, by confirmatory letter if the licensee knows, or has reason to believe, that a sealed source has been ruptured. The letter must:

- (a) Designate the well or other location;
 - (b) Describe the magnitude and extent of the escape of radioactive materials;
 - (c) Assess the consequences of the rupture; and
 - (d) Explain efforts planned or being taken to mitigate the consequences of the rupture.
2. A licensee or registrant shall notify the Radiological Health Section by telephone of:

- (a) The theft or loss of a source of radiation;
- (b) Overexposures to radiation;
- (c) Excessive levels and concentrations of radiation; and
- (d) Accidents, as required by [NAC 459.369](#), [459.3695](#) and [459.371](#);

3. When a sealed source becomes lodged in a well and it becomes apparent that efforts to recover the sealed source will not be successful, a licensee shall:

- (a) Notify the radiological health section by telephone of the circumstances that resulted in the inability to retrieve the source and obtain approval to carry out abandonment procedures;
- (b) Advise the well owner or operator of the abandonment procedures set forth in [NAC 459.7645](#);
- (c) Ensure that abandonment procedures are completed within 30 days after the sealed source has been classified irretrievable or request an extension of time from the Division to permit completion of the abandonment procedures; and
- (d) Make a report in writing to the Division within 30 days after a sealed source has been classified irretrievable. The licensee must send a copy of the report to each state or federal agency that issued permits or otherwise approved of the well drilling operation. The report must contain the following information:

- (1) The date of occurrence;
- (2) A description of the irretrievable well logging source involved, including the radionuclide and its quantity and chemical and physical form;
- (3) The surface location and identification of the well;
- (4) The results of efforts to immobilize and seal the source in place;
- (5) A brief description of the attempted recovery effort;
- (6) The depth of the source;
- (7) The depth of the top of the cement plug;
- (8) The depth of the well;
- (9) Any other information required by the Division, such as a warning statement contained on the permanent identification plaque; and
- (10) The names of the state and federal agencies receiving a copy of the report.

(Added to NAC by Bd. of Health, eff. 9-6-88; A 1-18-94)

NAC 459.7745 Maintenance of documents and records. ([NRS 459.201](#))

1. Each licensee and registrant shall maintain the following documents and records at the field station:

- (a) The regulations contained in [NAC 459.010](#) to [459.950](#), inclusive;
- (b) The license or registration authorizing the use of a source of radiation;
- (c) The records of calibration of radiation survey instruments;
- (d) Operating and emergency procedures;
- (e) The records of leak tests;
- (f) Physical inventory records;
- (g) Utilization records;
- (h) Records of inspection and maintenance;
- (i) Training records; and
- (j) Survey records.

2. Each licensee and registrant shall maintain the following documents and records at a temporary job site while well logging operations are being conducted:

- (a) Operating and emergency procedures;
- (b) Evidence of the latest calibration of the radiation survey instruments in use at the site;
- (c) The latest survey records required by [NAC 459.7725](#);
- (d) The shipping papers for transportation of radioactive material;
- (e) The latest leak test record;

(f) A copy of the license or registration authorizing the use of a source of radiation; and

(g) Identification documents for each person who enters the restricted area at the site which indicates his classification as logging supervisor, logging assistant or other category, and states that he is an employee of the licensee or registrant.

(Added to NAC by Bd. of Health, eff. 9-6-88; A by R084-98, 1-26-99)

Notices; Instructions and Reports to Employees; Inspections

NAC 459.780 Purpose; applicability. ([NRS 459.201](#)) [NAC 459.780](#) to [459.794](#), inclusive:

1. Establish requirements for notices, instructions and reports by licensees or registrants to persons engaged in work under a license or registration and options available to those persons in connection with the Division's inspections of licensees or registrants to ascertain compliance with the provisions of [chapter 459](#) of NRS and regulations, orders and licenses issued thereunder regarding radiological working conditions.

2. Apply to all persons who receive, possess, use or transfer sources of radiation licensed by or registered with the Division pursuant to [NAC 459.150](#) to [459.314](#), inclusive.

[Bd. of Health, Radiation Control Reg. § 10.1, eff. 2-28-80]

NAC 459.782 Notices to employees. ([NRS 459.201](#))

1. Each licensee or registrant shall post current copies of the following documents:

(a) The provisions of [NAC 459.320](#) to [459.374](#), inclusive, and [459.780](#) to [459.794](#), inclusive;

(b) The license, certificate of registration, conditions or documents incorporated into the license by reference and amendments thereto;

(c) The operating procedures applicable to work under the license or registration; and

(d) Any notice of a violation involving radiological working conditions, any proposed imposition of a civil penalty or an order issued pursuant to [NAC 459.010](#) to [459.142](#), inclusive, and any response from the licensee or registrant.

2. If posting of a document specified in paragraphs (a) to (c), inclusive, of subsection 1 is not practicable, the licensee or registrant shall post a notice which describes the document and states where it may be examined.

3. Form NRC-1, "Notice to Employees," must be posted by each licensee or registrant.

4. Any notices, forms or other documents posted must appear in a sufficient number of places to permit persons engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies. The documents must be conspicuous and must be replaced if defaced or altered.

5. Documents to be posted pursuant to paragraph (d) of subsection 1 must be posted within 5 working days after receipt of the documents from the Division. The licensee's or registrant's response, if any, must be posted within 5 working days after dispatch from the licensee or registrant. These documents must remain posted for a minimum of 5 working days or until action correcting the violation has been completed, whichever is later.

[Bd. of Health, Radiation Control Reg. §§ 10.2-10.2.5, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.784 Instructions to employees. ([NRS 459.201](#))

1. All persons who in the course of employment are likely to receive in 1 year an occupational dose of more than 100 millirems must:

(a) Be informed of the storage, transfer or use of radioactive material or of radiation;

(b) Be instructed in the problems of health protection associated with exposure to such radioactive material or radiation;

(c) Be instructed in precautions or procedures to minimize exposure and in the purposes and functions of the protective devices which are provided;

(d) Be instructed in and required to comply with the provisions of [NAC 459.010](#) to [459.794](#), inclusive, and licenses which pertain to the protection of personnel from any exposures to radiation or radioactive materials;

(e) Be informed of their responsibility to report promptly to the licensee or registrant any condition which may cause or lead to a violation of [NAC 459.010](#) to [459.794](#), inclusive, or licenses or any unnecessary exposure to radiation or radioactive material;

(f) Be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and

(g) Be advised of the existence of exposure reports to radiation which workers may request pursuant to [NAC](#)

[459.786.](#)

2. In determining which persons are subject to the requirements of this section, licensees shall consider:

(a) The assigned activities of the person during normal and abnormal situations involving exposure to radiation or radioactive material that can reasonably be expected to occur during the life of the licensed facility; and

(b) The potential problems relating to the protection against radiation and radioactive material present in the licensed facility.

[Bd. of Health, Radiation Control Reg. §§ 10.3-10.3.8, eff. 2-28-80]—(NAC A by R084-98, 1-26-99)

NAC 459.786 Reporting of certain information. ([NRS 459.070](#), [459.201](#))

1. Data concerning a person's exposure to radiation and the results of any measurements, analyses and calculations of radioactive material deposited or retained in the body of a person must be reported to him, as specified in this section. The information reported must include data and results obtained pursuant to [NAC 459.010](#) to [459.794](#), inclusive, orders or conditions set forth in the license or registration, as shown in records maintained by the licensee or registrant pursuant to those sections. Each notification and report must:

(a) Be in writing;

(b) Include the name of the registrant or licensee, the name of the person and his social security number;

(c) Include the information relating to the person's exposure; and

(d) Contain the following statement:

This report is furnished to you pursuant to [NAC 459.780](#) to [459.794](#), inclusive, adopted by the State Board of Health. You should preserve this report for further reference.

2. Each licensee and registrant shall advise each of its workers annually of their exposure to radiation or radioactive material as shown in records maintained by the licensee or registrant pursuant to [NAC 459.3665](#).

3. At the request of a worker formerly engaged in work controlled by the licensee or the registrant, the licensee or registrant shall furnish to the worker a report of his exposure to radiation or radioactive material. The report must be furnished within 30 days after the time the request is made or within 30 days after his exposure has been determined, whichever is later. The report must cover, within the period specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by or radiation machines registered with the Division and must include the dates and locations of work under the license or registration in which the worker participated during this period.

4. When a licensee or registrant is required pursuant to [NAC 459.3695](#) to report to the Division any exposure of a person to radiation or radioactive material, the licensee or registrant shall also provide the person with a report on his exposure data. The report to the person must be transmitted to him before transmittal of the report to the Division.

5. At the request of a worker who is terminating employment with a licensee or registrant in work involving exposure to radiation in a calendar quarter or of a worker who, while employed by another person, is terminating an assignment to work involving exposure to radiation in the licensee's or registrant's facility in a calendar quarter, the licensee or registrant shall provide the worker at the time of the termination a written report specifying the dose of radiation which he received from the operations of the licensee or registrant during the calendar quarter or fraction thereof or shall provide him a written estimate of that dose if the results of personnel monitoring have not been finally determined and are not available at that time. An estimated dose must be clearly indicated as such.

[Bd. of Health, Radiation Control Reg. §§ 10.4-10.4.5, eff. 2-28-80]—(NAC A 1-18-94)

NAC 459.788 Inspections: Generally; presence of representatives of licensees, registrants and employees. ([NRS 459.201](#))

1. Each licensee or registrant shall permit the Division, at all reasonable times, an opportunity to inspect materials, machines, activities, facilities, premises and records pursuant to [NAC 459.010](#) to [459.794](#), inclusive.

2. During an inspection, division inspectors may consult privately with workers, as specified in [NAC 459.790](#). The licensee or registrant may accompany the Division's inspectors during other phases of an inspection.

3. If, at the time of an inspection, a person has been authorized by the workers to represent them during the inspection, the licensee or registrant must notify the inspectors of the authorization and give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

4. Each workers' representative must be routinely engaged in work under control of the licensee or registrant and must have received instructions as specified in [NAC 459.784](#).

5. Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection, but only one workers' representative at a time may accompany the inspectors.

6. With the approval of the licensee or registrant and the workers' representative, a person who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, may be afforded the opportunity to accompany division inspectors during the inspection of physical working conditions.

7. Notwithstanding the other provisions of this section, division inspectors may refuse to permit accompaniment by any person who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area must be a person previously authorized by the licensee or registrant to enter that area.

[Bd. of Health, Radiation Control Reg. §§ 10.5-10.5.7, eff. 2-28-80]

NAC 459.790 Inspections: Consultation with employees. (NRS 459.201)

1. The inspectors of the Division may consult privately with workers on matters related to their protection from occupational radiation and matters related to applicable provisions of [NAC 459.010](#) to [459.794](#), inclusive, to the extent that the inspectors deem necessary for the conduct of an effective and thorough inspection.

2. During the course of an inspection, any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which he has reason to believe may have contributed to or caused any violation of [chapter 459](#) of NRS, [NAC 459.010](#) to [459.794](#), inclusive, or license condition, or any unnecessary exposure of a person to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. Any such notice in writing must comply with the requirements of subsection 1 of [NAC 459.792](#).

3. Subsection 2 is not an authorization to disregard instructions in [NAC 459.784](#).

[Bd. of Health, Radiation Control Reg. §§ 10.6-10.6.3, eff. 2-28-80]

NAC 459.792 Inspections: Requests by employees. (NRS 459.201)

1. Any worker or representative of workers who believes that a violation of [chapter 459](#) of NRS, [NAC 459.010](#) to [459.794](#), inclusive, or license conditions exists or has occurred in work under a license or a registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the Division. Any such notice must be in writing, set forth the specific grounds for the notice, and must be signed by the worker or representative of the workers. A copy must be given to the licensee or registrant by the Division no later than at the time of inspection except that, upon the request of the worker giving the notice, his name and the name of the persons referred to therein must not be disclosed in any copy or on any record published, released or made available by the Division, except for good cause shown.

2. If, upon receipt of the notice, the Division determines that the complaint meets the requirements in subsection 1, and that there is a reasonable ground to believe that the alleged violation exists or has occurred, the Division shall cause an inspection to be made as soon as practicable, to determine whether the alleged violation exists or has occurred. Inspections pursuant to this section need not be limited to matters referred to in the complaint.

3. No licensee or registrant may discharge or in any manner discriminate against any worker because the worker has filed any complaint, instituted or caused to be instituted any proceeding under [NAC 459.010](#) to [459.794](#), inclusive, or has testified or is about to testify in any such proceeding or because the worker, on behalf of himself or others, has exercised any option afforded by [NAC 459.780](#) to [459.794](#), inclusive.

[Bd. of Health, Radiation Control Reg. §§ 10.7-10.7.3, eff. 2-28-80]

NAC 459.794 Inspections: Informal review. (NRS 459.201)

1. If the Division determines, with respect to the complaint under [NAC 459.792](#), that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the Division must notify the complainant in writing of that determination.

2. The complainant may obtain a review of the determination by submitting a written statement of his position

with the State Health Officer, who shall provide the licensee or registrant with a copy of the statement by certified mail, excluding, at the request of the complainant, name of the complainant. The licensee or registrant may submit an opposing written statement of position with the State Health Officer, who shall provide the complainant with a copy of the statement by certified mail. Upon request of the complainant, the State Health Officer may hold an informal conference, pursuant to subsection 2 of [NAC 459.136](#), in which the complainant and licensee or registrant, may orally present their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant may be made only following receipt of his written authorization. After considering all written or oral views presented, the State Health Officer shall affirm, modify or reverse the determination of the Division and furnish the complainant and the licensee or registrant a written notification of the decision and the reason therefore.

3. The informal conference cannot be appealed and is the final remedy available to the complainant or the licensee or registrant pursuant to subsection 3 of [NAC 459.136](#).

4. If the Division determines that an inspection is not warranted because the requirements of subsection 1 of [NAC 459.792](#) have not been met, the Division shall notify the complainant in writing of that determination. Such a determination is without prejudice to the filing of a new complaint meeting the requirements of that subsection.

[Bd. of Health, Radiation Control Reg. §§ 10.8-10.8.4, eff. 2-28-80]—(NAC A 10-30-97)

DISPOSAL OF RADIOACTIVE MATERIAL

General Provisions

NAC 459.800 Definitions. ([NRS 459.201](#)) As used in [NAC 459.800](#) to [459.950](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.8005](#) to [459.8055](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 4-24-86; 6-23-86; 2-18-88; R084-98, 1-26-99)

NAC 459.8005 “Active maintenance” defined. ([NRS 459.201](#)) “Active maintenance” means any significant activity needed during the period of control after closure of the disposal area to ensure reasonable protection against inadvertent intruders and the migration of radionuclides, including activities such as the pumping and treatment of water from a disposal unit or replacement of the cover of a disposal unit. The term does not include continuing custodial activities such as the repair of fencing, repair or replacement of equipment for detecting radiation, revegetation, minor additions to the depth of soil covering a disposal unit and general upkeep such as mowing grass.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.801 “Buffer zone” defined. ([NRS 459.201](#)) “Buffer zone” means a portion of the disposal area which is controlled by the licensee and lies under the disposal units or between the disposal units and the boundary of the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8015 “Chelating agent” defined. ([NRS 459.201](#)) “Chelating agent” means amine polycarboxylic acids, hydroxycarboxylic acids and polycarboxylic acids.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.802 “Disposal” defined. ([NRS 459.201](#)) “Disposal” means the isolation of radioactive wastes from the biospheres inhabited by man and the plants and animals on which he feeds, directly or indirectly, by emplacement in a disposal area on land.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8025 “Disposal area” defined. ([NRS 459.201](#)) “Disposal area” means the land which is used for the disposal of waste, consisting of disposal units and a buffer zone.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.803 “Disposal unit” defined. ([NRS 459.201](#)) “Disposal unit” means a discrete portion of a disposal area into which waste is placed for disposal. For disposal near the surface, the unit is usually a trench.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8035 “Explosive material” defined. ([NRS 459.201](#)) “Explosive material” means any chemical compound, mixture or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.804 “Hydrogeological unit” defined. ([NRS 459.201](#)) “Hydrogeological unit” means a unit or zone of soil or rock which by virtue of its porosity or permeability, or lack thereof, has a distinct influence on the storage or movement of groundwater.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8045 “Inadvertent intruder” defined. ([NRS 459.201](#)) “Inadvertent intruder” means a person who occupies a disposal area after its closure and engages in normal activities, such as agriculture or the construction of a dwelling, in which he may unknowingly be exposed to radiation from the waste.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.805 “Near the surface” defined. ([NRS 459.201](#)) “Near the surface” means within the upper 100 feet (approximately 30 meters) of the earth’s surface.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8055 “Waste” defined. ([NRS 459.201](#)) “Waste” has the meaning ascribed to it in subsection G of Article 2 of the Rocky Mountain Low-level Radioactive Waste Compact in [NRS 459.007](#).

(Added to NAC by Bd. of Health, eff. 4-27-84)

Licenses for Disposal in Soil of Radioactive Wastes

NAC 459.806 Scope. ([NRS 459.201](#)) [NAC 459.806](#) to [459.8225](#), inclusive:

1. Establish the procedures, criteria, terms and conditions upon which the Division will issue licenses for the disposal in soil of radioactive wastes received from other persons.
2. Do not apply to the disposal of licensed material as provided in [NAC 459.3355](#) and [459.359](#) to [459.3615](#), inclusive.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 1-18-94)

NAC 459.8065 General requirements for license. ([NRS 459.201](#)) A person who desires to apply for a license to locate, design, construct and operate in this State an area for the disposal in soil of wastes that are received from others and contain or are contaminated with radioactive material must:

1. Comply with the requirements for a specific license set forth in [NAC 459.236](#); and
2. Submit to the Division the necessary general, technical, analytical, organizational and financial information.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.807 Collection of environmental data. ([NRS 459.201](#)) At the time a person applies for a license, he must have conducted a program to collect basic environmental data on the characteristics of the proposed disposal area, including data about the ecology, meteorology, climate, hydrology, geology, geochemistry and seismology of the area. For those characteristics that are subject to seasonal variation, the data must cover at least a 12-month period.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8075 Application for license: General information. ([NRS 459.201](#)) An applicant for a license to operate a disposal area must submit to the Division the following general information:

1. The identity of the applicant, including the full name, address, telephone number and a description of the business or occupation of the applicant, and if the applicant is:
 - (a) A partnership, the name and address of each partner and the principal location where the partnership does business;
 - (b) A corporation or an unincorporated association, the state where it is incorporated or organized, the

principal location where it does business and the names and addresses of its directors and principal officers; and

(c) Acting as an agent or representative for another person in filing the application, all information required under this subsection which applies to the other person.

2. The qualifications of the applicant, including:

(a) The organizational structure of the applicant, together with a description of lines of authority and assignments of responsibilities, whether in the form of administrative directives, contractual provisions or otherwise;

(b) The technical qualifications, training and experience of the applicant and members of the applicant's staff to engage in the proposed activities, as well as the minimum training and experience required of personnel in the organizational structure described in paragraph (a);

(c) A description of the applicant's training program for personnel; and

(d) The plan to maintain an adequate complement of trained personnel to carry out the receipt, handling and disposal of waste in a safe manner.

3. A description of:

(a) The location of the proposed disposal area;

(b) The general character of the proposed activities;

(c) The types and quantities of waste to be received, possessed and disposed of;

(d) Plans for use of the disposal area for any purposes other than for the disposal of radioactive wastes; and

(e) The proposed facilities and equipment for the disposal area.

4. Proposed schedules for construction, the receipt of waste and the first emplacement of waste at the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.808 Application for license: Technical information. ([NRS 459.201](#)) An applicant for a license to operate a disposal area must submit to the Division the following technical information to demonstrate that the applicant is capable of meeting the objectives and technical requirements of disposal:

1. A description of the natural and demographic characteristics of the disposal area, including geologic, geotechnical, hydrologic, meteorologic, climatologic and biotic features of the disposal area and its vicinity.

2. A description of the design of the disposal area and proposed disposal units. For disposal near the surface, the description must include those features of the design related to:

(a) The infiltration of water;

(b) Integrity of covers for disposal units;

(c) Structural stability of backfill, wastes and covers;

(d) Contact of wastes with standing water;

(e) Drainage;

(f) Closure and stabilization;

(g) Elimination, to the extent practicable, of long-term maintenance;

(h) Prevention of inadvertent intrusion;

(i) Exposure of employees to radiation;

(j) Detection of radiation in the disposal area; and

(k) Adequacy of the size of the buffer zone for detection and prevention of the migration of radionuclides.

3. A description of the principal criteria of the design and their relationship to the objectives of disposal.

4. A description of the natural events or phenomena on which the design is based and their relationship to the principal criteria of the design.

5. A description of codes and standards of construction which the applicant has applied to the design and which will apply to construction of the disposal area.

6. A description of the construction and operation of the disposal area. The description must include, at a minimum the:

(a) Methods of construction of disposal units;

(b) Methods for emplacement of waste;

(c) Procedures and areas for the segregation of waste;

(d) Types of barriers against intruders;

(e) Systems for vehicular traffic and drainage on the site;

(f) Program for control of emplacement by surveying;

(g) Methods and areas of waste storage;

(h) Methods to control the access of surface water and groundwater to the wastes; and

(i) Methods to be employed in the handling and disposal of wastes containing chelating agents or other nonradiological substances which may affect compliance with the objectives of disposal.

7. A description of the plan for closure of the disposal area, including those features of the design which are intended to facilitate closure of the disposal area and to eliminate the need for active maintenance.

8. An identification of those known natural resources at the disposal area whose future exploitation may result in inadvertent intrusion into the wastes after the removal of governmental control of the area.

9. A description of the kind, amount, classification and specifications of the radioactive material proposed to be received, possessed and disposed of at the disposal area.

10. A description of the programs for ensuring reliability:

(a) In the determination of natural characteristics of the disposal area;

(b) During the design, construction, operation and closure of the disposal area; and

(c) For the receipt, handling and emplacement of waste, including audits and managerial controls.

11. A description of the program for:

(a) Control and detection of radioactive effluents to ensure compliance with the requirements of [NAC 459.8155](#);

(b) Control and measurement of exposure of employees to radiation to ensure compliance with the requirements of [NAC 459.320](#) to [459.374](#), inclusive; and

(c) Control of contamination of personnel, vehicles, equipment, buildings and the disposal area. The programs must govern both routine operations and accidents and the descriptions must include applicable procedures, instrumentation, facilities and equipment.

12. A description of the program for detection and measurement of radionuclides migrating from the disposal area to provide data to evaluate potential effects on health and the environment and the plan for taking corrective measures if a migration of radionuclides is discovered.

13. A description of the administrative procedures that the applicant will apply to control activities at the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 1-18-94)

NAC 459.8085 Application for license: Analyses. ([NRS 459.201](#)) An applicant for a license to operate a disposal area must submit to the Division the following analyses to demonstrate that the objectives of disposal will be met:

1. Pathways of migration of radionuclides which are analyzed in demonstrating protection of the general population from releases of radioactivity must include air, soil, groundwater, surface water, vegetative growth and exhumation by burrowing animals. The analyses must clearly identify and differentiate between the roles performed by the natural characteristics of the disposal area and features of design to isolate and segregate the wastes. The analyses must clearly demonstrate that there is a reasonable assurance that the exposures of persons to the release of radioactivity will not exceed the limits set forth in [NAC 459.8155](#).

2. Analyses of the protection of persons who inadvertently intrude must include a demonstration that there is a reasonable assurance that the requirement of segregation of wastes will be met and that adequate barriers to inadvertent intrusion will be provided.

3. Analyses of the protection of persons during operations must include assessments of expected exposures resulting from routine operations and likely accidents during the handling, storage and disposal of waste. The analyses must provide a reasonable assurance that exposure will be controlled to meet the requirements of [NAC 459.320](#) to [459.374](#), inclusive.

4. Analyses of the long-term stability of the disposal area and the need for active maintenance after closure must be based upon analyses of active natural processes such as erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils and the surface drainage of the disposal area. The analyses must provide a reasonable assurance that active maintenance of the disposal area will not be needed following closure.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 1-18-94)

NAC 459.809 Application for license: Information concerning ownership. ([NRS 459.201](#)) An applicant for a license to operate a disposal area must submit to the Division the following information concerning ownership of the area:

1. If the disposal area is proposed to be located on land already owned by the Federal Government or this State, a certification by the federal or state agency which owns the land that the agency will:

(a) Accept transfer of the license when the provisions of [NAC 459.8215](#) are met; and

(b) Assume responsibility for custodial care upon closure of the disposal area and observation and maintenance after closure.

2. If the disposal area is proposed to be located on land not owned by the Federal Government or this State, the applicant must submit evidence that arrangements have been made for assumption of ownership in fee by a federal or state agency before the Division issues a license.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8095 Application for license: Financial information. ([NRS 459.201](#)) An applicant for a license to operate a disposal area must submit to the Division financial information which is sufficient to demonstrate that the finances of the applicant are adequate to carry out the activities for which the license is sought and meet the financial requirements in [NAC 459.8115](#) to [459.813](#), inclusive.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.810 General requirements of disposal area. ([NRS 459.201](#)) A disposal area must be so located, designed, operated, closed and controlled after closure as reasonable to ensure that:

1. Any exposures of persons to radiation are within the limits established in this section and [NAC 459.815](#) and [459.8155](#);

2. A person is protected who inadvertently intrudes into and occupies the disposal area or comes into contact with the waste at any time after active governmental control over the disposal area is removed; and

3. Long-term stability of the disposal area is achieved and the need for active maintenance of the area following closure is eliminated to the extent practicable, so that only surveillance, detection of radiation and minor custodial care are required.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8105 Location and minimum characteristics of disposal area. ([NRS 459.201](#))

1. The primary objectives in assessing the location of a disposal area are to determine that the characteristics of the proposed area will ensure the isolation of wastes and the attainment of other long-term requirements.

2. A proposed disposal area must have the following minimum characteristics to be approved for disposal near the surface of low-level radioactive waste:

(a) The disposal area must be capable of being characterized, modeled, analyzed and observed.

(b) A site must be selected so that projected growth of the population and other future developments within the region where the disposal area is to be located are not likely to affect the capability of the disposal area to meet the objectives of disposal.

(c) Geographical areas must be avoided which contain valuable natural resources which are known to exist and which, if exploited, would result in the eventual failure of the disposal area to meet the objectives of disposal.

(d) The disposal area must be generally well drained and free of areas of flooding or frequent accumulations of water in ponds. The disposal of wastes will not be allowed in a 100-year floodplain, coastal area with a high risk of flooding or wetland, as those terms are defined in Executive Order No. 11,988, Floodplain Management Guidelines in 43 FR 6030 (1978).

(e) Drainage areas which are upstream from the site must be minimized to decrease the amount of runoff which could erode or inundate disposal units.

(f) Wastes, when buried, must be sufficiently above the water table so that the intrusion of groundwater, perennial or otherwise, into the waste will not occur. The disposal of waste will not be allowed in the zone of fluctuation of the water table.

(g) The hydrogeological unit in which the site is located must not discharge groundwater to the surface within the disposal area.

(h) The disposal of wastes will not be allowed in geographic areas where tectonic processes such as faulting, folding, seismic activity or vulcanism may occur with a frequency and to an extent that significantly affects the capability of the disposal area to meet the objectives of disposal, or may preclude defensible modeling and the prediction of long-term effects.

(i) The disposal of wastes will not be allowed in geographical areas where surface geologic processes such as mass wasting, erosion, slumping, landsliding or weathering occur with a frequency and to an extent that significantly affects the capability of the disposal area to meet the objectives of disposal, or may preclude defensible modeling and prediction of long-term effects.

(j) The disposal area must not be located where nearby facilities or activities could adversely affect the capability of the area to meet the objectives of disposal or significantly interfere with the detection of radionuclides migrating from the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.811 Design of disposal area. ([NRS 459.201](#)) The design of the disposal area must be directed toward the long-term isolation of wastes and avoidance of the need for active maintenance after closure of the area, and must meet the following criteria:

1. The design and operation of the disposal area must be compatible with the plan for closure and stabilization and lead to closure which reasonably ensures that the objectives of disposal will be met.
2. The disposal area must be designed to complement and improve, where appropriate, the capability of the disposal area's natural characteristics to ensure that the objectives of disposal will be met.
3. Covers must be designed to:
 - (a) Minimize the infiltration of water to the extent practicable;
 - (b) Direct percolating or surface water away from the waste; and
 - (c) Resist degradation by surface geologic processes and biotic activity.
4. Surface features must direct the drainage of surface water away from disposal units at velocities and gradients that will not cause erosion and result in active maintenance of the units in the future.
5. The disposal area must be designed to minimize, to the extent practicable, the contact of:
 - (a) Water with waste during storage;
 - (b) Standing water with waste during disposal; and
 - (c) Percolating or standing water with waste after disposal.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8115 Financial requirements: Demonstration of ability to obtain necessary money. ([NRS 459.201](#)) Each applicant must demonstrate to the satisfaction of the Division that it possesses or has a reasonable likelihood of obtaining the necessary money, to cover the estimated costs of conducting all licensed activities over the planned operating life of the disposal area, including costs of construction and disposal.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.812 Financial requirements: Assurances of sufficient money for closure and stabilization. ([NRS 459.201](#))

1. The applicant must provide assurances before the commencement of operations that sufficient money will be available to carry out closure and stabilization of the disposal area, including the decontamination or dismantling of structures in the disposal area, so that after transfer of control over the disposal area to its governmental owner, the need for active maintenance is eliminated to the extent practicable and only minor custodial care, surveillance and detection of radiation are required. These assurances must be based on cost estimates approved by the Division for carrying out the plan for closure and stabilization. The applicant's estimates of cost must take into account the total costs that would be incurred if an independent contractor were hired to perform the work of closure and stabilization.

2. In order to avoid duplication and unnecessary expense, the Division will accept sureties or undertakings that have been consolidated with other undertakings established to meet the requirements of other federal, state or local governmental agencies for decontamination closure and stabilization. The Division will accept these consolidated undertakings only if:

- (a) They are considered adequate to satisfy the requirements of this section; and
- (b) The portion of the undertaking which covers the closure of the disposal area is clearly identified and committed for use in accomplishing those activities.

3. The licensee must annually submit his sureties or other arrangements to the Division for its review to ensure that sufficient money is available for completion of the plan for closure, assuming that the work will be performed by an independent contractor.

4. The amount of the undertaking must be changed in accordance with the predicted cost of final closure and stabilization. Factors affecting the estimated costs of closure and stabilization include monetary inflation, increases in the amount of disturbed land, changes in engineering plans, any closure and stabilization that has already been accomplished and any other conditions affecting costs. The undertaking must also be sufficient at all times to cover the costs of closure of the disposal units that are expected to be used before the next renewal of the license for the disposal area.

5. The term of any undertaking must be unlimited unless the applicant or licensee can demonstrate that another arrangement, such as the one described in [NAC 459.8125](#), will provide an equivalent level of assurance.

6. Financial arrangements which are generally acceptable to the Division include surety bonds, cash deposits, certificates of deposit, deposits of government securities, escrow accounts, irrevocable letters or lines of credit, trust funds or any combination of them. Other types of arrangements may be approved by the Division. Self-insurance or any other arrangement which essentially constitutes pledging the assets of the licensee will not satisfy the requirement for an applicant that is not a governmental agency, because it provides no additional assurance other than that which already exists through licensing.

7. Liability of a surety or upon another undertaking must remain in effect until the program for closure and stabilization has been completed and approved by the Division and the license has been transferred to the governmental agency which owns the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8125 Financial requirements: Alternative form of assurance. ([NRS 459.201](#))

1. An alternative form of assurance may be provided by an undertaking which covers a specific period, for example, 5 years, but which is automatically renewed unless the party who issues the surety notifies the Division, the beneficiary (the owner of the disposal area) and the principal (the licensee), not less than 90 days before the date for renewal, of its intention not to renew. If the undertaking is not renewed the licensee must submit another surety undertaking within 30 days after notification of this intent. If the licensee fails to provide such a replacement which is acceptable to the Division, the owner of the disposal area may demand payment from the original surety or upon the original undertaking. Proof of forfeiture must not be required to collect this payment, so that, if the licensee does not provide an acceptable replacement within the required time, the amount of the undertaking must be automatically collected prior to its expiration.

2. The conditions described in subsection 1 must be clearly stated in any undertaking whose term is limited and must be agreed to by all parties.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.813 Financial requirements: Contract with governmental agency which owns disposal area. ([NRS 459.201](#))

1. Before the Division issues a license, the applicant must provide for review and approval by the Division of a copy of a periodically modifiable contract between the applicant and the governmental agency which owns the disposal area that ensures sufficient money will be available to cover the costs of inspecting the disposal area, detecting radiation and any required maintenance during the period of governmental control after closure. The Division will review the contract periodically to ensure that changes in the value of money or in technology and operations in the disposal area are reflected in the costs to be covered.

2. Modifications to the contract described in subsection 1 must be agreed to by the Division.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8135 Variances. ([NRS 459.201](#)) The Division may, upon application by an interested person or upon its own initiative, grant a variance from any of the requirements of [NAC 459.806](#) to [459.8225](#), inclusive, which it finds:

1. Is not contrary to law;
2. Will not endanger life or property; and
3. Is in the public interest.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.814 Licenses: Necessary findings. ([NRS 459.201](#)) The Division will issue a license to receive, possess and dispose of waste containing or contaminated with radioactive material upon finding that:

1. The issuance of the license will not constitute an unreasonable risk to the health and safety of the public;
2. The applicant is qualified by reason of training and experience to carry out the disposal of waste in a manner that protects health and minimizes danger to life and property;
3. The applicant's proposed disposal area, its design and operations, including equipment, facilities and procedures, and the plans for closure and care and control after closure are adequate to protect the public health and safety in that they provide reasonable assurance that:

(a) The standards for protection from radiation as provided in [NAC 459.320](#) to [459.374](#), inclusive, will be met;

- (b) The general population will be protected from releases of radioactivity as provided in [NAC 459.8155](#);
 - (c) Any inadvertent intruder into the area will be protected as provided in subsection 2 of [NAC 459.810](#); and
 - (d) The long-term stability of the buried waste and the disposal area will be achieved and will eliminate to the extent practicable the need for active maintenance of the disposal area after closure;
4. The applicant's demonstration provides a reasonable assurance that the applicable technical requirements for disposal will be met;
5. The applicant's proposal for governmental control after closure provides a reasonable assurance that care will be furnished for the length of time necessary to carry out the requirements of subsection 3 and meets the requirements provided in [NAC 459.822](#); and
6. The financial assurances meet the requirements provided in [NAC 459.813](#).
- (Added to NAC by Bd. of Health, eff. 4-27-84; A 1-18-94)

NAC 459.8145 Licenses: Conditions. ([NRS 459.201](#))

1. The Division shall attach the following conditions to each license to operate a disposal area which it issues:
- (a) No license or any right thereunder may be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person unless the Division finds, after obtaining full information, that the transfer is in accordance with the provisions of [NAC 459.198](#) and gives its consent in writing in the form of an amendment to the license.
 - (b) The licensee shall submit written statements under oath upon request of the Division at any time before termination of the license to enable the Division to determine whether or not the license should be modified, suspended or revoked.
 - (c) The license will be transferred to the state agency which owns the land only after the plan for closure approved by the Division is fully carried out, including observation and maintenance after closure.
 - (d) The licensee and its license are subject to the provisions of [chapter 459](#) of NRS and all rules, regulations and orders of the Division and any subsequent amendments to them, adopted or issued in accordance with the terms of [chapter 459](#) of NRS.
 - (e) The licensee shall confine its possession and use of radioactive materials to the locations and purposes authorized in its license.
 - (f) The licensee shall not dispose of radioactive waste until the Division has inspected the disposal area and has found it to be in conformance with the description, design and construction described in the application for a license.
2. The Division may add to any license at the time of its issuance or thereafter, by appropriate regulation or order, additional requirements and conditions with respect to the licensee's receipt, possession and disposal of source material, special nuclear material, by-product material or other radioactive material as it deems appropriate or necessary, in order to:
- (a) Protect health or to minimize danger to life or property; or
 - (b) Require reports and the keeping of records and provide for inspections of activities under the license that may be necessary or appropriate to effectuate the purposes of [chapter 459](#) of NRS and the Division's regulations.
3. The authority to dispose of wastes expires on the date stated in the license except as provided in subsection 1 of [NAC 459.820](#).
- (Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.815 Conduct of operations: Standards for protection from radiation. ([NRS 459.201](#)) The licensee must conduct operations at the disposal area in compliance with the standards for protection from radiation set forth in [NAC 459.320](#) to [459.374](#), inclusive, except for releases of radioactivity in effluents from the disposal area which are governed by the provisions of [NAC 459.8155](#). The licensee must make reasonable efforts to keep exposures to radiation as low as is reasonably achievable.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 1-18-94)

NAC 459.8155 Limitations on annual release of radioactive material to general environment. ([NRS 459.201](#))

1. Concentrations of radioactive material which may be released to the general environment in groundwater, surface water, air, soil, plants or animals must not result in an annual dose exceeding an equivalent of 25 millirems to the whole body, 75 millirems to the thyroid and 25 millirems to any other organ of any person.

2. The licensee must make reasonable efforts to keep releases of radioactivity in effluents to the general environment as low as is reasonably achievable.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.816 Segregation and disposal of waste. ([NRS 459.201](#))

1. The licensee shall:

(a) Segregate wastes designated as Class A pursuant to [NAC 459.8265](#) to [459.8305](#), inclusive, from other wastes by placing them in disposal units which are sufficiently separated from disposal units for the other classes of waste so that any interaction between Class A wastes and other wastes will not result in a failure to meet the objectives of disposal. This type of segregation is not necessary for Class A wastes if they meet the requirements for stability in [NAC 459.8305](#).

(b) Dispose of wastes designated as Class C:

(1) So that the top of the waste is at least 16 feet below the top surface of the cover; or

(2) With barriers against intruders that are designed to protect against an inadvertent intrusion for at least 500 years.

(c) Dispose of all wastes in accordance with the requirements of subsections 2 to 8, inclusive.

2. Wastes must be emplaced in a manner that:

(a) Maintains the integrity of packages during emplacement;

(b) Minimizes the spaces between packages; and

(c) Permits the remaining spaces between packages to be filled.

3. Spaces between packages of waste must be filled with earth or other materials to reduce future subsidence within the fill.

4. Waste must be placed and covered in a manner that limits the rate of radiation at the surface of the cover to levels that, at a minimum, will permit the licensee to comply with all the provisions of [NAC 459.335](#) at the time the license is transferred pursuant to [NAC 459.8215](#).

5. The boundaries and location of each disposal unit must be accurately located and mapped by means of a survey. Disposal units near the surface must be marked in such a way that the boundaries of each unit can be easily identified. Three permanent control points, consisting of survey markers whose location can be found from control stations of surveys of the United States Geological Survey or National Geodetic Survey, must be established on the site to facilitate surveys. The control stations must provide horizontal and vertical controls.

6. A buffer zone must be maintained between any buried waste and the boundary of the disposal area and beneath the disposed waste. The buffer zone must be of adequate dimensions to enable the licensee or other custodian of the disposal area to carry out the provisions of subsection 3 of [NAC 459.817](#) and take mitigative measures if needed.

7. The licensee shall carry out the measures for closure and stabilization set forth in the approved plan for closure of the site after each disposal unit is filled and covered.

8. Current operations of disposal must not adversely affect completed measures for closure and stabilization.

9. Only wastes containing or contaminated with radioactive materials may be disposed of at the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 1-18-94)

NAC 459.8165 Records of shipments. ([NRS 459.201](#))

1. After receipt and acceptance of a shipment of radioactive waste, the licensee shall record:

(a) The date of receipt and the condition of the packages of waste as received at the disposal facility;

(b) Any discrepancies between the materials listed on the manifest and those received;

(c) Any evidence of leaking or damaged packages or radiation, or levels of contamination in excess of the limits specified in the regulations of the United States Department of Transportation and the Division;

(d) The traceable shipment manifest number;

(e) A description of any engineered barrier or structural overpack provided for disposal of the waste;

(f) The volume of any pallets, bracing or other shipping or on-site generated materials that are contaminated and are disposed of as contaminated or suspect materials;

(g) The date of disposal of the waste and its location in the disposal area; and

(h) Any other information that may be required by the Division as a condition of the license.

2. The licensee shall retain the records described in subsection 1 until the Division transfers or terminates the license that authorizes the activities described in this section.

3. The licensee shall briefly describe any repackaging performed on the waste included in the shipment and

any other information required to be kept by the Division.

4. The licensee shall store, or have stored, the manifest and any other information relating to the receipt and disposal of radioactive waste in a medium that is computer readable, including, without limitation, the information described in:

- (a) Paragraphs (a) to (d), inclusive, of subsection 1;
- (b) Subsection 3; and
- (c) [NAC 459.8231](#), except for:
 - (1) The telephone numbers of the persons shipping and carrying the waste; and
 - (2) The certifications of the consignee and the shipper of the waste.

5. As used in this section:

- (a) "Engineered barrier" means a man-made structure or device that is used to improve the ability of the disposal facility to meet the requirements set forth in [NAC 459.810](#).
- (b) "Medium that is computer readable" means a medium from which information can be transferred into the memory of the computer of the Division.
- (c) "Structural overpack" means an enclosure that is used by a single consignor to protect a package of waste, for convenience in the handling of such a package or to consolidate two or more such packages. The term does not include a vehicle used for transportation or a freight container.

(Added to NAC by Bd. of Health, eff. 4-27-84; A by R084-98, 1-26-99)

NAC 459.817 Program of environmental observation. ([NRS 459.201](#))

1. During construction and operation of the disposal area, the licensee shall establish and maintain a program of environmental observation to detect radiation. Observations and measurements must be made and recorded to provide data to evaluate potential effects on health and the environment during both the construction and the operation of the disposal area and long-term effects and the need for mitigative measures. The program for detection of radiation must be capable of providing an early warning of releases of radionuclides from the disposal area, before they leave the boundaries of the disposal area.

2. The licensee must have plans for taking corrective measures if the program for detection of radiation detects a migration of radionuclides which indicates that radionuclides may leave the disposal area.

3. After the disposal area is closed, the licensee who is responsible for surveillance of the disposal area shall maintain a program for detection of radiation based on the operating history and the closure and stabilization of the disposal area. The program must be capable of providing an early warning of releases of radionuclides from the disposal area, before they leave the boundaries of the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8175 Authorization of specific alternatives to requirements. ([NRS 459.201](#)) The Division may, upon request or on its own initiative, authorize specific provisions other than those set forth in [NAC 459.807](#), [459.811](#), [459.816](#) and [459.817](#) for the segregation and disposal of waste and for the design and operation of a disposal area if it finds those specific provisions ensure reasonable compliance with the requirements concerning disposal.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.818 Inspection by Division. ([NRS 459.201](#))

1. Each licensee shall permit the Division at all reasonable times to inspect radioactive waste not yet disposed of and the premises, equipment, operations and facilities in which radioactive wastes are received, possessed, handled, treated, stored and disposed of, unless the licensee has a record of satisfactory compliance with the regulations of the United States Department of Transportation, as determined by the Division.

2. Each licensee shall make available to the Division for inspection, upon reasonable notice, records kept by it pursuant to the provisions of [NAC 459.3665](#) and [459.800](#) to [459.8225](#), inclusive. An authorized representative of the Division may copy for the Division's use any record required to be kept pursuant to the provisions of [NAC 459.010](#) to [459.950](#), inclusive.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 6-23-86; 1-18-94; R084-98, 1-26-99)

NAC 459.8185 Tests by licensee or Division. ([NRS 459.201](#)) Each licensee shall perform, or permit the Division to perform, any tests the Division deems appropriate or necessary for the administration of [NAC](#)

[459.800](#) to [459.8225](#), inclusive, including tests of:

1. Radioactive wastes and facilities used for the receipt, storage, treatment, handling and disposal of radioactive wastes;
2. Instruments for the detection and measurement of radiation; and
3. Other equipment and devices used in connection with the receipt, possession, handling, treatment, storage and disposal of radioactive waste.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.819 Annual reports. ([NRS 459.201](#)) Each licensee shall submit to the Division the following annual reports:

1. A report of activities at the disposal area during the preceding year which includes:
 - (a) A specification of the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in airborne effluents;
 - (b) The results of the program for detecting radiation;
 - (c) A summary of the surveys and maintenance of disposal units;
 - (d) A summary, by class of waste, of activities and quantities of radionuclides disposed of;
 - (e) Any instance in which observed characteristics of the disposal area or its vicinity were significantly different from those described in the application for a license; and
 - (f) Any other information the Division may require.

Ê This report must be submitted by the end of the first calendar quarter of each year for the preceding year. If the quantities of radioactive materials which have been released during the reporting period, while disposing of wastes, performing maintenance, measuring the area to detect radiation or during other activities are significantly different from the quantities anticipated in the plans and other documents which were a part of the licensee's application for a license, the report must specifically describe those differences.

2. A copy of its financial report or a certified financial statement in order to update the information for determining financial qualifications.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8195 Records and reports: Preparation; retention; reproduced copy. ([NRS 459.201](#))

1. Each licensee shall prepare and keep such records and submit such reports in connection with its licensed activities as may be required by the conditions of the license or the regulations or orders of the Division.
2. Each licensee shall keep copies of required records and reports for the period specified in [NAC 459.3665](#) or in the license. If a period of retention is not otherwise specified, these records must be kept and transferred to the persons specified by the Division upon termination of its license unless the Division authorizes their disposition at an earlier date.
3. A record which is required to be kept may be maintained in the form of the original, or a reproduced copy or on microfilm if the reproduced copy or microfilm is capable of producing a copy that is clear and legible at the end of the required period of retention.
4. If different periods of retention are specified for the same type of record in this regulation, a condition of the license or an order of the Division, the longest period specified takes precedence.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 1-18-94)

NAC 459.820 Renewal of license. ([NRS 459.201](#))

1. An application for the renewal of a license must be filed at least 90 days before the date of its expiration and be in accordance with the provisions of [NAC 459.8065](#) and [459.8075](#) to [459.8095](#), inclusive.
2. Information contained in applications, reports or other documents previously filed with the Division under the license may be incorporated by reference if the reference is clear and specific.
3. If a licensee has filed a complete application for renewal of a license, the license does not expire until the Division has taken final action on the application for renewal.
4. In determining whether a license will be renewed, the Division will apply the criteria set forth in [NAC 459.814](#).

5. The date of expiration on a license or the denial of an application to renew a license applies only to the licensee's activities above the ground at the disposal area and authority to dispose of waste. Failure to renew a license does not relieve the licensee of responsibility for carrying out the plan for closure of the disposal area including inspection of the area and detection of radiation after closure, and transfer of the license to the

governmental agency which owns the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8205 Application to amend license for closure. ([NRS 459.201](#))

1. A licensee who desires to close a disposal area or is directed to do so by the Division shall submit an application to amend the license for closure. An application for closure must be filed at least 90 days before the date proposed for closure.

2. The application for closure must include a final revision and specific details of the plan for closure of the disposal area which was a part of the application for a license. The final revision of the plan for closure must include:

(a) Any additional geologic, hydrologic or other data concerning the disposal area which is pertinent to the long-term containment of wastes emplaced during the operation of the disposal area;

(b) The results of tests or any other analyses relating to back-filling of excavated areas, closure and sealing, migration of waste and interaction with emplaced media, and any other tests or analysis pertinent to the long-term containment of emplaced waste within the disposal area;

(c) Any proposed revision of plans for:

(1) Decontamination or dismantling of facilities above the ground;

(2) Backfilling of excavated areas; or

(3) Stabilization of the disposal area for care after closure; and

(d) Any significant new information regarding the environmental effect of the activities of closure and the long-term performance of the disposal area.

3. Upon review and consideration of an application to amend the license for closure, the Division will amend the license to authorize closure if there is a reasonable assurance that the long-term objectives after closure will be met.

4. Information contained in applications, reports or other documents previously filed with the Division may be incorporated by reference in the application for closure if the reference is clear and specific.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.821 Responsibility of licensee after authorization to close disposal area. ([NRS 459.201](#)) After receiving authorization from the Division to close the disposal area, the licensee shall continue the program for detection of radiation and inspect and carry out necessary maintenance and repairs at the disposal area until closure of the disposal area is complete and the license is transferred by the Division to the governmental agency which owns the disposal area. Responsibility for the disposal area must remain with the licensee for at least 5 years before the transfer of the license, unless a shorter or longer period for observation and maintenance after closure is established and approved by the Division as a part of the closure plan, based on conditions peculiar to the disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8215 Transfer of license to governmental agency after closure. ([NRS 459.201](#)) Following closure and the period of observation and maintenance after closure, the licensee may apply for an amendment to transfer the license to the governmental agency which owns the disposal area. The license will be transferred when the Division finds that:

1. The closure of the disposal area has been completed in conformance with the licensee's plan for closure as revised and approved by the Division;

2. Reasonable assurance has been provided by the licensee that the requirements for control of radiation have been met;

3. Any money and records necessary for care have been transferred to the owner of the disposal area;

4. The program for detecting radiation after closure is operational and may be carried out by the owner of the disposal area; and

5. The federal or state agency which will assume responsibility for control of the disposal area is prepared to do so and will meet the requirements for control in subsection 5 of [NAC 459.814](#).

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.822 Program to control access to area after transfer of control. ([NRS 459.201](#)) The governmental agency to whom the land is transferred by the licensee shall carry out a program to control physical

access to the disposal area following transfer of control of the disposal area. The program of control must also include carrying out a program for detecting radiation at the disposal area, periodic inspections, minor custodial care, other requirements determined by the Division and administration of the money to cover the costs for these activities. The period of control will be determined by the Division, but controls may not be relied upon for more than 100 years after transfer of control of the disposal area to the owner.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8225 Amendment to terminate license. ([NRS 459.201](#))

1. After any period of control by a governmental agency which is necessary to meet the requirements under [NAC 459.814](#), the agency which holds the license may apply for an amendment to terminate the license. The license will be terminated if the Division finds that:

- (a) The requirements for control under subsection 5 of [NAC 459.814](#) have been met; and
- (b) Any additional requirements resulting from new information developed during the period of control have been met and permanent monuments or markers warning against intrusion have been installed.

2. At the time of termination of the license, the agency must transfer copies of records of the location and the quantity of radioactive wastes contained in the disposal area to the Governor, governing body of the county in which the disposal area is located, governing body of the nearest municipality, their respective planning commissions, if any, and other state, local and federal governmental agencies designated by the Division at the time of termination of the license.

(Added to NAC by Bd. of Health, eff. 4-27-84)

Transportation of Radioactive Waste

NAC 459.8231 Requirements for shipping manifest; exceptions. ([NRS 459.030](#), [459.201](#))

1. A waste generator, waste collector or waste processor who transports or offers for transportation low-level radioactive waste intended for ultimate disposal at a licensed land disposal facility for low-level radioactive waste must, except as otherwise provided in subsection 2, prepare a manifest that includes the information requested on NRC Forms 540, 540A, 541 and 542, as applicable. NRC Forms 540 and 540A must be completed by the waste generator, waste collector or waste processor and must accompany the shipment. Upon agreement between the waste generator, waste collector or waste processor and the consignee, NRC Forms 541, 541A, 542 and 542A may be completed, transmitted and stored in electronic media with the capability of producing legible, accurate and complete records of the forms in the format of a uniform manifest.

2. A licensee is not required to comply with subsection 1 if the licensee ships:

- (a) Low-level waste for processing and expects return of the waste before it is disposed of at a licensed land disposal facility;
- (b) Low-level waste that is being returned to the licensee who is the generator; or
- (c) Material that is contaminated with radioactivity to a waste processor and the waste becomes the residual waste of the waste processor.

3. A licensee who ships the radioactive waste shall provide the following information on the uniform manifest for each disposal container in the shipment:

- (a) The name, address and telephone number of the licensee shipping the waste;
- (b) A declaration of whether the licensee is acting as a waste generator, waste collector, waste processor or any combination thereof for the shipment;
- (c) The name, address, telephone number and Environmental Protection Agency identification number of the carrier transporting the waste;
- (d) The date of the shipment;
- (e) The total number of packages and containers;
- (f) The total volume and weight of the shipment;
- (g) The total radionuclide activity in the shipment;
- (h) The identity and activity of each of the radionuclides contained in the shipment, including, without limitation, the activity of any H-3, C-14, Tc-99 and I-129 contained in the shipment;
- (i) The total masses of U-233, U-235 and plutonium in the material shipped, including in any special nuclear material;
- (j) The total mass of uranium and thorium in the material shipped, including in any source material;
- (k) The alphabetic or numeric identification that uniquely identifies each disposal container in the shipment;
- (l) A physical description of the disposal container, including, without limitation, the name of the

manufacturer and model of any high integrity container;

- (m) The volume displaced by the disposal container;
- (n) The gross weight of the disposal container and the waste contained therein;
- (o) For waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;
- (p) A physical and chemical description of the waste;
- (q) The total percentage by weight of the chelating agent for any waste containing more than 0.1 percent by weight of a chelating agent and the name of the principal chelating agent;
- (r) The approximate volume of waste within the container;
- (s) The sorbing media or solidification media, if any, and the identity of the vendor and name of the brand of any solidification media;
- (t) For discrete waste types, including, without limitation, activated materials, contaminated equipment, mechanical filters, sealed sources and devices and wastes in solidification media or stabilization media, the identities and activities of individual radionuclides associated with or contained in the waste types;
- (u) The total radioactivity within each container;
- (v) For waste that is consigned to a disposal facility, the classification of the waste as set forth in [NAC 459.8265](#); and
- (w) The name of any waste that does not meet the structural stability requirements as set forth in [NAC 459.8305](#).

4. A licensee who ships radioactive waste that is delivered without a disposal container must provide the following information on the manifest:

- (a) The approximate volume and weight of the waste;
- (b) A physical and chemical description of the waste;
- (c) The total percentage by weight of the chelating agent for any waste containing more than 0.1 percent by weight of a chelating agent and the name of the principal chelating agent;
- (d) For waste that is consigned to a disposal facility:
 - (1) The classification of the waste as set forth in [NAC 459.8265](#); and
 - (2) The maximum radiation levels at the surface of the waste;
- (e) The name of any waste that does not meet the structural stability requirements as set forth in [NAC 459.8305](#); and

(f) The identities and activities of individual radionuclides contained in the waste, the masses of U-233, U-235 and plutonium in the special nuclear material and the masses of uranium and thorium in the source material.

5. A licensee who ships disposal containers of mixtures of waste originating from different waste generators or mixtures of waste shipped without a container for which portions of the mixture within the shipment originate from different waste generators shall provide the following information on the manifest:

- (a) For homogeneous mixtures of waste, including, without limitation, ash from an incinerator, the waste description applicable to the mixture and the volume of the waste attributed to each waste generator.
- (b) For heterogeneous mixtures of waste, including, without limitation, the combined products from a large compactor, the identification of each waste generator contributing waste to the disposal container.
- (c) For discrete waste types, including, without limitation, activated materials, contaminated equipment, mechanical filters, sealed sources and devices, and wastes in solidification media or stabilization media, the identities and activities of individual radionuclides contained in the waste types.
- (d) For each waste generator:
 - (1) The volume of waste within the disposal container;
 - (2) A physical and chemical description of the waste, including, without limitation, the solidification media, if any;
 - (3) The total percentage by weight of the chelating agent for any disposal container containing more than 0.1 percent by weight of a chelating agent and the name of the principal chelating agent;
 - (4) The sorbing media or solidification media, if any, and the identity of the vendor and name of the brand of any solidification media if the media is claimed to meet stability requirements as set forth in [NAC 459.8305](#); and
 - (5) The identities and activities of any radionuclides contained in the waste, the masses of U-233, U-235 and plutonium in special nuclear material and the masses of uranium and thorium in source material in the waste.

6. A licensee who ships radioactive waste shall ensure that an authorized representative certifies, by signing and dating the shipment manifest, that the materials are properly classified, described, packaged, marked and

labeled, and are in proper condition for transportation according to the applicable regulations of the United States Department of Transportation and the Division. By signing the certification, a waste collector certifies that the collected waste has not been tampered with in any manner that would invalidate the certification of the authorized representative of the licensee.

7. A licensee who ships radioactive waste shall provide on the required Environmental Protection Agency forms any information regarding hazardous, medical or other waste that is required to comply with Environmental Protection Agency regulations, as codified in 40 C.F.R. Parts 260, 261 and 263, as those provisions existed on January 26, 1999. The required Environmental Protection Agency forms must accompany the uniform manifest required by this section.

8. Copies of the manifests required by this section may be legible carbon copies, photocopies or computer printouts that reproduce the data in the format of the uniform manifest. NRC Forms 540, 540A, 541, 541A, 542 and 542A and their instructions may be obtained at no charge from the Information and Records Management Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 415-7232.

9. As used in this section:

(a) "EPA identification number" means the number received pursuant to 40 C.F.R. Part 263, as those provisions existed on January 26, 1999.

(b) "High integrity container" means a container used to meet the structural stability requirements of [NAC 459.830](#) and the United States Department of Transportation requirements for shipping a package that contains a type A quantity of radioactive waste.

(c) "Waste description" means the physical, chemical and radiological description of the waste that is required on NRC Form 541.

(Added to NAC by Bd. of Health by R084-98, eff. 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.8235 Procedure for transfer to land disposal facility, licensed waste collector or licensed waste processor. ([NRS 459.030](#), [459.201](#))

1. Any licensee who transfers radioactive waste to a land disposal facility or to a licensed waste collector shall comply with all the requirements of this section. Any licensee who transfers waste to a licensed waste processor for processing, treatment or repackaging shall comply with the requirements of paragraphs (d) to (i), inclusive, of subsection 2.

2. A licensee shall:

(a) Prepare all wastes so that they are in compliance with the permitted classes of waste set forth in [NAC 459.8265](#) and [459.830](#) and meet the requirements for stability set forth in [NAC 459.8305](#);

(b) Label each disposal container or transport package to identify whether it contains Class A, Class B or Class C waste, as set forth in [NAC 459.8265](#) and [459.827](#);

(c) Conduct a program of inspection, including managerial evaluation of audits, to ensure that the wastes conform to permitted classes and the requirements for physical form and packaging;

(d) Prepare the NRC uniform low-level radioactive waste manifest that contains the required information and certifications;

(e) Forward or electronically transfer a copy of the NRC uniform low-level radioactive waste manifest to the intended consignee so that the receipt of the manifest precedes the shipment or so that the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee;

(f) Include NRC Form 540 or NRC Form 540A, as applicable, with the shipment;

(g) Receive acknowledgment of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(h) Retain or electronically store a copy of the uniform low-level radioactive waste manifest and documentation of the acknowledgment of receipt as the required record of transfer of the licensed material; and

(i) For a shipment or part of a shipment for which an acknowledgment of its receipt has not been received within 20 days after the shipping date, conduct the investigation required pursuant to [NAC 459.8255](#).

(Added to NAC by Bd. of Health, eff. 4-27-84; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.824 Duties of waste collector who collects and handles only prepackaged waste. ([NRS 459.030](#), [459.201](#)) A waste collector who collects and handles only prepackaged waste shall:

1. Acknowledge receipt of the waste from the shipper by returning a signed copy of NRC Form 540 within 1

week after receiving the waste.

2. Prepare a new shipping manifest to reflect consolidated shipments that meets the requirements of [NAC 459.8231](#). The waste collector shall ensure that for each container of waste in the shipment NRC Form 540 identifies the generator of that container of waste.

3. Comply with the provisions of paragraphs (e) to (i), inclusive, of subsection 2 of [NAC 459.8235](#).

4. Notify the shipper and Division when any shipment or part of a shipment has not arrived within 60 days after receipt of an advanced manifest unless the waste collector is notified by the shipper that the shipment has been cancelled.

(Added to NAC by Bd. of Health, eff. 4-27-84; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.8245 Duties of waste processor who processes, treats or repackages waste. ([NRS 459.030](#), [459.201](#)) A waste processor who processes, treats or repackages wastes shall:

1. Acknowledge receipt of the waste from the shipper by returning a signed copy of NRC Form 540 within 1 week after receipt of the waste.

2. Prepare a new shipping manifest which contains the required information and certificate, the preparation of which is acknowledgment that the waste processor is responsible for the waste. For each container of waste in the shipment, the manifest must set forth the waste generator, the volume of preprocessed waste and any other information required pursuant to [NAC 459.8231](#).

3. Prepare all wastes so that the waste is classified according to [NAC 459.8265](#) and meets the requirements of [NAC 459.830](#) and [459.8305](#).

4. Label each package of waste to identify whether it is Class A, Class B or Class C waste in accordance with [NAC 459.8265](#).

5. Conduct a program of inspection, including a managerial evaluation of audits, to ensure that the waste conforms to permitted classes and the requirements for physical form and packaging.

6. Forward or electronically transfer a copy of the uniform low-level radioactive waste manifest to the consignee so that the manifest is received before or at the same time the shipment is delivered to the consignee.

7. Include NRC Form 540 or Form 540A, as applicable, with the shipment.

8. Receive acknowledgment of the receipt of the shipment in the form of a signed copy of NRC Form 540.

9. Retain or electronically store a copy of the uniform low-level radioactive waste manifest and documentation of acknowledgment of receipt as the required record of transfer of licensed material.

10. For any shipment or part of a shipment for which an acknowledgment of its receipt has not been received within 20 days after the shipping date, conduct the investigation required by [NAC 459.8255](#).

11. Notify the shipper and Division when any shipment or part of a shipment has not arrived within 60 days after receipt of an advanced manifest, unless the waste processor is notified by the shipper that the shipment has been cancelled.

(Added to NAC by Bd. of Health, eff. 4-27-84; A by R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003)

NAC 459.825 Labels identifying classification of waste. ([NRS 459.201](#)) A generator of waste or broker who processes, treats or repackages waste must affix a label to each package of waste before shipment to identify it as containing Class A, Class B or Class C waste.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8255 Investigation and report if receipt not acknowledged. ([NRS 459.201](#)) Any shipment or part of a shipment of waste which is delivered by a shipper to an authorized recipient and for which acknowledgment of its receipt is not returned within 20 days after the shipping date must be:

1. Investigated by the shipper, including tracing of the shipment; and

2. Reported by the shipper to the Division when the investigation is begun, and reported in writing to the Division within 2 weeks after completion of the investigation.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.826 Duties of operator of land disposal facility. ([NRS 459.201](#)) An operator of a land disposal facility shall:

1. Acknowledge receipt of the waste within 1 week after its receipt by returning a signed copy of NRC Form 540 to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. The returned copy or electronic copy of NRC Form 540 must indicate any discrepancies between materials listed on NRC Form 540 and materials received.

2. Maintain copies of all completed manifests and electronically store the information required pursuant to [NAC 459.8165](#) until the Division authorizes their disposition.

3. Notify the shipper and the Division when any shipment or part of a shipment has not arrived within 60 days after receipt of an advance manifest, unless the operator of the land disposal facility is notified by the shipper that the shipment has been cancelled.

4. Notify the Division within 5 days after receipt of a shipment of any discrepancies between the materials listed on NRC Form 540 and the materials received.

(Added to NAC by Bd. of Health, eff. 4-27-84; A by R084-98, 1-26-99)

Classification of Radioactive Waste

NAC 459.8265 Characteristics of each class. ([NRS 459.201](#)) Radioactive waste is classified according to its concentration of radionuclides and the following characteristics:

1. Class A waste is waste that meets the minimum requirements for packaging. Class A waste must be segregated from other classes of waste unless it meets the requirements for stability, in which case it does not have to be segregated.

2. Class B waste is waste that meets more rigorous requirements on form to ensure stability after disposal. Class B waste must meet the minimum requirements for physical form and packaging and for stability.

3. Class C waste is waste that not only meets more rigorous requirements on form to ensure stability but also requires additional measures at the disposal area to protect against inadvertent intrusion. Class C waste must meet the minimum requirements for physical form and packaging and for stability.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.827 Waste containing long-lived radionuclides. ([NRS 459.201](#)) If the radioactive waste contains only the long-lived radionuclides listed in Table 1, classification must be determined as follows:

TABLE 1

Radionuclide	Concentration in curies/cubic meter
C-14	8
C-14 in activated metal	80
Ni-59 in activated metal	220
Nb-94 in activated metal	0.2
Tc-99	3
I-129	0.08
Alpha emitting transuranic radionuclides with half-life greater than 5 years	100*
Pu-241	3,500*
Cm-242	20,000*

* Units are nanocuries per gram

1. If the concentration does not exceed 0.1 times the value in Table 1, the waste is Class A;
2. If the concentration exceeds 0.1 times the value in Table 1, the waste is Class C; and
3. If the concentration exceeds the value in Table 1, the waste is not acceptable for burial at any state-owned disposal area.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8275 Waste containing short-lived radionuclides. ([NRS 459.201](#))

1. If the radioactive waste does not contain any of the long-lived radionuclides listed in Table 1, classification must be determined based on the concentrations of short-lived radionuclides listed in Table 2. If a radionuclide is not listed in Table 2, it does not need to be considered in determining the class of the waste.

TABLE 2

Radionuclide	Concentration in curies/cubic meter		
	Column 1	Column 2	Column 3
Total of all radionuclides with less than 5-year half-life	700	**	**
H-3	40	**	**
Co-60	700	**	**
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

** There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and the internal generation of heat on the transportation, handling and disposal of the waste will limit the concentrations for these wastes. These wastes are Class B unless the concentrations of other radionuclides in Table 2 result in the waste being Class C independently of these radionuclides.

2. If the concentration does not exceed the value in Column 1, the waste is Class A.
 3. If the concentration exceeds the value in Column 1, but does not exceed the value in Column 2, the waste is Class B.
 4. If the concentration exceeds the value in Column 2, but does not exceed the value in Column 3, the waste is Class C.
 5. If the concentration exceeds the value in Column 3, the waste is not acceptable for burial at a state-owned disposal area.
- (Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.828 Waste containing mixture of long-lived and short-lived radionuclides. ([NRS 459.201](#)) If the radioactive waste contains a mixture of long-lived and short-lived radionuclides, some of which are listed in Table 1 and some of which are listed in Table 2, classification must be determined as follows:

1. If the concentration of a radionuclide listed in Table 1 is less than 0.1 times the value listed in Table 1, the class must be determined by the concentration of radionuclides listed in Table 2; and
2. If the concentration of a radionuclide listed in Table 1 exceeds 0.1 times the value listed in Table 1, the waste is Class C if the concentration of radionuclides listed in Table 2 does not exceed the value shown in Column 3 of Table 2.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8285 Absence of listed radionuclides. ([NRS 459.201](#)) If the radioactive waste does not contain any of the radionuclides listed in Tables 1 and 2, it is Class A.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.829 Waste containing mixture of radionuclides: Computation of classification. ([NRS 459.201](#)) If the waste contains a mixture of radionuclides, the classification must be determined by dividing each nuclide's concentration by its limit in the appropriate table and adding the resulting quotients. In computing this sum, all limits must all be taken from the same column of the same table. The sum of the fractions for the column must be less than 1.0 if the class of the waste is to be determined by that column. For example, a package of waste

contains Sr-90 in a concentration of 50 Ci/m³ and Cs-137 in a concentration of 22 Ci/m³. Since the concentration of one of the nuclides exceeds the value in Column 1 of Table 2, they must be compared to the values in Column 2. The computations of the fractions are: for Sr-90, 50/150 = 0.33; for Cs-137, 22/44 = 0.5. The sum of the fractions is: 0.33 + 0.5 = 0.83. Since the sum is less than 1.0, the waste is Class B.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.8295 Determination of concentration of radionuclide. ([NRS 459.201](#))

1. The concentration of a radionuclide may be determined by an indirect method such as the use of a scaling factor which relates the inferred concentration of one radionuclide to the concentration of another that is measured, or by radionuclide material accountability, if there is a reasonable assurance that the indirect method can be correlated with actual measurements.

2. The concentration of a radionuclide may be averaged over the volume of the waste, or over the weight of the waste if the concentration is expressed as nanocuries per gram.

(Added to NAC by Bd. of Health, eff. 4-27-84)

NAC 459.830 Requirements for physical form and packaging for all classes. ([NRS 459.201](#))

1. The minimum requirements for physical form and packaging for all classes of waste are as follows:

(a) Radioactive wastes must be packaged in conformance with the conditions of the license issued to the operator of the disposal area to which the waste will be shipped, and if the conditions in the license for disposal are more restrictive than the provisions of [NAC 459.8231](#) to [459.8305](#), inclusive, the conditions in the license must govern;

(b) Wastes must not be packaged for disposal in cardboard or fiberboard boxes;

(c) Liquid waste must be packaged in absorbent material sufficient to absorb twice the volume of the liquid;

(d) Solid waste containing a liquid must contain as little free standing, noncorrosive liquid as is reasonably achievable, but in no case may the amount of the liquid exceed 1 percent of the volume;

(e) Waste must not be readily capable of detonation or of explosive decomposition or reaction at normal pressures and temperatures or capable of explosive reaction with water;

(f) Waste must not contain or be capable of generating quantities of toxic gases, vapors or fumes which are harmful to persons transporting, handling or disposing of the waste, except for radioactive gaseous waste which is packaged in accordance with the provisions of paragraph (h);

(g) Waste must not be pyrophoric unless the pyrophoric materials contained in the waste are treated, prepared and packaged to be nonflammable;

(h) Waste in a gaseous form must be packaged at a pressure that does not exceed 1.5 atmospheres at 20 degrees C and an amount of activity that does not exceed 100 curies per container;

(i) Waste containing hazardous, biological, pathogenic or infectious material must be treated to reduce to the maximum extent practicable the potential hazard from the nonradiological materials; and

(j) Waste containing radium 226 must be in the form of a sealed source and packaged in a specification 2 R inside containment vessel or its equivalent before it can be accepted for disposal at the state-owned disposal area.

2. As used in this section, "pyrophoric" means capable of spontaneous ignition and includes any:

(a) Liquid that ignites spontaneously in dry or moist air at or below 130 degrees F (54.5 degrees C).

(b) Solid material, other than one classed as an explosive, which under normal conditions may cause a fire through friction or heat retained from manufacturing or processing, or which can be readily ignited and when ignited burns so vigorously and persistently as to create a serious hazard to persons or property while being transported, handled or disposed of. Pyrophoric solid materials include spontaneously combustible and water-reactive materials.

(Added to NAC by Bd. of Health, eff. 4-27-84; A 6-23-86; R084-98, 1-26-99)

NAC 459.8305 Minimum requirements for stability of wastes. ([NRS 459.201](#)) The minimum requirements for the stability of wastes are as follows:

1. Waste must have structural stability and generally maintain its physical dimensions and its form under the expected conditions of disposal and its internal factors such as the effects of radiation and chemical changes. Structural stability may be provided by the form of the waste, the processing of the waste to a stable form or by placing the waste in a container for disposal or other structure that provides stability after disposal.

2. Liquid wastes or waste containing liquid must be converted into a form that contains as little free standing and noncorrosive liquid as is reasonably achievable, but in no case may the liquid exceed 1 percent of the volume

of the waste if the waste is in a container for disposal which is designed to ensure stability, or 0.5 percent of the volume of the waste if the waste is processed to a stable form.

3. Any space within the waste or between the waste and its package must be reduced to the extent practicable. (Added to NAC by Bd. of Health, eff. 4-27-84)

Disposal of Waste in State-Owned Area

NAC 459.850 Definitions. ([NRS 459.201](#)) As used in [NAC 459.850](#) to [459.950](#), inclusive, unless the context otherwise requires:

1. "Authorized inspector" means the Division or a third party designated by the Division to inspect the program of an applicant or licensee for packaging and transporting low-level radioactive waste.
2. "Broker" means any person other than a common or contract carrier who collects or receives radioactive waste from a producer of radioactive waste and who charges for the service of disposing of the waste at the state-owned disposal area or who takes responsibility for packaging radioactive waste or labeling containers in conformance with applicable regulations as a service to the producer of the waste.

[Bd. of Health, Disposal of Radioactive Waste Reg. §§ 1.1-1.3, eff. 8-21-81]—(NAC A 4-24-86; 6-23-86)

NAC 459.860 Severability. ([NRS 459.201](#)) If any of the provisions of [NAC 459.850](#) to [459.950](#), inclusive, or any application thereof to any person, thing, or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

[Bd. of Health, Disposal of Radioactive Waste Reg. § 8.1, eff. 8-21-81]

NAC 459.865 License required; effect of license. ([NRS 459.201](#))

1. Any shipper or producer of radioactive waste or any broker receiving such waste from another person for the purpose of disposal who desires to dispose of that waste at the state-owned disposal area near Beatty, Nevada, must obtain a license from the Health Division of the Department of Health and Human Services before shipping the waste to the disposal area.
2. The issuance of a license pursuant to [NAC 459.850](#) to [459.950](#), inclusive, is merely evidence of a revocable privilege and does not expressly or impliedly create a property right or interest in the license.

[Bd. of Health, Disposal of Radioactive Waste Reg. § 2.1, eff. 8-21-81]

NAC 459.870 Application for license. ([NRS 459.201](#)) To obtain a license, a person must:

1. Submit a written application to the Division on a form furnished by the Division, and provide the information requested on the form and any other information requested by the Division.
2. Permit an audit and inspection of his program for radioactive waste to be conducted by an authorized inspector at the site where the waste is generated or a broker holds it awaiting shipment, unless the applicant has a record of satisfactory compliance with the regulations of the United States Department of Transportation, as determined by the Division.
3. Agree to allow unannounced inspections of the site by an authorized inspector, unless the applicant has a record of satisfactory compliance with the regulations of the United States Department of Transportation, as determined by the Division.
4. Enter into an agreement with the State of Nevada to hold it and the Division harmless from any loss or expense which may arise from liability or consequential damage caused by the licensee's shipment of radioactive waste from its place of origin to the state-owned disposal area. The Division may waive this requirement if the licensee is not permitted by state or federal law to enter into such an agreement.
5. Agree to comply with all federal and state regulations relating to the transportation and packaging of radioactive waste and the conditions of the license issued to the operator of the state-owned disposal area.
6. Pay in advance the fee established for the license.

[Bd. of Health, Disposal of Radioactive Waste Reg. §§ 2.2-2.2.7, eff. 8-21-81]—(NAC A 6-23-86)

NAC 459.875 Audit and inspection prerequisite to licensing. ([NRS 459.201](#)) To obtain qualification of his program for packaging radioactive waste, an applicant for a license must submit to the authorized inspector a request to have an audit and inspection of the program. No license may be issued until an audit and inspection has been completed.

[Bd. of Health, Disposal of Radioactive Waste Reg. § 2.6, eff. 8-21-81]

NAC 459.885 Suspension of license. ([NRS 459.201](#))

1. If any licensee ships radioactive waste to the state-owned disposal area in violation of [NAC 459.910](#), the Health Division may suspend his license for up to 1 year:
 - (a) After giving him prior notice; and
 - (b) After a representative of the Division has conducted an inspection of the licensee's radioactive waste at the disposal area or an authorized inspector has conducted an inspection at the site of the licensee's program for packaging the radioactive waste.
2. During the period of such a suspension, all radioactive waste packaged for shipment by the licensee must be inspected by an authorized inspector before shipment of the waste to the state-owned disposal area. If the licensee violates any provision of [NAC 459.910](#) while his license is suspended, an additional period of suspension may be added to the existing period of suspension for each such violation.
3. The Health Division may, without giving prior notice to the licensee and as an emergency measure, suspend his license for a violation of [NAC 459.850](#) to [459.950](#), inclusive, if it is determined by an inspection that the violation created or may have created a potential hazard to public health or safety.
4. During a period of suspension, the licensee shall attach to the shipping document which accompanies each shipment to the state-owned disposal area, an inspection report showing that an inspection of the shipment has been completed by an authorized inspector.
5. The Health Division may suspend or revoke a license if the licensee fails to pay a required fee within 30 days after the date of billing.

[Bd. of Health, Disposal of Radioactive Waste Reg. §§ 3.1-3.4, eff. 8-21-81]

NAC 459.890 Reinstatement of license. ([NRS 459.201](#))

1. The Health Division may reinstate a suspended license before a period of suspension has ended if:
 - (a) The licensee's packaging program for radioactive waste and the qualifications of the personnel engaged in that program have been reexamined by the authorized inspector;
 - (b) The program and qualifications are determined by the Health Division to be adequate; and
 - (c) The licensee has paid any penalties which have been imposed.
2. A licensee shall include with his first shipment under a reinstated license a document which states that the period of its suspension has ended.

[Bd. of Health, Disposal of Radioactive Waste Reg. §§ 5.1-5.2, eff. 8-21-81]

NAC 459.900 Compliance with applicable federal and state laws. ([NRS 459.201](#))

1. If any agency of the Federal Government is subject to a federal statute or regulation which precludes its compliance with any aspect of [NAC 459.850](#) to [459.950](#), inclusive, the agency may enter into separate arrangements with the Health Division for disposal of radioactive waste in the state-owned disposal area if the agency gives assurances, satisfactory to the Division, that its shipments of radioactive waste to the area will be in compliance with all applicable provisions of federal law and the provisions of state law concerning burial of the waste at the area.
2. Radioactive waste being shipped to the state-owned disposal area must remain packaged in compliance with applicable federal regulations and [NAC 459.850](#) to [459.950](#), inclusive, until the waste is received at the disposal area for burial. The radioactive waste must be in such a physical condition and be so packaged that the operator of the disposal area is able to dispose of the waste without violating any condition of his license to operate the area.

[Bd. of Health, Disposal of Radioactive Waste Reg. §§ 2.3 & 2.4, eff. 8-21-81]

NAC 459.910 Duties of licensee. ([NRS 459.201](#)) A licensee:

1. Shall carry out his own written program for ensuring the quality of the packaging of the radioactive waste and radioactive material.
2. Shall package the radioactive waste and radioactive material in accordance with:
 - (a) The regulations of the Secretary of Transportation concerning the transportation of hazardous materials, in 49 C.F.R. Parts 171 to 177, inclusive, revised as of October 1, 1987. The Board hereby incorporates those regulations by reference. Those regulations are contained in one volume of the Code of Federal Regulations and may be obtained from the Government Printing Office, Washington, D.C. 20402, at a price of \$25.
 - (b) The regulations of the Nuclear Regulatory Commission concerning the packaging and transport of

radioactive material in 10 C.F.R. Part 71 revised as of March 31, 1987. The State Board of Health hereby incorporates those regulations by reference. Those regulations may be obtained from the Government Printing Office, Washington, D.C. 20402, at a price of \$1.44.

3. May ship only solid radioactive waste to the state-owned disposal area. Any liquid radioactive waste must, before shipment, be solidified by a method, other than by using urea formaldehyde, which will ensure that there will not be any liquid in the shipping containers upon their arrival at the disposal area.

4. Shall not ship solid waste contaminated with radium 226 to the state-owned disposal area.

[Bd. of Health, Disposal of Radioactive Waste Reg. §§ 2.5-2.5.3.1, eff. 8-21-81]—(NAC A 4-27-84; 6-23-86; 9-6-88)

NAC 459.920 Additional inspections. (NRS 459.201) During each year a licensee shall allow at least four unannounced inspections of the site of his program for packaging radioactive waste, in addition to any inspections which may be required as a result of his noncompliance with [NAC 459.850](#) to [459.950](#), inclusive.

[Bd. of Health, Disposal of Radioactive Waste Reg. § 4.1, eff. 8-21-81]

NAC 459.940 Fees. (NRS 459.201, 459.211)

1. A person who holds a license to use the state-owned disposal area may be assessed a fee on a prorated basis for the remaining effective period of a license.

2. The Health Division may suspend or revoke the license of the person who operates the state-owned area for disposal of radioactive waste if he fails to pay the required fee within 30 days after the date of billing.

3. Fees collected by the Health Division pursuant to [chapter 459](#) of NRS are not refundable.

[Bd. of Health, Disposal of Radioactive Waste Reg. §§ 6.1-6.3, eff. 8-21-81]

NAC 459.943 Burial at state-owned disposal area; restrictions. (NRS 459.201) An operator of a disposal area shall bury at the state-owned disposal area not more than 200,000 cubic feet of waste in any year and not more than a total of 1,400,000 cubic feet of waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992, unless written authorization to bury additional waste has been obtained from the Division.

(Added to NAC by Bd. of Health, eff. 6-23-86)

NAC 459.945 Surcharge for waste generated in state not party to compact. (NRS 459.201, 459.211)

1. Any person who ships waste generated in a state not a party to the Rocky Mountain Low-Level Radioactive Waste Compact to the state-owned disposal area shall pay to the Division a surcharge as follows:

(a) From March 9, 1987, to December 31, 1987, inclusive, \$10 per cubic foot of waste.

(b) From January 1, 1988, to December 31, 1989, inclusive, \$20 per cubic foot of waste.

(c) From January 1, 1990, to December 31, 1992, inclusive, \$40 per cubic foot of waste.

2. The Division may impose a surcharge in an amount not to exceed the maximum allowed by the Low-Level Radioactive Waste Policy Amendments Acts of 1985, Public Law 99-240, as it existed on March 9, 1987.

3. The surcharges imposed by this section must be received by the business office of the Division in Carson City, Nevada, on or before the eighth calendar day of the month following the month in which the waste was delivered to the disposal area.

4. The Division may initiate disciplinary proceedings against a person who ships waste to the disposal area if the person does not pay the surcharges required by subsections 1 and 2 in the manner required by subsection 3. The administrative penalties may include the denial of future access to the disposal area and the recovery of any attorney's fees or costs necessary to collect the surcharges.

(Added to NAC by Bd. of Health, eff. 4-24-86; A 3-9-87; 8-31-89)

NAC 459.947 Periodic determination of whether disposal charges are reasonable. (NRS 459.201, 459.211)

1. The Division will, at least once every 2 years during the first calendar quarter of each even-numbered year, compare the disposal charges for the burial of waste at all existing commercial waste disposal areas in the United States.

2. If the disposal charges at the state-owned disposal area do not exceed the average of the disposal charges of the existing commercial waste disposal areas in the United States by more than 10 percent, the Division will:

(a) Find that the disposal charges for the state-owned disposal site are reasonable; and

(b) Submit the results of the comparison of disposal charges to the Rocky Mountain Low-Level Radioactive

Waste Board for review and approval, as may be required by law.

3. If the disposal charges at the state-owned disposal area exceed the average of the disposal charges at the existing commercial waste disposal areas in the United States by more than 10 percent, the Division will:

(a) Conduct a public hearing to receive evidence and testimony concerning the reasonableness of the disposal charges;

(b) Review the financial records of the operator of the state-owned disposal area concerning the operation of the disposal area and any of its related operations;

(c) Make a finding concerning the reasonableness of the disposal charges based on the record of the public hearing;

(d) If the Division finds that the charges are not reasonable, order the operator of the state-owned disposal area to reduce the disposal charges so that they do not exceed by more than 10 percent the average of the disposal charges of the existing commercial waste disposal areas in the United States; and

(e) Submit a copy of the record of the public hearing, the findings of the Division and any order issued by it to the Rocky Mountain Low-Level Radioactive Waste Board for review and approval.

(Added to NAC by Bd. of Health, eff. 2-18-88)

NAC 459.948 Determination of whether proposed increase in disposal charges is reasonable. ([NRS 459.201](#), [459.211](#))

1. The operator of the state-owned disposal area shall submit to the Division, in writing, any proposed increase in disposal charges at least 45 days before the proposed increase becomes effective.

2. The Division will determine whether the proposed increase in disposal charges exceeds the average disposal charges of the existing commercial waste disposal areas in the United States by more than 10 percent.

3. If the proposed increase exceeds the average disposal charges at those existing disposal areas by more than 10 percent, the Division will follow the procedure prescribed in subsection 3 of [NAC 459.947](#).

(Added to NAC by Bd. of Health, eff. 2-18-88)

NAC 459.950 Penalties. ([NRS 459.201](#))

1. The administrative penalties in subsection 3 of [NRS 459.221](#) are in addition to suspension of a permit which may be imposed pursuant to that subsection.

2. The person licensed to operate the state-owned area for disposal of radioactive waste may be assessed administrative penalties by the Health Division of not more than \$3,000 per day for each separate failure to comply with an agreement, license, regulation or statute governing the operation of the disposal area.

[Bd. of Health, Disposal of Radioactive Waste Reg. §§ 7.1 & 7.2, eff. 8-21-81]

REGULATION OF HIGHLY HAZARDOUS SUBSTANCES AND EXPLOSIVES

General Provisions

NAC 459.952 Definitions. ([NRS 459.3818](#)) As used in [NAC 459.952](#) to [459.95528](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.95211](#) to [459.95312](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Div. of Environmental Protec., eff. 7-10-92; A by Environmental Comm'n by R121-98, 5-27-99; R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95211 "Accidental release" defined. ([NRS 459.3818](#))

1. "Accidental release" means:

(a) An unintentional discharge from a process of any amount of a highly hazardous substance into the air, water or land, including, without limitation, any unintentional discharges within a building that encloses a process; or

(b) A fire or an explosion at a facility involving a highly hazardous substance or explosive.

2. The term does not include emissions of highly hazardous substances from piping component threaded connections, valve and equipment packing, or malfunctioning pollution control devices unless such an emission would qualify as a catastrophic release.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95213 “Active mitigation” defined. ([NRS 459.3818](#)) “Active mitigation” means equipment, devices or technologies that work with human, mechanical or other sources of energy, and function to contain or minimize the consequences of an accidental release.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95215 “Administrative controls” defined. ([NRS 459.3818](#)) “Administrative controls” means written procedural mechanisms that are used to control a hazard.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95225 “C.A.P.P.” defined. ([NRS 459.3818](#)) “C.A.P.P.” means the Chemical Accident Prevention Program for the State of Nevada and encompasses the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and [NAC 459.952](#) to [459.95528](#), inclusive.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.9523 “C.A.S.” defined. ([NRS 459.3818](#)) “C.A.S.” means the Chemical Abstracts Service.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95235 “Catastrophic release” defined. ([NRS 459.3818](#)) “Catastrophic release” means an uncontrolled emission, fire or explosion involving one or more highly hazardous substances or explosives that presents imminent and substantial endangerment to the health of the employees, the public health or the environment. The term includes events that occur within a building or other structure that contains the substance or explosive.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.9524 “Division” defined. ([NRS 459.3818](#)) “Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NAC by Div. of Environmental Protec., eff. 7-10-92)

NAC 459.95242 “Emergency response program” defined. ([NRS 459.3818](#)) “Emergency response program” means the procedures and practices that are developed and implemented pursuant to [NAC 459.9544](#) and [459.95442](#).

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95244 “Endpoint” defined. ([NRS 459.3818](#)) “Endpoint” means the toxic concentration, ambient overpressure, radiant heat level or lowest flammable gas concentration achieved at the outer geographical boundary of the off-site consequence analysis.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95246 “Environmental receptor” defined. ([NRS 459.3818](#)) “Environmental receptor” means:

1. A national or state park, forest or monument;
2. An officially designated wildlife sanctuary, preserve, refuge or area; or
3. A federal wilderness area,

and which can be identified on a local map prepared by the United States Geological Survey and which could be exposed to toxic concentrations, radiant heat or overpressure greater than or equal to the endpoints set forth in [NAC 459.95364](#) as a result of an accidental release.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.952465 “Explosive” defined. ([NRS 459.3818](#)) “Explosive” means a chemical classified as an explosive pursuant to subsections 2 and 3 of [NAC 459.9533](#).

(Added to NAC by Environmental Comm’n by R137-04, eff. 2-15-2005)

NAC 459.95247 “Explosives manufacturing operation” defined. ([NRS 459.3818](#)) “Explosives

manufacturing operation” means a process that involves the manufacture of explosives for sale even if highly hazardous substances are also used in the explosives manufacturing operation. The term includes the manufacture of devices containing explosives and explosive storage sites that are incidental to the manufacture of explosives for sale.

(Added to NAC by Environmental Comm’n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.95248 “Facility” defined. ([NRS 459.3818](#)) “Facility” has the meaning ascribed to it in [NRS 459.38075](#).

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.9525 “Field gas” defined. ([NRS 459.3818](#)) “Field gas” means gas that is extracted from a production well before the gas enters a natural gas processing plant.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95251 “First responding fire station” defined. ([NRS 459.3818](#)) “First responding fire station” means the local fire department station that typically responds to emergency calls from a facility and is usually the station that is first on the scene during an emergency.

(Added to NAC by Environmental Comm’n by R137-04, eff. 2-15-2005)

NAC 459.95252 “Hazard assessment” defined. ([NRS 459.3818](#)) “Hazard assessment” means an evaluation of the potential on-site and off-site consequences of an accidental release that an owner or operator develops pursuant to [NAC 459.95364](#) to [459.95376](#), inclusive.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95253 “Hazardous materials response station” defined. ([NRS 459.3818](#)) “Hazardous materials response station” means a local fire department station that is equipped and trained to provide a hazardous materials response to a facility in accordance with 29 C.F.R. § 1910.120(q).

(Added to NAC by Environmental Comm’n by R137-04, eff. 2-15-2005)

NAC 459.95255 “Highly hazardous substance” defined. ([NRS 459.3818](#)) “Highly hazardous substance” means a chemical listed in subsection 1 of [NAC 459.9533](#), regardless of the amount or quantity of the chemical present.

(Added to NAC by Environmental Comm’n by R137-04, eff. 2-15-2005)

NAC 459.95256 “Hot work” defined. ([NRS 459.3818](#)) “Hot work” means work involving electric or gas welding, cutting, brazing, or similar flame-producing or spark-producing operations.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95259 “Local building official” defined. ([NRS 459.3818](#)) “Local building official” means the governmental entity charged with the administration and enforcement of local building codes.

(Added to NAC by Environmental Comm’n by R041-01, eff. 10-25-2001)

NAC 459.95263 “Medical treatment” defined. ([NRS 459.3818](#)) “Medical treatment” means treatment, other than first aid, that is administered by a physician or other personnel pursuant to standing orders from a physician.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95265 “Mitigation” and “mitigation system” defined. ([NRS 459.3818](#)) “Mitigation” or “mitigation system” means activities, technologies or equipment specifically designed or deployed to:

1. Capture or control a substance upon loss of containment in order to minimize exposure of the employee, the public or the environment; or
2. Minimize the impact of a fire or explosion on the employee, the public or the environment.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95267 “N.A.I.C.S.” defined. ([NRS 459.3818](#)) “N.A.I.C.S.” means the North American Industry Classification System.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95269 “Natural gas processing plant” defined. ([NRS 459.3818](#)) “Natural gas processing plant” means a processing site that:

1. Is engaged in:

- (a) The extraction of natural gas liquids from field gas;
- (b) The fractionation of mixed natural gas liquids to natural gas products; or
- (c) Both extraction and fractionation; and

2. Is classified as N.A.I.C.S. code 211112, which is adopted by reference pursuant to [NAC 459.95528](#).

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.952695 “New process” defined. ([NRS 459.3818](#)) “New process” means a process that has been, or will be, installed at a facility and will be in operation for the first time at that location. The term includes, without limitation, a new explosives manufacturing operation.

(Added to NAC by Environmental Comm’n by R041-01, eff. 10-25-2001)

NAC 459.95271 “N.F.P.A.” defined. ([NRS 459.3818](#)) “N.F.P.A.” means the National Fire Protection Association.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95273 “Off-site” defined. ([NRS 459.3818](#)) “Off-site” means an area:

1. Beyond the property boundary of the facility; and
2. Within the property boundary to which the public has routine and unrestricted access during or outside business hours.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95275 “Owner or operator” defined. ([NRS 459.3818](#)) “Owner or operator” means any natural person, business or social organization or other legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization, who owns, leases, operates, controls or supervises a facility that contains any process subject to C.A.P.P.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95277 “Passive mitigation” defined. ([NRS 459.3818](#)) “Passive mitigation” means equipment, devices or technologies that work without human, mechanical or other sources of energy, and function to contain or minimize the consequences of an accidental release.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95279 “Prevention program” defined. ([NRS 459.3818](#)) “Prevention program” means procedures and practices that are developed and implemented pursuant to [NAC 459.95412](#) to [459.95435](#), inclusive.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95281 “Process” defined. ([NRS 459.3818](#)) “Process” means:

1. Any activity that involves a highly hazardous substance or an explosive, including, without limitation, the use, storage, manufacturing, handling or on-site movement, or any combination thereof, of such a substance or explosive.

2. A group of vessels that are used in connection with such activity, including vessels that are:

(a) Interconnected; or

(b) Separate, but located in such a manner that a highly hazardous substance or explosive could potentially be released, including, without limitation, a release, fire or explosion in one vessel that could cause a release, fire or explosion in another vessel.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95283 “Process hazard analysis” defined. ([NRS 459.3818](#)) “Process hazard analysis” means the analysis performed pursuant to [NAC 459.95414](#).

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95285 “Produced water” defined. ([NRS 459.3818](#)) “Produced water” means water that is:

1. Extracted from the earth from an oil or natural gas production well; or
2. Separated from oil or natural gas after extraction.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95289 “Public” defined. ([NRS 459.3818](#)) “Public” means one or more natural persons other than employees or contractors of a facility.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95291 “Public receptor” defined. ([NRS 459.3818](#)) “Public receptor” means an off-site:

1. Residence;
2. Institution such as a school or hospital;
3. Industrial, commercial or office building; or
4. Park or recreational area,

and that is inhabited or occupied by the public without restriction by the facility, in which the public could be exposed as a result of an accidental release to toxic concentrations, radiant heat or overpressure.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99)

NAC 459.95292 “Replacement in kind” defined. ([NRS 459.3818](#)) “Replacement in kind” means a replacement of equipment, instruments, procedures, raw material and processing conditions that satisfy the design specifications.

(Added to NAC by Environmental Comm’n by R137-04, eff. 2-15-2005)

NAC 459.95297 “Threshold quantity” defined. ([NRS 459.3818](#)) “Threshold quantity” means the quantity of highly hazardous substance specified in subsection 1 of [NAC 459.9533](#).

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95312 “Vessel” defined. ([NRS 459.3818](#)) “Vessel” has the meaning ascribed to it in [NRS 459.38125](#).

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

Applicability of Program

NAC 459.95321 Determination by owner or operator. ([NRS 459.3818](#), [459.3833](#)) The owner or operator shall, pursuant to [NAC 459.95321](#), [459.95323](#) and [459.9533](#), determine for each process within the boundary of his facility if the process is subject to C.A.P.P.

(Added to NAC by Environmental Comm’n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95323 Criteria for determination. ([NRS 459.3818](#), [459.3833](#))

1. Except as otherwise provided in [NAC 459.95486](#), a process is subject to C.A.P.P. if:

(a) The process is not exempted pursuant to [NRS 459.3814](#) and the process contains a highly hazardous substance in a quantity:

(1) Equal to or greater than the amount set forth in subsection 1 of [NAC 459.9533](#) under the column labeled “Threshold Quantity”; or

(2) Less than the amount set forth in subsection 1 of [NAC 459.9533](#) under the column labeled “Threshold Quantity” if there are two or more releases of one or more highly hazardous substances from the facility during a 12-month period and the quantity for each release is in excess of the amount set forth in subsection 1 of [NAC 459.9533](#) for the highly hazardous substance under the column labeled “Two Release Quantity”; or

- (b) The process is an explosives manufacturing operation.

2. The following highly hazardous substances need not be considered when determining whether at least a threshold quantity is present in a process for the purposes of subsection 1:

(a) A substance denoted as toxic if the concentration of the substance in a mixture is less than 1 percent by weight of the mixture. Except for oleum, toluene 2, 4-diisocyanate, toluene 2, 6-diisocyanate and toluene diisocyanate (unspecified isomer), if the concentration of the toxic substance in the mixture is 1 percent or greater by weight of the mixture and the owner or operator demonstrates in writing that the partial pressure of the substance in the mixture under handling or storage conditions in any portion of the process is less than 10 millimeters of mercury, the amount of the substance in the mixture in that portion of the process need not be considered when determining whether at least a threshold quantity is present in the process. A toxic substance is designated as "T" in the table in subsection 1 of [NAC 459.9533](#) under the column labeled "Tox (T) or Flam (F)."

(b) Except as otherwise provided in paragraphs (c) and (d), a substance denoted as flammable if the concentration of the substance in a mixture is less than 1 percent by weight of the mixture or the concentration of the flammable substance in the mixture is 1 percent or greater by weight of the mixture and the owner or operator demonstrates in writing that the mixture does not have a flammability hazard rating of "4" as described in *N.F.P.A. 704: Standard System for the Identification of the Hazards of Materials for Emergency Response*, which is adopted by reference pursuant to [NAC 459.95528](#). If the concentration of the flammable substance in the mixture is 1 percent or greater by weight of the mixture and the owner or operator does not demonstrate that the mixture does not have a flammability hazard rating of "4," the entire weight of the mixture must be treated as the flammable substance to determine whether a threshold quantity is present at the facility. The boiling and flash point must be defined and determined pursuant to *N.F.P.A. 30: Flammable and Combustible Liquids Code*, which is adopted by reference pursuant to [NAC 459.95528](#). A flammable substance is designated as "F" in the table in subsection 1 of [NAC 459.9533](#) under the column labeled "Tox (T) or Flam (F)."

(c) Gasoline if it is distributed or stored for use as fuel for an internal combustion engine.

(d) A naturally occurring hydrocarbon mixture before such a mixture has entered into a natural gas processing plant or a petroleum refining process unit. A naturally occurring hydrocarbon mixture includes any combination of condensate, crude oil, field gas and produced water.

(e) A substance that is contained in an article.

(f) A substance when it is being used:

- (1) As a structural component of the facility;
- (2) With products for routine janitorial maintenance;
- (3) By employees in foods, drugs, cosmetics or other personal items;
- (4) In process water or noncontact cooling water drawn from the environment or municipal sources; or
- (5) In air as compressed air or as part of combustion.

(g) A substance that is manufactured, processed or used in a laboratory at a facility under the supervision of a technically qualified individual as defined in 40 C.F.R. § 720.3(ee). This exemption does not apply to:

- (1) Specialty chemical production;
- (2) The manufacturing, processing or use of a highly hazardous substance in pilot plant scale operations; or
- (3) Activities conducted outside of the laboratory.

(h) Propane when used as a fuel or held for sale as a fuel at a retail facility.

3. As used in this section:

(a) "Article" has the meaning ascribed to it in 29 C.F.R. § 1910.1200(c).

(b) "Crude oil" means a naturally occurring, unrefined petroleum liquid.

(c) "Petroleum refining process" means a process that:

(1) Is used in an establishment which is primarily engaged in petroleum refining as defined in N.A.I.C.S. Code 32411, which is adopted by reference pursuant to [NAC 459.95528](#); and

(2) Is used to:

- (I) Produce a transportation fuel such as gasoline, diesel fuel or jet fuel;
- (II) Produce a heating fuel such as kerosene, fuel gas distillate or fuel oil;
- (III) Produce a lubricant;
- (IV) Separate petroleum; or
- (V) Separate, crack, react or reform an intermediate petroleum stream.

(d) "Retail facility" means a facility at which more than one-half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04,

2-15-2005)

Table of Substances

NAC 459.9533 Tabulated values for threshold quantity, two release quantity and toxic endpoints; classification of substance as explosive. ([NRS 459.3816](#), [459.3818](#), [459.3833](#))

1. The following table sets forth the list of highly hazardous substances and the parameters associated with carrying out C.A.P.P.:

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Acetaldehyde	Ethanal		75-07-0	2,500	1,000	1	F	
Acetylene	Ethyne		74-86-2	10,000	1,000	3	F	
Acrolein	2-Propenol		107-02-8	150	1	1 & 2	T	0.0011
Acrylonitrile	2-Propenenitrile		107-13-1	20,000	100	1 & 2	T	0.076
Acrylyl chloride	2-Propenoyl chloride		814-68-6	250	100	2	T	0.00090
Alkylaluminums				5,000	50*	3		
Allyl alcohol	2-Propen-1-ol		107-18-6	15,000	100	1 & 2	T	0.036
Allyl chloride	3-chloropropene		107-05-1	1,000	100	3	T	0.1252
Allylamine	2-Propen-1-amine		107-11-9	1,000	500	2	T	0.0032
Ammonia	Anhydrous Ammonia	Anhydrous	7664-41-7	5,000	100	1 & 2	T	0.14
Ammonia	Ammonia solution Ammonium hydroxide	20 wt% to 44 wt%	7664-41-7	20,000 note 2	1,000	1	T	0.14
Ammonia	Ammonia solution Ammonium hydroxide	concentration greater than 44% ammonia by weight	7664-41-7	10,000 note 2	1,000	1	T	0.14
Ammonium perchlorate			7790-98-9	7,500	75*	3		
Ammonium permanganate			7787-36-2	7,500	75*	3		
Arsenous trichloride			7784-34-1	15,000	1	1 & 2	T	0.010
Arsine	Arsenic Hydride		7784-42-1	100	10	3	T	0.0019
bis(Chloromethyl) Ether	Chloromethyl Ether		542-88-1	100	10	1 & 2	T	0.00025
Boron trichloride			10294-34-5	2,500	100	3	T	0.010
Boron trifluoride			7637-07-2	250	25	3	T	0.028
Boron trifluoride w/ Methyl Ether		1:1 ratio	353-42-4	15,000	1,000	2	T	0.023
Bromine			7726-95-6	1,500	500	2	T	0.0065
Bromine chloride			13863-41-7	1,500	10	3	T	0.00472
Bromine pentafluoride			7789-30-2	2,500	100	3	T	0.00715
Bromine trifluoride			7787-71-5	15,000	1000	3	T	0.0025
Bromotrifluor-ethylene			598-73-2	10,000	1,000	3	F	

1,3-Butadiene			106-99-0	10,000	10	1	F	
Butane			106-97-8	10,000	1,000	3	F	
1-Butene			106-98-9	10,000	1,000	3	F	
2-Butene			107-01-7	10,000	1,000	3	F	
Butene			25167-67-3	10,000	1,000	3	F	
2-Butene-cis			590-18-1	10,000	1,000	3	F	
2-Butene-trans			624-64-6	10,000	1,000	3	F	
Butyl hydroperoxide (Tertiary)			75-91-2	5,000	50*	3		
Butyl perbenzoate (Tertiary)			614-45-9	7,500	75*	3		
Carbon disulfide			75-15-0	20,000	100	1 & 2	T	0.16
Carbon oxysulfide	Carbon Oxide Sulfide		463-58-1	10,000	100	1	F	
Carbonyl fluoride			353-50-4	2,500	10	3	T	0.00972
Cellulose nitrate		concentration greater than 12.6% nitrogen	9004-70-0	2,500	25*	3		
Chlorine			7782-50-5	1,500	10	1 & 2	T	0.0087
Chlorine dioxide			10049-04-4	1,000	100	3	T	0.0028
Chlorine monoxide			7791-21-1	10,000	1,000	3	F	
Chlorine pentafluoride			13637-63-3	1,000	10	3	T	0.003
Chlorine trifluoride			7790-91-2	1,000	100	3	T	0.0038
Chlorodiethyl-aluminum	Diethyl-aluminum Chloride		96-10-6	5,000	50*	3		
1-Chloro-2,4-Dinitrobenzene			97-00-7	5,000	50*	3		
Chloroform			67-66-3	20,000	10	1 & 2	T	0.49
Chloromethyl methyl ether			107-30-2	500	10	1 & 2	T	0.0018
Chloropicrin			76-06-2	500	50	3	T	0.00134
Chloropicrin/ Methylbromide mix				1,500	500	3	T	0.00078
Chloropicrin/ Methylchloride mix				1,500	500	3	T	
1-Chloropropylene			590-21-6	10,000	1,000	3	F	
2-Chloropropylene			557-98-2	10,000	1,000	3	F	
Crotonaldehyde	2-Butenal		4170-30-3	20,000	100	1 & 2	T	0.029
Crotonaldehyde, (E)-	2-Butenal, (E)-		123-73-9	20,000	100	1 & 2	T	0.029
Cumene Hydroperoxide			80-15-9	5,000	10	1		

Cyanogen	Ethanedinitrile		460-19-5	2,500	100	1	F	
Cyanogen chloride			506-77-4	500	10	1	T	0.030
Cyanuric fluoride			675-14-9	100	10	3	T	0.00017
Cyclohexylamine	Cyclohex-animine		108-91-8	15,000	1,000	2	T	0.16
Cyclopropane			75-19-4	10,000	1,000	3	F	
Diacetyl peroxide		concentration greater than 70%	110-22-5	5,000 note 2	50*	3		
Diazomethane			334-88-3	500	10	3		
Dibenzoyl peroxide			94-36-0	7,500	75*	3		
Diborane			19287-45-7	100	10	3	T	0.0011
Dibutyl peroxide (tertiary)			110-05-4	5,000	50*	3		
Dichloro acetylene			7572-29-4	250	10	3		
Dichlorosilane			4109-96-0	2,500	100	3	F	
Diethylzinc			557-20-0	10,000	100*	3		
Difluoroethane			75-37-6	10,000	1,000	3	F	
Diisopropyl peroxydicarbonate			105-64-6	7,500	75*	3		
Dilauroyl peroxide			105-74-8	7,500	75*	3		
Dimethyl sulfide			75-18-3	100	10	3	T	1.27
Dimethylamine		anhydrous	124-40-3	2,500	1,000	1	F	
Dimethyl-dichlorosilane			75-78-5	1,000	500	2	T	0.026
1,1-Dimethylhydrazine			57-14-7	1,000	10	1 & 2	T	0.012
2,2-Dimethylpropane			463-82-1	10,000	1,000	3	F	
2,4-Dinitroanaline			97-02-9	5,000	50*	3		
Epichlorohydrin			106-89-8	20,000	100	1 & 2	T	0.076
Ethane			74-84-0	10,000	1,000	3	F	
Ethyl acetylene	1-Butyne		107-00-6	10,000	1,000	3	F	
Ethyl chloride			75-00-3	10,000	100	1	F	
Ethyl ether			60-29-7	10,000	100	1	F	
Ethyl mercaptan	Ethanethiol		75-08-1	10,000	1,000	3	F	
Ethyl nitrite			109-95-5	5,000	50*	3	F	
Ethylamine	Ethanamine		75-04-7	7,500	100	1	F	
Ethylene	Ethene		74-85-1	10,000	1,000	3	F	
Ethylene fluorohydrin			371-62-0	100	10	2	T	0.0008
Ethylene oxide	Oxirane		75-21-8	5,000	10	1 & 2	T	0.090

Ethylenediamine			107-15-3	20,000	5,000	1 & 2	T	0.49
Ethyleneimine	Aziridine		151-56-4	1,000	1	1 & 2	T	0.018
Fluorine			7782-41-4	100	10	1 & 2	T	0.0039
Formaldehyde		concentration of 37% or greater by weight	50-00-0	1,000 note 2	100	1 & 2	T	0.012
Furan			110-00-9	500	100	1 & 2	T	0.0012
Hexafluoroacetone			684-16-2	5,000	10	3	T	0.0068
Hydrazine			302-01-2	15,000	1	1 & 2	T	0.011
Hydrochloric acid		37% or greater	7647-01-0	15,000 note 2	1,000	3	T	0.030
Hydrofluoric acid		50% or greater	7664-39-3	1,000 note 2	100	1	T	0.016
Hydrogen			1333-74-0	10,000	1,000	3	F	
Hydrogen bromide			10035-10-6	5,000	10	3	T	0.01
Hydrogen chloride		Anhydrous	7647-01-0	5,000	100	3	T	0.030
Hydrogen cyanide	Hydrocyanic acid	Anhydrous	74-90-8	1,000	10	1 & 2	T	0.011
Hydrogen fluoride		Anhydrous	7664-39-3	1,000	100	1 & 2	T	0.016
Hydrogen peroxide		concentration of 52% or greater by weight	7722-84-1	7,500 note 2	1,000	2		
Hydrogen selenide			7783-07-5	150	10	2	T	0.00066
Hydrogen sulfide			7783-06-4	1,500	100	1 & 2	T	0.042
Hydroxylamine			7803-49-8	2,500	25*	3		
Iron, pentacarbonyl			13463-40-6	250	100	2	T	0.00044
Isobutane	1,1-dimethyl ethane		75-28-5	10,000	1,000	3	F	
Isobutyronitrile			78-82-0	20,000	1,000	2	T	0.14
Isopentane			78-78-4	10,000	1,000	3	F	
Isoprene			78-79-5	10,000	100	1	F	
Isopropyl chloride	2 - chloropropane		75-29-6	10,000	1,000	3	F	
Isopropyl chloroformate			108-23-6	15,000	1,000	2	T	0.10
Isopropyl formate			625-55-8	500	100	3	T	0.0014
Isopropylamine			75-31-0	5,000	1,000	3	F	
Ketene			463-51-4	100	10	3	T	0.18
Mercury			7439-97-6	200,000	5,000	3	T	0.0021
Methacrylaldehyde			78-85-3	1,000	500	3	T	0.007
Methacryloyl chloride			920-46-7	150	100	2	T	0.0006
Methacryloyloxyethyl isocyanate			30674-80-7	100	10	3	T	0.00063

Methane			74-82-8	10,000	1,000	3	F	
Methyl acrylonitrile	Meth-acrylonitrile		126-98-7	250	25	3	T	0.0027
Methyl bromide			74-83-9	2,500	500	3	T	0.194
3-Methyl-1-butene	Isopentene		563-45-1	10,000	1,000	3	F	
2-Methyl-1-butene			563-46-2	10,000	1,000	3	F	
Methyl chloride			74-87-3	15,000	100	1	T	0.82
Methyl chloroformate			79-22-1	500	100	3	T	0.0019
Methyl disulfide			624-92-0	100	10	3	T	0.19
Methyl ether			115-10-6	10,000	1,000	3	F	
Methyl ethyl ketone peroxide	Ethyl methyl ketone peroxide	concentration greater than 60%	1338-23-4	5,000 note 2	10	1		
Methyl fluoroacetate			453-18-9	100	10	3	T	0.00025
Methyl fluorosulfate			421-20-5	100	10	3	T	0.00023
Methyl formate			107-31-3	10,000	1,000	3	F	
Methyl hydrazine			60-34-4	100	10	1 & 2	T	0.0094
Methyl iodide			74-88-4	7,500	100	1	T	0.29
Methyl isocyanate			624-83-9	250	10	1 & 2	T	0.0012
Methyl mercaptan			74-93-1	5,000	100	1 & 2	T	0.049
Methyl thiocyanate			556-64-9	20,000	10,000	2	T	0.085
Methyl vinyl ketone			78-94-4	100	10	2	T	0.00007
Methylamine	Methanamine	Anhydrous	74-89-5	1,000	100	1	F	
2-Methylpropene			115-11-7	10,000	1,000	3	F	
Methyltrichlorosilane			75-79-6	500	50	3	T	0.018
Nickel carbonyl			13463-39-3	150	10	1 & 2	T	0.00067
Nitric acid		80% or greater	7697-37-2	15,000 note 2	1,000	1 & 2	T	0.026
Nitric acid		concentration of 94.5% or greater by weight	7697-37-2	500 note 2	50	3	T	0.026
Nitric oxide	Nitrogen oxide		10102-43-9	250	10	1 & 2	T	0.031
Nitroaniline	para Nitroaniline		100-01-6	5,000	50*	3		
Nitrogen dioxide			10102-44-0	250	10	1 & 2	T	0.0282
Nitrogen oxides		NO; NO ₂ ; N ₂ O ₄ ; N ₂ O ₃	10102-44-0	250	10	3	T	0.0282
Nitrogen tetroxide			10544-72-6	250	10	1	T	0.0564
Nitrogen trifluoride			7783-54-2	5,000	1,000	3	T	0.29

Nitrogen trioxide			10544-73-7	250	10	3	T	0.016
Nitromethane			75-52-5	2,500	25*	3		
Oleum	Fuming sulfuric acid	65 wt% or greater of SO ₃	8014-95-7	1,000	500	3	T	0.010
Osmium tetroxide			20816-12-0	100	10	3	T	0.001
Oxygen difluoride	Fluorine monoxide		7783-41-7	100	10	3		
Ozone			10028-15-6	100	10	3		
Pentaborane			19624-22-7	100	10	3	T	0.00026
1,3-Pentadinene			504-60-9	10,000	100	1	F	
Pentane			109-66-0	10,000	1,000	3	F	
1-Pentene			109-67-1	10,000	1,000	3	F	
2-Pentene, (E)-			646-04-8	10,000	1,000	3	F	
2-Pentene, (Z)-			627-20-3	10,000	1,000	3	F	
Peracetic acid	Peroxyacetic acid	concentration greater than 60% acetic acid	79-21-0	1,000 note 2	500	2	T	0.0045
Perchloric acid		concentration greater than 60% by weight	7601-90-3	5,000 note 2	50*	3		
Perchloromethyl mercaptan			594-42-3	150	100	1 & 2	T	0.0076
Perchloryl fluoride			7616-94-6	5,000	100	3	T	0.042
Phosgene	Carbonyl chloride		75-44-5	100	10	1 & 2	T	0.00081
Phosphine	Hydrogen phosphide		7803-51-2	100	10	3	T	0.0035
Phosphorus oxychloride	Phosphoryl chloride		10025-87-3	1,000	500	3	T	0.0030
Phosphorus trichloride			7719-12-2	1,000	500	3	T	0.028
Piperidine			110-89-4	15,000	1,000	2	T	0.022
Propadiene	1,2 Propadiene		463-49-0	10,000	1,000	3	F	
Propane			74-98-6	10,000	1,000	3	F	
Propargyl bromide	3-Bromopropyne		106-96-7	100	10	2	T	0.00003
Propionitrile			107-12-0	10,000	10	1 & 2	T	0.0037
Propyl chloroformate			109-61-5	15,000	500	2	T	0.010
Propyl nitrate			627-13-4	100	25*	3		
Propylene	1 Propene		115-07-1	10,000	1,000	3	F	
Propylene oxide			75-56-9	10,000	100	1 & 2	T	0.59
Propyleneimine			75-55-8	10,000	1	1 & 2	T	0.12
Propyne	1-Propyne		74-99-7	10,000	1,000	3	F	

Sarin			107-44-8	100	10	2	T	0.00006
Selenium hexafluoride			7783-79-1	1,000	1	1	T	0.0016
Silane			7803-62-5	10,000	1,000	3	F	
Stibine	Antimony hydride		7803-52-3	500	10	3	T	0.0026
Sulfur dioxide		Anhydrous	7446-09-5	1,000	100	3	T	0.0078
Sulfur pentafluoride			5714-22-7	250	10	3	T	0.001
Sulfur tetrafluoride			7783-60-0	250	10	3	T	0.0092
Sulfur trioxide	Sulfuric Anhydride		7446-11-9	1,000	100	2	T	0.010
Tellurium hexafluoride			7783-80-4	250	10	3	T	0.0009
Tetrafluoroethylene			116-14-3	5,000	1,000	3	F	
Tetrafluorohydrazine			10036-47-2	5,000	500	3	T	0.0213
Tetramethyl Lead			75-74-1	1,000	100	2	T	0.0040
Tetramethylsilane			75-76-3	10,000	1,000	3	F	
Tetranitromethane			509-14-8	10,000	10	2	T	0.0040
Thionyl chloride			7719-09-7	250	100	3	T	0.0097
Titanium tetrachloride			7550-45-0	2,500	1,000	1 & 2	T	0.020
Toluene 2,4-diisocyanate			584-84-9	10,000	100	1 & 2	T	0.0070
Toluene 2,6-diisocyanate			91-08-7	10,000	100	1 & 2	T	0.0070
Toluene diisocyanate			26471-62-5	10,000	100	1 & 2	T	0.0070
Trichloro (chloromethyl) silane			1558-25-4	100	10	3	T	0.0003
Trichloro (dichlorophenyl) silane			27137-85-5	2,500	500	2	T	0.008
Trichlorosilane			10025-78-2	5,000	500	3	F	
Trifluoro-chloroethylene			79-38-9	10,000	500	3	F	
Trimethoxysilane			2487-90-3	1,500	500	3	T	0.01
Trimethylamine			75-50-3	10,000	100	1	F	
Trimethylchlorosilane			75-77-4	10,000	500	2	T	0.050
Vinyl acetate monomer			108-05-4	15,000	1,500	3	T	0.26
Vinyl acetylene			689-97-4	10,000	1,000	3	F	
Vinyl chloride			75-01-4	10,000	1	1	F	
Vinyl ethyl ether			109-92-2	10,000	1,000	3	F	
Vinyl fluoride			75-02-5	10,000	1,000	3	F	
Vinyl methyl ether			107-25-5	10,000	1,000	3	F	
Vinylidene chloride			75-35-4	10,000	100	1	F	

Vinylidene fluoride			75-38-7	10,000	1,000	3	F	
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Table Notes:

Note 1: For Two Release Source Column: 1 = RQ as listed in 40 C.F.R. Part 302; 2 = RQ as listed in 40 C.F.R. Part 355; 3 = Two Release Quantity as determined in "Technical Basis Document for C.A.P.P. Two Release Quantities and Toxic Endpoints."

Note 2: The threshold quantity must be applied to the fraction of the chemical in the actual mixture.

* These substances must be involved in a fire or explosion to qualify as a release pursuant to subparagraph (2) of paragraph (a) of subsection 1 of [NAC 459.95323](#).

2. Except as otherwise provided in subsection 3, a substance must be classified as an explosive if the substance is classified as division 1.1, 1.2, 1.3, 1.4 or 1.5 in column 3 of the Table of Hazardous Materials in 49 C.F.R. § 172.101, which is adopted by reference pursuant to [NAC 459.95528](#).

3. The list of explosives as classified pursuant to subsection 2 excludes those substances described in 18 U.S.C. § 845(a).

4. If a substance:

(a) Is listed as a highly hazardous substance pursuant to subsection 1; and

(b) Is also classified as an explosive pursuant to subsection 2 which is not excluded pursuant to subsection 3, the substance must be treated as a highly hazardous substance for the purposes of [NAC 459.952](#) to [459.95528](#), inclusive, if the substance is present in the process in excess of the threshold quantity set forth for the substance pursuant to subsection 1.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005; R019-07, 10-31-2007)

General Requirements

NAC 459.95332 Duties of owner or operator of facility. ([NRS 459.3818](#), [459.3833](#)) The owner or operator of a facility that has a process which is subject to C.A.P.P. shall:

1. Register annually with the Division pursuant to [NAC 459.95348](#), [459.9535](#) and [459.95354](#);

2. Pay the annual fees pursuant to [NAC 459.95334](#) if the facility contains one or more processes and does not have explosives manufacturing operations;

3. Pay the annual fees pursuant to [NAC 459.953345](#) if the facility contains one or more explosives manufacturing operations;

4. Develop a management system pursuant to [NAC 459.95341](#);

5. Conduct a hazard assessment pursuant to [NAC 459.95364](#) to [459.95376](#), inclusive;

6. Develop and implement a prevention program pursuant to [NAC 459.95412](#) to [459.95435](#), inclusive;

7. Develop and implement an emergency response program pursuant to [NAC 459.9544](#) and [459.95442](#); and

8. Provide information to the Division in advance of an inspection pursuant to subsection 2 of [NAC 459.9552](#).

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95333 Change in ownership of facility. ([NRS 459.3818](#), [459.3833](#)) If a facility with a process that is subject to C.A.P.P. changes ownership, the new owner or operator shall assume responsibility for full compliance with the requirements of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto and:

1. If the annual registration required pursuant to [NAC 459.95348](#) is not due, satisfy the requirements for registration set forth in [NAC 459.95337](#) and [459.9535](#) not later than 14 days after the transfer of ownership; or

2. If the annual registration required pursuant to [NAC 459.95348](#) is due, submit the annual registration.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)—
(Substituted in revision for NAC 459.95512)

NAC 459.95334 Annual fee. ([NRS 459.3818](#), [459.3824](#), [459.3833](#))

1. Except as otherwise provided in [NAC 459.953345](#) and [459.95335](#), the owner or operator of a facility that contains one or more processes and does not have an explosive manufacturing operation shall pay the fee

required by subsections 1 and 2 of [NRS 459.3824](#) before July 31 of each year.

2. The amount of this annual fee for each facility will equal the sum of:

(a) A base fee that is established pursuant to subsection 4; and

(b) A graduated fee that is established pursuant to subsection 5.

3. The total annual fee required by this section must not exceed \$35,000 for a facility.

4. The amount of the annual base fee that is authorized pursuant to subsection 1 of [NRS 459.3824](#) is \$5,600.

5. The amount of the annual graduated fee that is authorized pursuant to subsection 2 of [NRS 459.3824](#) is \$39 per unit of highly hazardous substance at a facility. A unit of highly hazardous substance is equal to the total amount of the highly hazardous substance present at a facility, divided by the corresponding threshold quantity set forth in subsection 1 of [NAC 459.9533](#) for that highly hazardous substance.

(Added to NAC by Environmental Comm'n, eff. 7-6-92; A by R121-98, 5-27-99, eff. 6-21-99; R087-00, 7-27-2000; R087-00, 7-27-2000, eff. 7-1-2001; R137-04, 2-15-2005)

NAC 459.953345 Annual fees for facility with explosives manufacturing operation. ([NRS 459.3818](#), [459.3824](#), [459.3833](#))

1. Except as otherwise provided in [NAC 459.95335](#), an owner or operator of a facility that has an explosives manufacturing operation shall pay to the Division an annual fee before July 31, as prescribed in this section.

2. If the explosives manufacturing operation includes only the combining of ammonium nitrate and fuel oil mixture, the owner or operator of the facility of which the operation is a part shall pay to the Division an annual fee of \$5,600.

3. If the explosives manufacturing operation includes any other type of explosives manufacturing, the owner or operator of the facility of which the operation is a part shall pay to the Division an annual fee of \$13,500.

4. If a facility that has an explosives manufacturing operation also has a highly hazardous substance in a process in excess of the threshold quantity set forth for that highly hazardous substance in subsection 1 of [NAC 459.9533](#), the owner or operator of the facility shall pay, in addition to the fees set forth in this section, the graduated fee set forth in subsection 5 of [NAC 459.95334](#) and is exempt from the base fee set forth in subsection 4 of [NAC 459.95334](#).

5. The total annual fee required by this section must not exceed \$35,000 at any facility.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.95335 Exemption from payment of certain annual fees. ([NRS 459.3818](#), [459.3824](#), [459.3833](#))

1. Notwithstanding any provision of [NAC 459.95334](#) or [459.953345](#) to the contrary, an owner or operator of a new process is exempt from the payment of annual fees related to the new process for the fiscal year in which the process or operation commences operation and for the following fiscal year.

2. The provisions of subsection 1 do not affect any other fees already being paid by an owner or operator of a facility for other processes or explosives manufacturing operations. In such a case, the provisions of subsection 1 apply only to the incremental annual fee as applied to the new process.

3. As used in this section, "fiscal year" means the fiscal year on which the state budget is based.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)—
(Substituted in revision for NAC 459.953477)

NAC 459.95337 Certification of required documents. ([NRS 459.3818](#), [459.3832](#), [459.3833](#))

1. Any document required to be submitted pursuant to [NAC 459.952](#) to [459.95528](#), inclusive, that is required to be certified must contain language for certification that substantially conforms to one of the following forms:

(a) I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information.

[Signature, title, date signed]

(b) I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attached documents and that, based on my inquiry of the natural persons immediately responsible for obtaining the information, I believe that the submitted information is true,

accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false information.

[Signature, title, date signed]

2. The certification must be signed by the sole proprietor of the facility, the highest ranking corporate officer of the facility, a partner at the facility, the manager of the facility or a person designated by one of those persons to sign the certification.

(Added to NAC by Environmental Comm'n by R121-98, 5-27-99, eff. 6-21-99; A by R137-04, 2-15-2005)—
(Substituted in revision for NAC 459.95358)

NAC 459.95341 Management system; implementation plan. ([NRS 459.3818](#), [459.3833](#)) The owner or operator of a facility with a process that is subject to C.A.P.P. shall develop:

1. A management system to oversee the implementation of all program requirements and:

(a) Assign a qualified person to have overall responsibility for the development, implementation and integration of the requirements of C.A.P.P.; or

(b) Create a team with overall responsibility for the development, implementation and integration of the requirements of C.A.P.P. The owner or operator shall document:

(1) The names of the persons who are members of the team; and

(2) The relevant lines of authority for the team by means of an organization chart or similar document.

2. An implementation plan that covers each element of the prevention program and each element of the emergency response program. The implementation plan must define how each requirement of each such element will be implemented at the facility and must provide a system that requires all information and documentation be controlled in a manner which ensures that the current information and documentation is in circulation and in use.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)—
(Substituted in revision for NAC 459.95516)

NAC 459.95344 Reports of regulatory agencies. ([NRS 459.3818](#), [459.382](#)) A governmental entity or agency of the State that is required by subsection 1 of [NRS 459.382](#) to submit a report to the Division shall do so, upon request, within 10 working days after a determination is made or an action is taken related to hazards involving highly hazardous substances or explosives at a facility. The report must be submitted on the following form:

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
CHEMICAL ACCIDENT PREVENTION PROGRAM
GOVERNMENTAL AGENCY REPORTING FORM

A facility which produces, uses, stores or handles a highly hazardous substance or manufactures an explosive for sale in a process subject to [NAC 459.95323](#) is subject to the provisions of [NRS 459.380](#) to [459.3874](#), inclusive. Pursuant to [NRS 459.382](#), governmental entities or agencies of the State are required to complete the following information whenever a determination is made or an action is taken related to hazards involving highly hazardous substances or explosives at a facility. Please complete this form and return it to the Nevada Division of Environmental Protection, 333 West Nye Lane, Room 138, Carson City, Nevada 89706-0851.

1. Facility Name.....

2. Facility Location.....
.....
.....

3. Highly Hazardous Substances or Explosives Present at the Facility

Substance	Estimated Quantity (lbs.)
.....
.....

4. Describe any specific hazards related to highly hazardous substances or explosives which were noticed by regulatory or inspection staff at the facility.....

5. Describe any action your agency has taken at this facility related to highly hazardous substances or explosives. Include orders, notices, penalties, etc.

6. List statutes, regulations, standards or codes related to or controlling actions taken by your agency

7. Agency contact: Phone:

8. Authorized signature: Date:

Attach additional sheets if required.

(Added to NAC by Div. of Environmental Protec., eff. 7-10-92; A by R137-04, 2-15-2005)

Permits

NAC 459.95345 Permit required for construction; preliminary meeting with Division. ([NRS 459.3818](#), [459.3829](#))

1. Before an owner or operator of a facility may commence the construction of a new process subject to C.A.P.P., the owner or operator must obtain a permit to construct the new process from the Division pursuant to [NAC 459.95345](#) to [459.953467](#), inclusive.

2. Before applying for a permit to construct a new process, the owner or operator of the process must meet with the Division to discuss:

(a) The scope of the project and the applicable codes and standards relating to the design and construction of the project;

(b) The requirements for the submission of documents; and

(c) The schedule for the construction of the project.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953451 Application for permit to construct: Submission; contents; requirements for accompanying documents, specifications and calculations. ([NRS 459.3818](#), [459.3829](#))

1. To obtain a permit to construct a new process subject to C.A.P.P., an owner or operator of a new process must submit to the Division a complete application for a permit to construct and two copies of the complete application. The Division shall determine which elements of the application, if any, will be reviewed at the site where the new process will be located.

2. An application for a permit to construct a new process must be made on a form prescribed by the Division and include:

(a) Registration for the process that includes:

(1) The information required by [NAC 459.9535](#);

(2) A summary of the hazard assessment conducted pursuant to [NAC 459.95364](#) to [459.95376](#), inclusive;

(3) The name, address and telephone number of the person submitting the plans;

(4) An overview of the project that includes a description of:

(I) The process;

(II) The hours of operation during which the process will be operated;

(III) The estimated number of personnel, for each shift, who will be working on the process, including,

without limitation, personnel in operations, personnel in maintenance, office staff, contract personnel and any other personnel;

(IV) The modes, frequency and hours of transportation of the incoming and outgoing raw materials and products;

(V) The scope of the construction; and

(VI) The schedule for the project; and

(5) Information concerning the inspectors of the construction required pursuant to [NAC 459.953461](#);

(b) A coordinated emergency response plan document developed pursuant to [NAC 459.9544](#) and [459.95442](#);

(c) Information concerning the process and safety process hazard analysis required pursuant to [NAC 459.953455](#);

(d) Documents, specifications and calculations required pursuant to [NAC 459.953457](#), [459.953459](#) and [459.95346](#); and

(e) A copy of the conditional use permit issued pursuant to [NRS 278.147](#).

3. Documents, specifications and calculations submitted pursuant to [NAC 459.953457](#), [459.953459](#) and [459.95346](#) must:

(a) Be stamped or sealed in accordance with [chapter 625](#) of NRS, and any regulations adopted pursuant thereto, by the engineer who has responsible charge of the document, specification or calculation; and

(b) Include a table of contents or cover sheet that complies with the requirements of [chapter 625](#) of NRS and any regulations adopted pursuant thereto.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953455 Contents of application for permit to construct: Process hazard analysis; information concerning process safety. ([NRS 459.3818](#), [459.3829](#))

1. In addition to any other information required to be included pursuant to [NAC 459.95345](#) to [459.953475](#), inclusive, an application for a permit to construct must include:

(a) Information relating to the hazards of any highly hazardous substance or explosive as described in paragraph (a) of subsection 2 of [NAC 459.95412](#).

(b) A description of the process chemistry, as required in [NAC 459.95412](#), including, without limitation, a description of the potential side reactions, regardless of whether the reactions would create hazardous consequences.

(c) If not readily apparent from the piping and instrument diagrams, documentation concerning the control logic that explains the function of the process controllers, switches and interlocks. Such documentation must be as concise as possible to allow the Division to review and use the information efficiently.

(d) A material and energy balance as required in [NAC 459.95412](#).

(e) A description of the safety system as required in [NAC 459.95412](#).

(f) A complete process hazard analysis performed pursuant to [NAC 459.95414](#).

(g) A list of vessels and rotating equipment, traceable to the piping and instrument diagram, and, if requested by the Division, design and code information.

2. The process hazard analysis and information concerning process safety included in an application for a permit to construct a new process must indicate the current revision number and date on which that revision was carried out.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953457 Contents of application for permit to construct: Site plan; plot plans of project area; diagrams; drawings. ([NRS 459.3818](#), [459.3829](#))

1. In addition to any other information required to be included pursuant to [NAC 459.95345](#) to [459.953475](#), inclusive, an application for a permit to construct a new process must include:

(a) A site plan, drawn to scale, that identifies the location within the facility of the new process on a map. A site plan must include and indicate, without limitation:

- (1) The city and county roads in the area of the facility of the new process.
- (2) The area encompassing the endpoint of the worst-case release scenarios developed pursuant to [NAC 459.95366](#) or the area encompassing an area extending 1 mile radially from the facility, whichever is larger.

(3) A graphical delineation of the endpoints of each worst-case release scenario and alternative release scenario developed pursuant to [NAC 459.95366](#) and [459.95368](#).

- (4) All major roads and transportation corridors.
- (5) Routes for incoming and outgoing raw materials and products.
- (6) The location of the first responding fire station and the hazardous materials response station. If the first responding fire station or hazardous materials response station is located outside the plan area, the site plan must include the address of the station and indicate the distance and direction that the station is from the facility.
- (7) The location of schools, hospitals and other public receptors within the plan area.

(b) Plot plans of the project area, shown on separate drawings and drawn to scale, that show:

- (1) The safety systems, including, without limitation, the locations of:
 - (I) Water and tankages for other materials associated with the fire suppression systems.
 - (II) The system pumps and the routing of the distribution piping.
 - (III) Hydrants, monitors and other similar fire suppression equipment.
 - (IV) The detectors of toxic and combustible gases and flames.
 - (V) Personal protective equipment.
 - (VI) Major process equipment.

(2) The location of the electrical hazardous areas. The plot plan must:

(I) Provide the necessary elevations and include detailed drawings to distinguish between electrically unclassified and electrically classified areas, as those terms are defined in Article 500 of the N.F.P.A. 70, the *National Electrical Code*, adopted by reference pursuant to [NAC 459.95528](#); and

(II) Denote the nationally recognized code or standard upon which the drawing is based to determine the extent of the electrically classified areas.

(c) Process flow diagrams, shown on as many drawings as necessary, developed pursuant to [NAC 459.95412](#). The process flow diagrams must correspond to the material and energy balance submitted pursuant to [NAC 459.953455](#).

(d) Piping and instruments diagrams, shown on as many drawings as necessary, developed pursuant to [NAC 459.95412](#). The piping and instrument diagrams must:

- (1) Be submitted on paper that is 11 inches by 17 inches.
- (2) Be on an easily legible scale.
- (3) Cover the new process. The Division may request that the diagrams include any associated systems, including, without limitation, air, water, nitrogen and process drain systems, if the Division determines that the inclusion of the additional information is necessary to assist with the review of the process hazard analysis.
- (4) Indicate all piping, equipment, instruments and controls.
- (5) Correspond to:

(I) The process flow diagrams;

(II) The documentation concerning the control logic and the process hazard analysis submitted pursuant to [NAC 459.953455](#); and

(III) The specifications submitted pursuant to [NAC 459.953459](#).

(e) Drawings indicating the concrete foundations and structures related to the new process that are not subject to the review and approval of the local building official. These drawings must include and indicate:

- (1) The preparation for the base and subbase, including, without limitation, compaction requirements;
- (2) The requirements relating to forms, reinforcing bars and appurtenances;
- (3) The specifications relating to concrete and grout;
- (4) The requirements for testing and inspection; and
- (5) The applicable codes, standards or industry recommended practices governing the design and construction to be used.

(f) Drawings for the structural steel support for the equipment and piping related to the new process that are

not subject to the review and approval of the local building official. These drawings must include and indicate:

- (1) Specifications for the steel and bolting;
- (2) Requirements for welding, testing and inspection; and
- (3) The applicable codes, standards or industry recommended practices governing the design and construction to be used.

2. A drawing included pursuant to this section in an application for a permit to construct must indicate the current revision number and date of the drawing and be of sufficient quality so that a legible copy can be made of the drawing. If a drawing is drawn to scale, the scale must be indicated and a bar scale must be included.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953459 Contents of application for permit to construct: Specifications. ([NRS 459.3818](#), [459.3829](#)) Specifications included in an application for a permit to construct a new process:

1. Must indicate the current revision number and date on which the specifications were developed;
2. Must define:
 - (a) The applicable codes, standards or industry recommended practices to be followed for the design, construction and inspection of the new process;
 - (b) The design conditions, including, without limitation, maximum allowable working pressures, the design temperatures and the seismic criteria, where applicable;
 - (c) The required materials of construction;
 - (d) The qualification requirements for:
 - (1) The installation methods to be used; and
 - (2) The personnel performing the construction and inspection activities; and
 - (e) The requirements for inspection and testing; and
3. Must be provided for process piping, fittings and valves. Requirements for inspection, examination and testing related to piping construction must be appropriate for the application, and must, without limitation:
 - (a) Meet the requirements defined in Chapter VI of *ASME B31.3 - 1999 Process Piping with Addenda*, which is adopted by reference pursuant to [NAC 459.95528](#);
 - (b) Require examination of:
 - (1) Not less than 5 percent of all circumferential butt and miter groove welds by random radiography and require that the welds meet the acceptable criteria for normal fluid service specified in Chapter VI of *ASME B31.3*; and
 - (2) Not less than 5 percent of socket welds and other fillet welds by magnetic particle, liquid penetrant or ultrasonic testing and require that the welds meet the acceptance criteria for normal fluid service specified in Chapter VI of *ASME B31.3*.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.95346 Contents of application for permit to construct: Calculations. ([NRS 459.3818](#), [459.3829](#))

1. In addition to any other information required to be included, an application for a permit to construct a new process must include calculations for:
 - (a) Concrete foundations for drawings submitted pursuant to [NAC 459.953457](#), including, without limitation, a soils report to support the design calculations;
 - (b) Structural steel drawings submitted pursuant to [NAC 459.953457](#); and
 - (c) The capacity of pressure relief devices and pressure relief systems to be included in the new process.
2. Calculations included in an application for a permit to construct a new process must indicate the current revision number and the date of the current calculation.
3. Each set of calculations must include a cite to the applicable code, standard or industry recommended practice governing the design and construction that was used in making the calculation.
4. If the calculations are computer-generated, the calculations must include:
 - (a) A complete description of the mathematical model used in the design; and
 - (b) An identification of the design program used, input data required, limitations on the application of the program and the final results.
5. Upon the request of the Division, an applicant for a permit to construct shall provide supporting information for the calculations provided in the application, including, without limitation, data generated by vendors.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953461 Contents of application for permit to construct: Information concerning inspectors for construction of process pipes, concrete foundations and structural steel. (NRS 459.3818, 459.3829)

1. An applicant for a permit to construct must include in the application information concerning the inspectors for the construction of process pipes, concrete foundations and structural steel if these activities are to be permitted pursuant to [NAC 459.953467](#).

2. The information concerning the inspectors must identify:

(a) Each inspector to be employed by the applicant;

(b) The scope of the inspection services to be provided by each inspector, including, without limitation, the types of observations and tests to be used; and

(c) The qualifications of each inspector that will enable the inspector to perform the inspection. If the inspector is required to be certified or hold other specific credentials to perform his duties, the applicant must include a copy of the required certifications or credentials.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001)

NAC 459.953463 Initial review of application for permit to construct; notification of applicant concerning completeness of application. (NRS 459.3818, 459.3829)

1. Upon receipt of an application for a permit to construct a new process, the Division shall review the application to determine if the application includes all the information required by [NAC 459.953451](#). Not later than 30 days after the date on which an application is received, the Division shall provide to the applicant its initial determination as to the completeness of the application.

2. If the Division determines that an application for a permit to construct does not include all the information required by [NAC 459.953451](#), the Division shall notify the applicant of its determination and include in the notice a description or list of the deficiencies.

3. If the Division determines that an application for a permit to construct is not complete, the Division may:

(a) Return all the submitted information to the applicant and require the applicant to resubmit the application when completed; or

(b) Delay the review of the incomplete application until the applicant submits the required information and the application is determined to be complete.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001)

NAC 459.953465 Notice of receipt of application for permit to construct; period for public comment; action by Division after period of public comment. (NRS 459.3818, 459.3829)

1. Upon determining that an application for a permit to construct a new process is complete, the Division shall issue a notice of its receipt of the application. The notice must:

(a) Be sent to the applicant and the local governing body in the area in which the new process is to be located, and be published in a newspaper of general circulation for the area in which the process is to be located; and

(b) Summarize the review to be conducted by the Division on the application for the permit to construct and state that the following information will be available for public review:

(1) The registration submitted pursuant to [NAC 459.953451](#);

(2) The coordinated emergency plan document;

(3) The site plan; and

(4) A copy of the conditional use permit.

2. The period for public comment must be 30 days and commences on the date on which the notice is published in the newspaper.

3. Not later than 15 days after the date on which the period for public comment concerning an application for a permit to construct closes, the Division may, after considering the documents that are part of the application, require further modifications if such modifications are determined necessary to satisfy the requirements set forth in [NAC 459.953467](#) for issuing a permit to construct.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953467 Conditions for issuance of permit to construct; approval of site plan; certain modifications in construction to be reflected in pre-start-up safety review. (NRS 459.3818, 459.3829)

1. The Division shall issue a permit to construct a new process if the Division:

(a) Approves the analysis of off-site consequences developed pursuant to [NAC 459.95364](#) to [459.95376](#), inclusive;

(b) Determines that the inspectors for the construction to be used by the applicant for the permit to construct:

(1) Are capable of providing an inspection as required by the applicable specifications, codes and standards, and of ensuring that the construction and installation of the new process is performed pursuant to those specifications, codes and standards;

(2) Are qualified by experience and, if applicable, hold the proper certifications and credentials to perform their duties as inspectors; and

(3) Are not employed by or under contract with any entity that will be performing the construction activity subject to the permit to construct unless that entity is the owner or operator;

(c) Determines that:

(1) The emergency response program developed pursuant to [NAC 459.9544](#) and [459.95442](#) is complete;

(2) Full-time emergency response capability is available; and

(3) Hazardous materials response capability:

(I) Is available pursuant to the requirements of 29 C.F.R. § 1910.120;

(II) Is available 24 hours a day; and

(III) Will be provided by an organization that is not a volunteer fire department;

(d) Determines that the process hazard analysis complies with [NAC 459.95414](#);

(e) Approves the site plan developed pursuant to [NAC 459.953457](#);

(f) Determines that:

(1) The plans identifying the locations of the electrical hazardous area developed pursuant to [NAC 459.953457](#) are in compliance with the applicable codes and standards, except that the Division may accept a local building official's approval of the drawing if the criteria set forth in [NAC 459.953457](#) are met;

(2) The piping and instrument diagrams are consistent with the process flow diagrams and specifications;

(3) The drawings of the concrete foundation are consistent with the applicable calculations submitted;

(4) The drawings relating to the structural steel to be used in the construction are consistent with the applicable calculations submitted;

(5) The specifications submitted comply with the applicable codes and standards, and the selected materials and design parameters are determined to be compatible with the process; and

(6) The calculations submitted provide answers that represent generally accepted calculation methods and comply with the appropriate codes, standards and industry recommended practices, where applicable;

(g) Finds, upon its review of the portions of the new process, that those portions are in conformance with any requirement set forth in the conditional use permit issued pursuant to [NRS 278.147](#) that require compliance with any part of [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto;

(h) Completes the public review and comment process and any modifications required by [NAC 459.953465](#) have been put into place; and

(i) Determines that the applicant is not delinquent on the payment of fees assessed pursuant to [NAC 459.953475](#).

2. For the Division to approve a site plan:

(a) The worst-case release scenarios developed pursuant to [NAC 459.95366](#) must be mitigated in a manner acceptable to the Division to minimize the impact on public receptors located outside the industrial zoning district in which the new process will be located. At a minimum, some level of passive or active mitigation must be employed.

(b) The alternate release scenarios developed pursuant to [NAC 459.95368](#) must be mitigated in a manner acceptable to the Division to minimize the impact on public receptors located outside the industrial zoning district in which the new process will be located. At a minimum, some level of mitigation must be employed, including, without limitation, the use of toxic or combustible gas sensors, as appropriate, that must be physically located to enable the detection of a release and a response thereto in a timely manner to minimize the impact of the release.

(c) The locations of the emergency responders as shown on the site plan must be consistent with the locations of the emergency responders identified in the emergency response program.

3. Any modification in the construction of a new process allowed pursuant to subsection 1 that causes the alteration of any document, drawing or specification must be reflected in the pre-start-up safety review conducted pursuant to [NAC 459.95425](#).

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953469 Commencement of construction before issuance of permit to construct. ([NRS](#)

[459.3818](#), [459.3829](#))

1. If the Division determines that a new process is being constructed in the interest of mitigating the effects of acutely hazardous conditions on public safety, the environment or the health of personnel, and timely implementation of the new process is critical to ensure the preservation of those objectives, the Division may allow the owner or operator to commence construction on the new process before the permit to construct is issued.

2. The owner or operator of a new process may commence construction before a permit to construct is issued if:

- (a) The owner or operator submits with its application for a permit to construct a letter detailing the reasons for the request to begin construction before the issuance of the permit to construct; and
- (b) The Division determines the application to be complete and has not identified any significant unmitigated hazard.

3. The Division may:

- (a) Impose such conditions as it determines necessary in authorizing an owner or operator to commence construction before a permit to construct is issued; and
- (b) Revoke the authorization if it determines that the owner or operator has not complied with the conditions imposed.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001)

NAC 459.95347 Maintenance and availability of information during construction activity; revised schedule for construction upon issuance of permit to construct. ([NRS 459.3818](#), [459.3829](#))

1. During any construction activity done on a new process approved in accordance with [NAC 459.953467](#), the owner or operator of the new process shall:

(a) Maintain on-site:

- (1) All documents, drawings and specifications related to the construction and operation of the new process;
- (2) All records relating to inspections and testing related to the construction; and
- (3) All records relating to the construction procedure and qualifications of persons performing the

construction; and

(b) Make available such information to the Division or an authorized representative of the Division upon request by the Division or its representative.

2. Upon the issuance of a permit to construct, the owner or operator to whom the permit is issued shall provide the Division with a revised schedule for the construction that includes the approximate timing as to when:

- (a) Concrete foundations will be poured;
- (b) The erection of the structural steel components will be commenced;
- (c) The fabrication of the process piping will be commenced;
- (d) The hydrotesting for the process piping will be commenced; and
- (e) Any other activities identified by the Division or an authorized representative of the Division will be performed or commenced.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953471 Permit to operate: Requirements to commence operation or to bring highly hazardous substances or explosives onto site of new process. ([NRS 459.3818](#), [459.3829](#)) Before an owner or operator of a facility:

1. Commences the operation of a new process; or

2. Brings any highly hazardous substances or explosives onto the site of the new process,

the owner or operator must obtain a permit to operate from the Division pursuant to [NAC 459.953473](#).

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953473 Permit to operate: Conditions for issuance; notification of Division when certain requirements are satisfied. ([NRS 459.3818](#), [459.3829](#))

1. The Division shall issue a permit to operate to the owner or operator of a new process only if:

- (a) The Division has issued a permit to construct the new process;
- (b) The owner or operator has received all appropriate permits from the local building official for the drawings and calculations for the construction of concrete foundations and structural steel;
- (c) The Division determines that the requirements set forth in [NAC 459.95341](#), [459.953475](#) and [459.95412](#) to [459.95442](#), inclusive, have been satisfied; and

(d) The owner or operator is not delinquent on the payment of fees assessed pursuant to [NAC 459.953475](#).

2. The owner or operator of a new process shall notify the Division when the owner or operator determines that the new process satisfies the requirements of any provision set forth in [NAC 459.95341](#) or [459.95412](#) to [459.95442](#), inclusive, and is ready for review by the Division.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

NAC 459.953475 Fees; request for Division to cease evaluation for permit. ([NRS 459.3818](#), [459.3829](#))

1. An owner or operator of a new process shall remit fees to the Division for activities conducted by the Division relating to permitting activities conducted pursuant to [NAC 459.95345](#) to [459.953473](#), inclusive.

2. Upon the determination by the Division that an application for a permit to construct a new process is complete, the owner or operator shall remit \$5,000 to the Division. The Division shall issue invoices to the owner or operator for any costs in excess of \$5,000, except that:

(a) If the new process has 5 or less piping and instrument diagrams, not including drawing legend sheets and utility piping and instrument diagrams, invoices may not be issued for more than a cumulative amount of \$40,000;

(b) If the new process has at least 6 but not more than 20 piping and instrument diagrams, not including drawing legend sheets and utility piping and instrument diagrams, invoices may not be issued for more than a cumulative amount of \$50,000; or

(c) If the new process has more than 20 piping and instrument diagrams, not including drawing legend sheets and utility piping and instrument diagrams, invoices may not be issued for more than a cumulative amount of \$50,000, plus \$500 for each piping and instrument diagram in excess of 20 diagrams.

3. The Division shall accrue charges for activities relating to the permitting of the new process conducted by:

(a) Personnel of the Division in the amount of \$68 per hour; and

(b) Contractors in an amount equal to the cost to the Division, plus 5 percent.

4. The Division shall not require the owner or operator to pay more than the maximum cumulative amount for the respective new process as set forth in subsection 2, except that fees related to:

(a) The review of the concrete foundations or structural steel design; and

(b) Reviewing corrections,

Ê must not be considered when determining the maximum fee owed by the owner or operator.

5. After issuing a permit to operate to an owner or operator, the Division shall refund any excess fee paid to the Division by the owner or operator pursuant to this section.

6. The owner or operator may request in writing that the Division cease work on evaluating the application for a permit to construct, or evaluating whether the owner or operator has satisfied the requirements for the issuance of a permit to operate, at any time before the permit is issued. Upon receipt of such a request, the Division shall stop its evaluation and:

(a) Issue an invoice to the owner or operator for any outstanding money due pursuant to this section, including any money committed to any engineering contractor for review services; or

(b) Refund any excess fee paid to the Division by the owner or operator pursuant to this section, Ê as appropriate.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001; A by R137-04, 2-15-2005)

Registration

NAC 459.95348 General requirements. ([NRS 459.3818](#), [459.3822](#), [459.3832](#), [459.3833](#))

1. The owner or operator shall:

(a) Complete annually a single registration form covering all processes subject to C.A.P.P.;

(b) Submit the annual registration pursuant to subsection 6 to the Division on or before June 21 of each year; and

(c) Certify the annual registration pursuant to [NAC 459.95337](#).

2. The registration must reflect the maximum quantity of all highly hazardous substances and explosives on-site between June 1 of the previous year and May 31 of the current year.

3. Except as otherwise provided in this subsection, before starting a new process, the owner or operator shall submit a registration form covering all the processes subject to C.A.P.P., including the new process, at least 90 days before introducing the highly hazardous substance or explosive into the facility. An owner or operator does not need to submit a registration form pursuant to this subsection to include a new process in his registration if the owner or operator has submitted an application for a permit to construct for the new process pursuant to [NAC](#)

[459.953451](#).

4. If a facility is or becomes subject to the provisions of subparagraph (2) of paragraph (a) of subsection 1 of [NAC 459.95323](#), the owner or operator shall submit the registration pursuant to subsection 6 not later than 90 days after the provisions of subparagraph (2) of paragraph (a) of subsection 1 of [NAC 459.95323](#) take effect.

5. If the State Environmental Commission amends a threshold quantity or mixture concentration of a substance or adds a new substance to the table of highly hazardous substances set forth in subsection 1 of [NAC 459.9533](#) and a facility has a process that uses the new substance or that uses the substance in an amount that exceeds the amended threshold quantity or mixture of concentration, the owner or operator shall, not later than 90 days after the effective date of the regulation which contains the addition or amendment, submit to the Division registration for the process in accordance with subsection 6.

6. A complete registration consists of:

(a) Information about the facility as set forth in [NAC 459.9535](#);

(b) A summary of the accident history in accordance with [NAC 459.95354](#);

(c) The status of any recommendation of the process hazard analysis developed pursuant to subsection 8 of [NAC 459.95414](#) that was unresolved when the registration for the previous year was submitted;

(d) Such other information that may be required by the Division; and

(e) Certification as set forth in [NAC 459.95337](#).

(Added to NAC by Environmental Comm'n by R121-98, 5-27-99, eff. 6-21-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

REVISER'S NOTE.

The regulation of the State Environmental Commission filed with the Secretary of State on February 15, 2005 (LCB File No. R137-04), which amended this section, contains the following provision not included in NAC:

"Notwithstanding any provision of [NAC 459.95348](#) to the contrary, an owner or operator who, on February 15, 2005, holds an annual registration covering all the processes subject to the tier A or tier B program that was issued pursuant to the former provisions of [NAC 459.95348](#) shall be deemed to hold an annual registration for those processes issued pursuant to the provisions of [NAC 459.95348](#) as amended by this regulation."

NAC 459.9535 Annual registration: Information concerning facility. ([NRS 459.3818](#), [459.3822](#), [459.3833](#)) Information about the facility on the annual registration form must include:

1. The name, street, city, county, state, zip code, latitude and longitude of the facility, the method for obtaining the latitude and longitude, and a description of the location that the latitude and longitude represent.

2. The Dun & Bradstreet number for the facility.

3. The name and Dun & Bradstreet number of any parent corporation.

4. The name, telephone number and mailing address of the owner or operator.

5. The name and title of the person with overall responsibility for the implementation of C.A.P.P.

6. The name, title, telephone number during normal business hours and telephone number that is available 24 hours per day of an emergency contact.

7. For each process:

(a) The name and C.A.S. number of each substance.

(b) The maximum quantity of each substance on-site between June 1 of the previous year and May 31 of the current year. For a new process, the owner or operator shall include in its annual registration form information about the maximum inventory they expect to have on-site through the following May 31.

(c) The N.A.I.C.S. code that is applicable to the process.

8. The identifier assigned by the United States Environmental Protection Agency, if any, to the facility.

9. The number of full-time employees at the facility.

10. Whether the facility is subject to 29 C.F.R. § 1910.119.

11. Whether the facility is subject to 40 C.F.R. Part 355.

12. Whether the facility has an operating permit pursuant to 40 C.F.R. Part 70 and, if applicable, the permit number.

13. The date of the last safety inspection of the facility by a federal, state or local governmental agency and the identity of the inspecting entity.

(Added to NAC by Environmental Comm'n by R121-98, 5-27-99, eff. 6-21-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95354 Annual registration: Accident history of facility. ([NRS 459.3818](#), [459.3822](#), [459.3833](#)) An annual registration must include an accident history of the facility for the period starting on June 1 of the

previous year and ending on May 31 of the current year. The accident history of the facility must include a description of:

1. Any unanticipated or unusual event at the facility that resulted in the release, including, without limitation, any accidental releases, of any highly hazardous substance or explosive; and
2. The efforts undertaken by the owner and operator of the facility to assess the reasons and develop a remedy for the release or accidental release of the substance.

(Added to NAC by Environmental Comm'n by R121-98, 5-27-99, eff. 6-21-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

Hazard Assessments

NAC 459.95364 Parameters for analysis of off-site consequences. ([NRS 459.3818](#), [459.3833](#))

1. An owner or operator shall use the following endpoints when preparing an analysis of off-site consequences:

- (a) For toxic highly hazardous substances, the toxic endpoints provided pursuant to [NAC 459.9533](#);
- (b) For flammable highly hazardous substances and explosives:
 - (1) In a scenario that studies the potential effects of an explosion, an overpressure of 1 psi (0.0703 kilograms per square centimeter);
 - (2) In a scenario that studies radiant heat and exposure time, a radiant heat of 5 kw/m² (1586 BTU per hour per square foot) for 40 seconds; or
 - (3) In a scenario that studies the lower flammability limit, the lower flammability limit provided by the N.F.P.A. or other generally recognized sources; or

(c) If an endpoint is not provided pursuant to [NAC 459.9533](#) or a substance is not designated or classified as toxic, flammable or explosive pursuant to [NAC 459.9533](#), the owner or operator shall define an appropriate endpoint that results in the greatest impact to employees and public receptors. The owner or operator shall define a toxic endpoint in a manner that is comparable to the health impacts defined by ERPG-2 of the *Emergency Response Planning Guidelines Series*, which is adopted by reference pursuant to [NAC 459.95528](#), and shall define a flammable or explosive endpoint as set forth in paragraph (b).

2. The owner or operator shall use a wind speed of 1.5 meters per second (4.9 feet per second) and an atmospheric stability class of F when preparing the worst-case release analysis, except that, if the owner or operator demonstrates that local meteorological data show a higher minimum wind speed or less stable atmosphere at all times during the previous 3 years, these minimums may be used. For an analysis of an alternative scenario, the owner or operator shall use the typical meteorological conditions.

3. Except as otherwise provided in this subsection, the owner or operator shall use the highest daily maximum temperature during the previous 3 years and the average humidity for the site based on temperature and humidity data gathered on-site or at a local meteorological station for a worst-case release analysis involving a toxic highly hazardous substance. A facility using the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is adopted by reference pursuant to [NAC 459.95528](#), may use 25°C (77°F) and 50 percent humidity as values for these variables. For an analysis of an alternative scenario, the owner or operator may use typical temperature and humidity data gathered on-site or at a local meteorological station.

4. The owner or operator shall analyze:

- (a) A worst-case release of a toxic highly hazardous substance assuming a ground level (0 feet) release.
- (b) An alternative scenario involving a toxic highly hazardous substance using the release height that is determined by the release scenario.

5. The owner or operator shall use urban or rural topography for a worst-case release scenario or an alternative scenario, as appropriate. An urban topography has many obstacles, such as buildings and trees, in the immediate area. A rural topography has no buildings in the immediate area, and the terrain is generally flat and unobstructed.

6. The owner or operator shall ensure that any table or model used for a dispersion analysis of a toxic highly hazardous substance appropriately accounts for gas density.

7. For a worst-case release analysis, the owner or operator shall assume that a liquid other than a gas which is liquefied by refrigeration only is released at the highest daily maximum temperature based on data for the previous 3 years appropriate for the facility, or at process temperature, whichever is higher. For an alternative scenario, the owner or operator may assume that the substance is released at a process or ambient temperature which is appropriate for the scenario.

8. As used in this section, "typical meteorological conditions" means the temperature, wind speed, cloud cover and atmospheric stability class that prevail at the site based on data gathered at or near the site or from a local meteorological station.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95366 Analysis of worst-case scenarios. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator of a facility may use the guidelines set forth in the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is adopted by reference pursuant to [NAC 459.95528](#), to calculate any of the values required in this section.
2. For each process, the owner or operator shall prepare:
 - (a) One worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint resulting from an accidental release of a toxic highly hazardous substance under worst-case conditions as described in [NAC 459.95364](#);
 - (b) One worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint resulting from an accidental ignition or detonation of a flammable or explosive substance under worst-case release conditions as described in [NAC 459.95364](#); and
 - (c) Additional worst-case release scenarios for a facility if:
 - (1) A worst-case release from another process at the facility potentially affects different public receptors than those affected by the worst-case release scenario prepared pursuant to paragraphs (a) and (b); or
 - (2) A toxic or flammable highly hazardous substance is present in excess of the threshold quantity and was not considered as part of the worst-case release scenarios prepared pursuant to paragraphs (a) and (b).
3. When preparing a worst-case release scenario:
 - (a) For a highly hazardous substance, the owner or operator shall assume that the release quantity is the greater of:
 - (1) For substances in a vessel, the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity.
 - (2) For substances in pipes, the greatest amount in a pipe, taking into account administrative controls that limit the maximum quantity.
 - (b) For an explosive, the owner or operator shall select the inventory that produces the greatest distance to an endpoint.
4. The owner or operator shall model each substance as a toxic substance, a flammable substance or an explosive as described in [NAC 459.9533](#). If a substance is not described as a toxic substance, a flammable substance or an explosive pursuant to [NAC 459.9533](#), the owner or operator shall select the scenario providing the most significant impact on employees and the public.
5. For toxic substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall:
 - (a) Assume that the quantity in the vessel or pipe, as determined pursuant to subsection 3, is released as a gas over a period of 10 minutes;
 - (b) Assume that the release rate, in pounds per minute, is the total quantity divided by 10, unless passive mitigation systems are in place; and
 - (c) Calculate the impact of passive mitigation measures on the release rate using the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is adopted by reference pursuant to [NAC 459.95528](#).
6. For gases handled as refrigerated liquids at ambient pressure, the owner or operator:
 - (a) Shall assume that the substance is released as a gas in 10 minutes, if the released substance is not contained by passive mitigation systems or if the contained pool would have a depth of 1 cm (0.39 inch) or less; and
 - (b) May assume that the quantity of the substance in the vessel or pipe, as determined pursuant to subsection 3, is spilled instantaneously to form a liquid pool, if the released substance is contained by passive mitigation systems in a pool with a depth greater than 1 cm (0.39 inch). The owner or operator shall calculate the volatilization rate at the boiling point of the substance and at the conditions set forth in subsections 7, 8 and 9.
7. For toxic substances that are normally liquids at ambient temperature, the owner or operator shall assume that the quantity in the vessel or pipe, as determined pursuant to subsection 3, is spilled instantaneously to form a liquid pool. The owner or operator shall determine the surface area of the pool by assuming that the liquid spreads to 1 cm (0.39 inch) deep, unless passive mitigation systems are in place that serve to contain the spill and limit the surface area. If passive mitigation is in place, the owner or operator shall use the surface area of the contained liquid to calculate the volatilization rate. If the release would occur onto a surface that is not paved or

smooth, the owner or operator may take into account the actual surface characteristics.

8. When determining the volatilization rate for purposes of subsection 7, the owner or operator shall account for:

- (a) The highest daily maximum temperature occurring during the past 3 years;
- (b) The temperature of the substance in the vessel; and
- (c) If the liquid spilled is a mixture or solution, the concentration of the substance.

9. For purposes of subsection 7, the owner or operator shall determine the rate of release to air from the volatilization rate of the liquid pool determined pursuant to subsection 8. The owner or operator may use the methodology set forth in the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is adopted by reference pursuant to [NAC 459.95528](#), or another publicly available technique that accounts for the modeling conditions and is recognized in the industry as a current practice. The owner or operator may use a proprietary model that accounts for the modeling conditions if the owner or operator allows the Division access to the model and describes to local emergency planners, upon request, the features of the model and any differences from publicly available models.

10. The owner or operator shall assume that the quantity of the flammable substance determined pursuant to subsection 3 vaporizes resulting in a vapor cloud explosion. The owner or operator shall use a yield factor of 10 percent of the available energy released in the explosion to determine the distance to the explosion endpoint if the model used is based on TNT-equivalent methods.

11. For explosives, the owner or operator shall employ methods for calculating overpressure based upon generally accepted practices.

12. The owner or operator shall use the parameters defined in [NAC 459.95364](#) to determine the distance to the endpoints. The owner or operator may use the methodology provided in the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is adopted by reference pursuant to [NAC 459.95528](#), or any commercially or publicly available technique for air dispersion modeling if the technique accounts for the modeling conditions and is recognized in the industry as a current practice. The owner or operator may use a proprietary model that accounts for the modeling conditions if the owner or operator allows the Division access to the model and describes to local emergency planners, upon request, the features of the model and any differences in the model from publicly available models.

13. The owner or operator may consider passive mitigation systems for the worst-case release scenario analysis if the mitigation system is capable of withstanding the event that triggered the release and still function as intended.

14. Notwithstanding the provisions of subsection 3, the owner or operator shall select as the worst-case scenario for a flammable substance, the worst-case scenario for a toxic highly hazardous substance or the worst-case scenario for an explosive, a scenario based on proximity to the boundary of the facility and smaller quantities of the substance handled at a higher process temperature or pressure if such a scenario would result in a greater distance to an endpoint beyond the facility boundary than the scenario provided pursuant to subsection 3.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95368 Analysis of alternative release scenarios. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator shall identify and analyze at least one alternative release scenario for each toxic highly hazardous substance that is used in a process and at least one alternative release scenario to represent all flammable highly hazardous substances or explosives that are used in processes.

2. The facility may use the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is adopted by reference pursuant to [NAC 459.95528](#), to calculate any of the values required in this section.

3. For each scenario required pursuant to subsection 1, the owner or operator shall select a scenario that:

- (a) Is more likely to occur than the worst-case release scenario developed pursuant to [NAC 459.95366](#); and
- (b) Will reach an endpoint off-site. If no alternate release scenario will reach an endpoint off-site, then the owner or operator shall select the alternate release scenario with the most significant on-site impact.

4. The owner or operator shall consider, without limitation and where applicable, scenarios in which:

- (a) A transfer hose releases because of splits or sudden uncoupling of the hose;
- (b) Process piping releases because of a failure at a flange, joint, weld, valve and valve seal, drain or bleed;
- (c) A process vessel or pump releases because of a crack or a failure of a seal, drain, bleed or plug;
- (d) A vessel overfills and spills, or overpressurizes and vents through a relief valve or rupture disc; and
- (e) A shipping container is mishandled and thereby breaks or is punctured leading to a spill.

5. The owner or operator:

(a) Shall use the appropriate parameters set forth in [NAC 459.95364](#) to determine the distance to the endpoints;

(b) May use:

(1) The methodology provided in the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is

adopted by reference pursuant to [NAC 459.95528](#); or

(2) A commercially or publicly available technique for air dispersion modeling, if the technique accounts for the specified modeling conditions and is recognized in the industry as a current practice; and

(c) May use a proprietary model that accounts for the modeling conditions if the owner or operator allows the Division access to the model and describes to local emergency planners, upon request, the features of the model and any differences from publicly available models.

6. The owner or operator may consider active and passive mitigation systems for an alternative release scenario if the mitigation systems are capable of withstanding the event that triggered the release and still function as intended.

7. When selecting the alternative release scenarios, the owner or operator shall consider, without limitation:

(a) Any accidental release and any incident that was investigated pursuant to [NAC 459.95429](#); and

(b) The analyses performed pursuant to [NAC 459.95414](#).

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.9537 Estimation of population potentially affected. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator shall estimate the population within a circle that has its center at the point of the release and a radius that is the equivalent of the distance to the endpoint determined pursuant to [NAC 459.95364](#).

In making the estimation of the population, the owner or operator shall take into account the presence of institutions, such as schools, hospitals, prisons, parks and recreational areas, and major commercial, office and industrial buildings within the circle.

2. The owner or operator may use the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is adopted by reference pursuant to [NAC 459.95528](#), to calculate the values required in this section.

3. The owner or operator may use the most recent census data or any other updated information to estimate the population potentially affected.

4. The owner or operator shall estimate the population to two significant digits.

5. The owner or operator shall maintain at his facility the current estimate of population made pursuant to this section.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95372 Definition of environmental receptors. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator shall define the environmental receptors within a circle with its center at the point of the release and a radius that is the equivalent of the distance to the endpoint determined pursuant to [NAC 459.95364](#).

2. The owner or operator may use the *R.M.P. Guidance for Off-Site Consequence Analysis*, which is adopted by reference pursuant to [NAC 459.95528](#), to calculate the values required in this section.

3. The owner or operator may rely on information provided on local maps prepared by the United States Geological Survey or on any source containing United States Geological Survey data to identify environmental receptors.

4. The owner or operator shall maintain at his facility the current list of environmental receptors defined by the owner or operator pursuant to this section.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95374 Review and update of off-site consequence analyses; revised analyses. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator shall review and update the off-site consequence analyses developed pursuant to [NAC 459.95364](#) to [459.95372](#), inclusive, at least once every 5 years.

2. If there is a change at a facility in a process that involves a highly hazardous substance or explosive or the quantity of such a substance or explosive that is stored or handled at the facility, or if any other change at the facility might reasonably be expected to increase or decrease the distance to the endpoint by a factor of two or more, the owner or operator shall prepare a revised analysis not later than 6 months after the change.

3. The owner or operator shall maintain at his facility the revised analysis prepared pursuant to this section. (Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95376 Documentation to be maintained concerning worst-case release scenarios and alternative release scenarios. ([NRS 459.3818](#), [459.3833](#)) The owner or operator shall maintain at his facility:

1. For worst-case release scenarios:

- (a) A description of the vessel or pipeline and substance that the owner or operator selected as worst-case; and
 (b) A list of the assumptions and parameters that the owner or operator used, including, without limitation:
 (1) A description of any administrative controls and passive mitigation that the owner or operator assumed to limit the quantity of the substance which would be released;
 (2) The anticipated effect of the controls and mitigation on the release quantity and rate; and
 (3) The reasons why the owner or operator selected these assumptions and parameters.

2. For alternative release scenarios:

- (a) A description of the scenarios that the owner or operator identified; and
 (b) A list of the assumptions and parameters that the owner or operator used, including, without limitation:
 (1) A description of any administrative controls and active or passive mitigation that the owner or operator assumed to limit the quantity of the substance which would be released;
 (2) The anticipated effect of the controls and mitigation on the release quantity and rate; and
 (3) The reasons why the owner or operator selected these assumptions and parameters.

3. For worst-case scenarios and alternative release scenarios:

(a) Documentation of:

- (1) The estimated quantity released, release rate and duration of release;
 (2) The methodology that the owner or operator used to determine the distance to the endpoints; and
 (3) The data that the owner or operator used to estimate the population and environmental receptors which

potentially will be affected; and

(b) Verification that the active and passive mitigation systems are designed to remain functional under the conditions of the release scenarios.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99)

Prevention Programs

NAC 459.95412 Compilation of information concerning process safety. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator of a facility with a process that is subject to C.A.P.P. shall compile written information concerning process safety before conducting a process hazard analysis required pursuant to [NAC 459.95414](#).

2. The information concerning process safety must include, without limitation, information pertaining to:

(a) The hazards of the highly hazardous substances or explosives, including, without limitation:

- (1) Toxicity information;
 (2) Permissible exposure limits;
 (3) Physical data;
 (4) Reactivity data;
 (5) Corrosivity data;
 (6) Thermal and chemical stability data; and
 (7) The foreseeable hazardous effects of inadvertent mixing of different materials.

Material safety data sheets that satisfy the requirements of 29 C.F.R. § 1910.1200(g) may be used to comply with this requirement to the extent they contain the information required by this paragraph.

(b) The technology of the process, including, without limitation:

- (1) A block flow diagram or simplified process flow diagram;
 (2) The process chemistry;
 (3) The maximum intended inventory;
 (4) The safe upper and lower limits for any applicable process variable, including, without limitation, temperature, pressure, flow and composition; and
 (5) An evaluation of the consequences of deviations.

(c) The equipment in the process, including, without limitation:

- (1) The materials of construction;
 (2) Piping and instrument diagrams;

- (3) Electrical classification;
- (4) The design of the relief system and the basis for the design;
- (5) The design of the ventilation system;
- (6) Design codes and standards that were employed;
- (7) The material and energy balances for processes that were built after May 26, 1992; and
- (8) The safety systems, such as interlocks, detection or suppression systems.

3. The owner or operator shall evaluate processes and equipment for conformance to applicable codes, standards and good engineering practices and document that the processes and equipment comply with recognized and generally accepted good engineering practices.

4. For existing processes and equipment designed and constructed in accordance with codes, standards or practices that are no longer in general use, the owner or operator shall determine and document that the equipment is designed, maintained, inspected, tested and operating in a safe manner.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95414 Process hazard analysis. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator shall perform an initial process hazard analysis on a process that is subject to C.A.P. P. before introducing highly hazardous substances or explosives to the process.

2. An owner or operator may use a process hazard analysis that was previously completed to comply with [NRS 459.380](#) to [459.3874](#), inclusive, or 29 C.F.R. § 1910.119(e) to satisfy the requirement to perform an initial process hazard analysis provided that the analysis reflects the current process.

3. The owner or operator shall obtain the approval of the Division concerning the methodology of the process hazard analysis before conducting the analysis.

4. The owner or operator shall select one or more of the following methodologies as required by the complexity of the process:

- (a) A "what if" analysis;
- (b) A checklist;
- (c) A "what if" analysis combined with a checklist;
- (d) A hazard and operability study;
- (e) A failure mode and effects analysis;
- (f) A fault tree analysis; or
- (g) An appropriate equivalent methodology.

5. When preparing a process hazard analysis, an owner or operator shall consider:

- (a) The hazards of the process;
- (b) Any previous incident that had a likely potential for catastrophic consequences, including, without limitation, near misses or accidental releases;

(c) The engineering and administrative controls that are applicable to the hazards and their interrelationships, including, without limitation, the appropriate application of detection methodologies such as process monitoring, control instrumentation with alarms or detection hardware;

- (d) The consequences of a failure of engineering and administrative controls;
- (e) The siting of the facility;
- (f) The human factors; and
- (g) A qualitative evaluation of a range of the possible safety and health effects of a failure of controls.

6. If not evaluated as part of the process hazard analysis pursuant to subsections 1 to 5, inclusive, a separate, dedicated hazard analysis, utilizing a checklist or other appropriate method, must be conducted to evaluate:

- (a) Human factors;
- (b) Facility siting; and
- (c) External forces.

7. The owner or operator shall conduct the process hazard analysis with a team with expertise in engineering and process operations. The team must consist of two or more persons and include at least:

- (a) One member who has experience and knowledge specific to the process being evaluated; and
- (b) One member who is knowledgeable in the methodology for the specific process hazard analysis being used.

8. The owner or operator shall:

- (a) Promptly evaluate the findings and recommendations of the team formed pursuant to subsection 7;
- (b) Determine and document a course of action based on the evaluation;
- (c) Develop a written schedule of when the actions are to be completed;
- (d) Complete the actions as soon as possible and document each such completion; and

(e) Communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

9. At least once every 5 years after the completion of the initial process hazard analysis, a team that satisfies the requirements of subsection 7 shall update and revalidate the process hazard analysis to ensure that the process hazard analysis is consistent with the current process.

10. A process hazard analysis must be updated and revalidated using a team meeting the requirements of subsection 7 and pursuant to the procedures set forth in [NAC 459.9549](#) to [459.955](#), inclusive.

11. An owner or operator shall retain a process hazard analysis and an update and revalidation for each process subject to this section, as well as any documented resolution of recommendations described in subsection 8, for the life of the process.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95416 Operating procedures. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator of a facility with a process that is subject to C.A.P.P. shall develop and implement written operating procedures for that process which:

(a) Are consistent with the process safety information developed pursuant to [NAC 459.95412](#); and

(b) Provide clear instructions for safely conducting such a process.

2. The operating procedures must include:

(a) Steps for each operating phase, including, without limitation, steps for:

(1) The initial start-up;

(2) Normal operations;

(3) Temporary operations;

(4) An emergency shutdown, including, without limitation, a description of the conditions under which an emergency shutdown is required and the assignment of responsibility for a shutdown to a qualified operator;

(5) Emergency operations;

(6) A normal shutdown; and

(7) Start-up following a turnaround or an emergency shutdown.

(b) Operating limits, including, without limitation:

(1) The consequences of a deviation; and

(2) The steps required to correct or avoid a deviation.

(c) Safety and health considerations, including, without limitation:

(1) The properties of, and hazards presented by, the chemicals used in the process;

(2) The precautions that are necessary to prevent exposure, including, without limitation, engineering controls, administrative controls and personal protective equipment;

(3) Control measures to be taken if physical contact or airborne exposure occurs;

(4) Quality control for raw materials;

(5) Control of hazardous chemical inventory levels; and

(6) Any special or unique hazards.

(d) A description of the safety systems and their functions.

3. The owner or operator shall:

(a) Ensure that the operating procedures are readily accessible to employees who work in or maintain an applicable process;

(b) Review the operating procedures as often as necessary to ensure that they reflect current operating practice, including, without limitation, any change to a process that may result from a change in process chemicals, technology or equipment;

(c) Certify annually that the operating procedures are current and accurate; and

(d) Develop and implement safe work practices for employees and contractors to provide for the control of:

(1) Hazards during a lockout or tagout;

(2) Hazards during a confined space entry;

(3) Hazards while opening the equipment or piping associated with a process;

(4) Entrance into the facility by maintenance, contractor, laboratory or other support personnel; and

(5) Any other hazards that may be encountered.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95418 Training procedures. ([NRS 459.3818](#), [459.3833](#)) The owner or operator of a facility with a

process that is subject to C.A.P.P.:

1. Shall, except as otherwise provided in subsection 2, ensure that each employee who is operating a process or will operate a process is trained in an overview of the process and in the operating procedures created pursuant to [NAC 459.95416](#). Such training must include, without limitation, training in:

- (a) The layout of the plant;
- (b) The location of equipment and instruments;
- (c) The specific safety and health hazards;
- (d) Emergency operations, including, without limitation, procedures for an emergency shutdown;
- (e) Safe work practices that are applicable to the job tasks of the employee; and
- (f) The program for the management of changes developed and implemented pursuant to [NAC 459.95423](#),

including instruction on how to recognize activities that are not replacement in kind.

2. May, in lieu of providing the training required pursuant to subsection 1, certify in writing that an employee who was operating a process on May 26, 1992, possesses the required knowledge, skills and abilities to carry out the duties and responsibilities safely as specified in the operating procedures.

3. Shall provide an employee with refresher training at least once every 3 years, and more often if it is determined after consultation with the employees who operate the process to be necessary, to ensure that the employee understands and adheres to the current operating procedures of the process.

4. May provide employees with any combination of classroom and field training, including, without limitation, on-the-job training. Training must, at a minimum, follow a predefined syllabus or checklist to ensure that each employee receives training which is essential to his job performance. On-the-job training, if it is the only method employed, does not satisfy the requirements of this subsection unless it follows a predefined syllabus or checklist.

5. Shall ascertain that each employee who operates a process has received and understood the training required pursuant to this section.

6. Shall prepare records that include, without limitation:

- (a) The identity of the employee;
- (b) The date of training;
- (c) The substance of the training provided on that date; and
- (d) The means used to verify that the employee understood the training, including, without limitation, any test records from such verification.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95421 Procedures for maintenance of equipment. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator of a facility with a process subject to C.A.P.P. shall:

(a) Establish and implement written procedures to ensure the ongoing integrity of the equipment listed in subsection 2;

(b) Provide each employee who is involved in maintaining the ongoing integrity of the equipment listed in subsection 2 with:

- (1) An overview of the process that uses the equipment and the potential hazards of the process;
- (2) Training in the procedures that are applicable to the job tasks of the employee to ensure that the employee can perform the job tasks in a safe manner; and

(3) Training in the program for the management of changes developed and implemented pursuant to [NAC 459.95423](#), including instruction on how to recognize activities that are not replacement in kind;

- (c) Perform inspections and tests on process equipment listed in subsection 2;
- (d) Ensure that the procedures for inspection and testing follow recognized and generally accepted good engineering practices;

(e) Ensure that the inspections and tests of the equipment are performed:

- (1) In the frequency required by good engineering practices and consistent with any applicable recommendations from the manufacturer of the equipment; or
- (2) More frequently if determined to be necessary by previous experience in operating the equipment;

(f) Document each inspection and test that has been performed on the equipment, including, without limitation, documentation of:

- (1) The date of the inspection or test;
- (2) The name of the person who performed the inspection or test;

- (3) The serial number or other identifier of the equipment on which the inspection or test was performed;
- (4) A description of the inspection or test performed; and
- (5) The results of the inspection or test;

(g) Correct any deficiencies in the equipment that are outside the acceptable limits which are described by the process safety information developed pursuant to [NAC 459.95412](#) before using the equipment again;

(h) In the construction of new processes and equipment, ensure that the equipment, as fabricated, is suitable for the process for which it will be used;

(i) Perform appropriate checks and inspections to ensure that equipment is installed properly and consistent with design specifications and instructions from the manufacturer; and

(j) Ensure that maintenance materials, spare parts and equipment are suitable for the process for which they will be used.

2. This section applies to:

- (a) Pressure vessels and storage tanks;
- (b) Piping systems, including, without limitation, piping components such as valves;
- (c) Relief and vent systems and devices;
- (d) Emergency shutdown systems;
- (e) Controls, including, without limitation, monitoring devices and sensors, alarms and interlocks; and
- (f) Rotating equipment.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95423 Procedures for management of certain changes. ([NRS 459.3818](#), [459.3833](#)) The owner or operator of a facility with a process that is subject to C.A.P.P. shall:

1. Establish and implement written procedures to manage changes, other than a replacement in kind, to:

- (a) Chemicals, technology, equipment and procedures that are used in a process; and
- (b) Buildings, structures and equipment that affect a process;

2. Evaluate the impact of changes to organizational structure or staffing levels on the implementation of the prevention program and the emergency response program;

3. Ensure that the procedures established pursuant to subsection 1 require that the following considerations are addressed before one of the changes described in subsection 1 occur and that the procedures specify the criteria for review and approval of each of the following considerations:

- (a) The technical basis for the proposed change;
- (b) The impact of change on safety and health;
- (c) Whether any modifications to operating procedures will be necessary;
- (d) The time necessary to make the proposed change; and
- (e) The requirements for authorization for the elements of the proposed change;

4. Inform and train for the change any employee who is involved in the operation of the process that is affected by the change and any maintenance or contract employee whose job tasks will be affected by the change before the start-up of the process or of the affected part of the process; and

5. Update:

- (a) The process safety information required pursuant to [NAC 459.95412](#); and
- (b) The operating procedures or practices required pursuant to [NAC 459.95416](#).

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95425 Pre-start-up safety review. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator of a facility with a process that is subject to C.A.P.P. shall perform a pre-start-up safety review for new facilities and for modified facilities when the modification is significant enough to require a change in the process safety information.

2. A pre-start-up safety review must confirm that before a highly hazardous substance or explosive is introduced into a process:

- (a) Construction and equipment is in accordance with design specifications;
- (b) Safety, operating, maintenance and emergency procedures are in place and are adequate;
- (c) For new or modified facilities, a process hazard analysis has been performed and recommendations have been resolved or implemented before start-up;

(d) Modified facilities meet the requirements concerning the management of changes set forth in [NAC 459.95423](#); and

(e) Training of each employee involved in operating and maintaining the process has been completed.
(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95427 Evaluation and documentation of compliance. ([NRS 459.3818](#), [459.3833](#))

1. The owner or operator of a facility with a process that is subject to C.A.P.P. shall:

(a) Certify at least once every 3 years that an evaluation has been performed of whether adequate procedures and practices as required pursuant to [NAC 459.95412](#) to [459.95442](#), inclusive, have been developed and implemented;

(b) Create a report of the findings of the evaluation made pursuant to paragraph (a);

(c) Promptly determine and document an appropriate response to any deficiency that is discovered during the evaluation;

(d) Document that any deficiency discovered during the evaluation has been corrected; and

(e) Retain the two most recent reports.

2. The evaluation must be conducted by at least one person who is knowledgeable in the process.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95429 Investigation of incidents; incident reports; corrective action. ([NRS 459.3818](#), [459.3833](#)) The owner or operator of a facility with a process that is subject to C.A.P.P. shall:

1. Investigate any incident that resulted in, or could reasonably have resulted in, a catastrophic release and take corrective action to prevent recurrence of the incident.

2. Initiate the investigation of the incident as promptly as possible, but not later than 48 hours after the incident.

3. Establish a team to investigate the incident. The team must consist of two or more persons and include at least:

(a) One person who is knowledgeable in the process involved, including, without limitation, a contract employee if his work was involved in the incident; and

(b) One person who possesses appropriate knowledge and experience to investigate and analyze the incident thoroughly.

4. Prepare an incident report at the conclusion of the investigation which must include, at a minimum:

(a) The date of the incident;

(b) The date the investigation of the incident began;

(c) A description of the incident;

(d) The factors that contributed to the incident; and

(e) Recommendations resulting from the investigation.

5. Establish a system to address and resolve the findings and recommendations of the incident report promptly.

6. Document any solutions and corrective actions taken.

7. Ensure that the incident report is reviewed with all affected personnel whose job tasks are relevant to the findings of the incident report, including, without limitation, contract employees where applicable.

8. Retain the incident report for 5 years.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95431 Employee participation. ([NRS 459.3818](#), [459.3833](#)) The owner or operator of a facility with a process that is subject to C.A.P.P. shall:

1. Develop a written plan of action regarding the implementation of the employee participation required by this section;

2. Consult with employees and their representatives about:

(a) Conducting and developing process hazard analyses; and

(b) Developing and implementing the other requirements of [NAC 459.95412](#) to [459.95442](#), inclusive; and

3. Provide to employees and their representatives access to process hazard analyses and other information which is developed pursuant to [NAC 459.95412](#) to [459.95442](#), inclusive.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95433 Hot work permits. ([NRS 459.3818](#), [459.3833](#)) The owner or operator of a facility with a process that is subject to C.A.P.P. shall:

1. Issue a hot work permit for hot work conducted on or near a process;

2. Document in the permit:

- (a) That the fire prevention and protection requirements in 29 C.F.R. § 1910.252(a) are implemented before beginning hot work;
 - (b) The dates which are authorized for hot work; and
 - (c) The object on which hot work is to be performed; and
3. Keep the permit on file until completion of the hot work.
(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95435 Duties of owner or operator concerning contractors; duties of contractors. (NRS [459.3818](#), [459.3833](#))

- 1. The owner or operator of a facility with a process that is subject to C.A.P.P. shall:
 - (a) When selecting a contractor, obtain and evaluate information regarding the safety performance and programs of the contractor;
 - (b) Inform the contractor of known potential fire, explosion or toxic release hazards related to the work of the contractor and to the process on which he is working;
 - (c) Explain to the contractor the applicable provisions of [NAC 459.9544](#) and [459.95442](#);
 - (d) Develop and implement safe work practices consistent with [NAC 459.95416](#); and
 - (e) Periodically evaluate the performance of the contractor in satisfying the requirements of subsection 2.
- 2. The contractor shall:
 - (a) Ensure that each of his employees who will work on the process is trained in the work practices necessary to perform his job safely;
 - (b) Ensure that each of his employees who will work on the process is instructed in:
 - (1) The known potential fire, explosion or toxic release hazards related to his job and the process on which he is working; and
 - (2) The applicable provisions of the emergency action plan;
 - (c) Document that each of his employees who will work on the process has received and understood the training required pursuant to this subsection;
 - (d) Prepare a record that contains:
 - (1) The identity of the employee;
 - (2) The date of training; and
 - (3) The means used to verify that the employee understood the training;
 - (e) Ensure that each of his employees who works on the process follows the safety rules of the facility, including, without limitation, the safe work practices required pursuant to [NAC 459.95416](#); and
 - (f) Advise the owner or operator of any unique hazards presented by or found during the work of an employee.
- 3. This section:
 - (a) Applies to contractors who perform maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a process.
 - (b) Does not apply to contractors who provide incidental services that do not influence process safety, including, without limitation, janitorial work, food and drink services, laundry, delivery or other supply services.
(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

Emergency Response Programs

NAC 459.9544 Compliance; exemption. (NRS [459.3818](#), [459.3833](#))

- 1. Except as otherwise provided in subsection 2, the owner or operator of a facility with a process that is subject to C.A.P.P. shall comply with the requirements of [NAC 459.95442](#).
- 2. The owner or operator of a facility in which the employees will not respond to an accidental release is not required to comply with the provisions of [NAC 459.95442](#) if:
 - (a) For facilities subject to 29 C.F.R. Part 1910, the facility has implemented a written emergency action plan that contains the elements set forth in 29 C.F.R. § 1910.38(c)-(f);
 - (b) Appropriate mechanisms are in place to notify emergency responders when there is a need for a response; and
 - (c) The facility has coordinated response actions with the local fire department. For response actions to be coordinated, the owner or operator shall:
 - (1) Identify the first responding fire station and hazardous materials response station;

(2) Review the written emergency action plan and appropriate mechanisms for notification developed for the facility with the responders identified in subparagraph (1) or their representatives;

(3) Keep a written record of such review meetings, including comments by the responders or their representatives to the written emergency action plan and appropriate mechanisms for notification of the responders; and

(4) Update information on a basis agreeable to the owner or operator and the responders.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NAC 459.95442 Establishment and implementation; review and coordination; written program. ([NRS 459.3818](#), [459.3833](#))

1. An owner or operator shall:

(a) Establish and implement an emergency response program to protect employees, public health and the environment, which program must include:

(1) For facilities subject to 29 C.F.R. Part 1910, a written emergency action plan that contains the elements set forth in 29 C.F.R. § 1910.38(c)-(f);

(2) For facilities subject to 29 C.F.R. Part 1910, a program that contains the elements outlined in 29 C.F.R. § 1910.120(q);

(3) Procedures for informing the public and local emergency response agencies about an accidental release;

(4) Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures;

(5) Procedures and measures for emergency response after an accidental release;

(6) Procedures for the use, inspection, testing and maintenance of emergency response equipment;

(7) Training for all employees in relevant procedures for emergency response; and

(8) Procedures to review and update, as appropriate, the emergency response program to reflect changes at the facility and ensure that employees are informed of changes.

(b) Review and coordinate the emergency response program developed pursuant to paragraph (a) with local emergency responders. For response actions to be coordinated, the owner or operator shall:

(1) Identify the first responding fire station and hazardous materials response station;

(2) Review the emergency response program developed for the facility with the responders identified in subparagraph (1) or their representatives;

(3) Keep a written record of such review meetings, including comments by the responders or their representatives to the emergency response program for the facility; and

(4) Update information on a basis agreeable to the owner or operator and the responder.

2. A written program satisfies the requirements of this section if it:

(a) Complies with other federal contingency plan regulations and the requirements set forth in subsection 1; or

(b) Complies with the requirements set forth in subsection 1 and is consistent with the approach of the National Response Team's Integrated Contingency Plan Guidance set forth in 61 Fed. Reg. 28,641-28,664 and 31,103-31,104 (1996).

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

Two or More Releases From Facility

NAC 459.95486 Prerequisites for exemption of process from C.A.P.P.; continued compliance. ([NRS 459.3813](#), [459.3818](#))

1. A process that is otherwise subject to C.A.P.P. pursuant to subparagraph (2) of paragraph (a) of subsection 1 of [NAC 459.95323](#) is not subject to C.A.P.P. if:

(a) Two or more years have elapsed since the owner or operator has registered pursuant to [NAC 459.95348](#) and completed the process hazard analysis;

(b) The owner or operator has complied with all relevant requirements of C.A.P.P.;

(c) The recommendations developed pursuant to subsection 8 of [NAC 459.95414](#) are implemented; and

(d) The State Environmental Commission has granted the exemption pursuant to [NAC 459.95488](#).

2. The Division shall require continued compliance with C.A.P.P. until the recommendations from the process hazard analysis are completed and the State Environmental Commission has granted the exemption pursuant to

[NAC 459.95488.](#)

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95488 Grant of exemption from C.A.P.P.: Procedure; considerations. ([NRS 459.3813](#), [459.3818](#), [459.3832](#))

1. In order to be granted an exemption by the State Environmental Commission from C.A.P.P., the owner or operator of a facility with a process that is subject to C.A.P.P. pursuant to subparagraph (2) of paragraph (a) of subsection 1 of [NAC 459.95323](#) must submit:

(a) A written letter to the Division requesting exemption from C.A.P.P.; and

(b) A list indicating that the recommendations developed pursuant to subsection 8 of [NAC 459.95414](#) have been implemented. The list must be certified pursuant to [NAC 459.95337](#).

2. Not later than 60 calendar days after the Division receives the information submitted to it pursuant to subsection 1, the Division shall verify compliance with paragraphs (a), (b) and (c) of subsection 1 of [NAC 459.95486](#).

3. Not later than 90 calendar days after the Division receives the information submitted to it pursuant to subsection 1, the Division shall:

(a) Document its findings concerning the verification made pursuant to subsection 2; and

(b) Notify the owner or operator in writing of the findings made pursuant to paragraph (a).

4. Once the owner or operator has received notice that the Division has verified compliance with paragraphs (a), (b) and (c) of subsection 1 of [NAC 459.95486](#), he may petition the State Environmental Commission to become exempt from C.A.P.P. by filing with the Secretary of the State Environmental Commission:

(a) A letter requesting exemption from C.A.P.P.; and

(b) A copy of the findings of the Division made pursuant to subsection 3.

5. Upon receiving the letter and findings from an owner or operator pursuant to subsection 4, the Secretary of the State Environmental Commission shall:

(a) Schedule a review of the petition at the next meeting of the State Environmental Commission; and

(b) Notify the public by publication and the use of public service announcements of the petition.

6. At the hearing, the State Environmental Commission will consider the following to determine whether it will grant the petition:

(a) Whether the causes of any releases have been adequately mitigated to prevent future releases;

(b) Whether the facility has an adequate program in place to maintain the accident prevention program established pursuant to C.A.P.P.;

(c) Whether the Division believes that the exemption should be granted; and

(d) Whether the facility has had an accidental release since becoming subject to C.A.P.P.

7. If the State Environmental Commission:

(a) Grants the exemption, the exemption will become effective on the day following the hearing.

(b) Does not grant the exemption, the Commission will provide the owner or operator with an explanation of the reason the Commission denied the exemption.

8. The owner or operator may reapply for the exemption at any time.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

Revalidation of Process Hazard Analysis

NAC 459.9549 General requirements; new analysis in lieu of revalidation. ([NRS 459.3818](#), [459.3833](#))

1. The revalidation of a process hazard analysis that is required pursuant to [NAC 459.95414](#) must:

(a) Confirm pursuant to [NAC 459.95496](#), [459.95498](#) and [459.955](#) that the analysis is valid for the current process;

(b) Determine the status of recommendations from the previous process hazard analysis; and

(c) Satisfy the requirements of [NAC 459.95414](#).

2. The owner or operator may perform a new process hazard analysis in lieu of revalidating a previous analysis, if:

(a) The process hazard analysis satisfies the requirements of [NAC 459.95414](#); and

(b) All the supporting information, including, without limitation, the process safety information, operating procedures, training program, mechanical integrity program and emergency response program reflect current operations.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95496 Current process safety information and hazard assessment. ([NRS 459.3818](#), [459.3833](#))

1. A revalidated process hazard analysis must reflect current process safety information required pursuant to [NAC 459.95412](#). The owner or operator shall document specifically how the accuracy of the process safety information was validated.

2. A revalidated process hazard analysis must reflect the current hazard assessment.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95498 Current procedures and programs. ([NRS 459.3818](#), [459.3833](#)) A revalidated process hazard analysis must reflect current operating procedures, training programs, maintenance programs and emergency response programs required pursuant to [NAC 459.95416](#), [459.95418](#), [459.95421](#), [459.9544](#) and [459.95442](#). The owner or operator shall document specifically how the accuracy of such information was validated.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.955 Consideration of incidents; recommendations for correction of deficiencies. ([NRS 459.3818](#), [459.3833](#))

1. All incidents that had the potential for, or actually resulted in, a release, fire or explosion involving a highly hazardous substance or explosive must be considered by the person or team conducting a revalidation of a process hazard analysis.

2. The revalidation of the analysis must include, without limitation:

(a) A review of the recommendations that were made as a result of the investigation; and

(b) Confirmation that the recommendations are being implemented in a timely manner.

3. If a deficient element of a prevention program was a contributing factor to an incident, the person or team conducting the revalidation shall make recommendations to correct the deficiency.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

Administration and Enforcement

NAC 459.9552 Site inspections. ([NRS 459.3818](#), [459.3832](#), [459.3833](#), [459.387](#))

1. The Division shall conduct a site inspection pursuant to this section at least once per year for each facility registered pursuant to [NAC 459.95348](#).

2. The Division may request information from the owner or operator of the facility in advance of any inspection related to compliance with any C.A.P.P. requirement. The Division may require that any information submitted pursuant to this subsection be certified pursuant to [NAC 459.95337](#).

3. Except as otherwise provided in subsection 4, during a site inspection, the Division shall:

(a) Evaluate whether the facility is in compliance with the requirements of its:

(1) Prevention program;

(2) Emergency response program; and

(3) Hazard assessment; and

(b) Validate information submitted by the owner or operator of the facility.

4. The Division is not obligated to perform the evaluation pursuant to paragraph (a) of subsection 3 in its entirety on an annual basis, but may fulfill the requirements of paragraph (a) of subsection 3 over multiple inspections, prioritizing the order of the evaluation by perceived program deficiencies and potential hazard.

5. The Division must document the inspection results in a written report. The report must include, without limitation:

(a) The name of the facility, dates of inspection and the names of facility personnel present;

(b) Processes reviewed and hazardous materials involved;

(c) The findings and conclusions of the inspection; and

(d) The corrective actions required of the owner or operator of the facility.

6. Copies of the report prepared pursuant to subsection 5 must:

(a) Be placed in the facility file, which must be available for public review; and

(b) Be sent to the owner or operator of the facility.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R137-04, 2-15-2005)

NAC 459.95521 Investigation of accidents. ([NRS 459.3818](#), [459.38195](#), [459.3824](#))

1. The Division may investigate an accident occurring in connection with a process that involves one or more highly hazardous substances or explosives at a facility which results in an uncontrolled emission, fire or explosion and which presents or presented an imminent and substantial danger to the health of the employees of the facility, the public health or the environment, to determine the cause of the accident if the owner or operator of the facility:

(a) Is unwilling to commence and has not commenced an investigation of the accident in a timely manner; or
 (b) Is not capable of conducting an investigation and has not retained persons who have expertise to conduct an investigation of the accident.

2. Except as otherwise provided in subsection 3, before the Division commences an investigation of an accident, the Division must provide written notice to the owner or operator:

(a) Defining the scope of the investigation;
 (b) Citing the Division's authority and the reasons pursuant to subsection 1 for conducting the investigation;
 (c) Providing an explanation of how the Division's costs will be recovered; and
 (d) Informing the owner or operator that if the owner or operator fails to commence an investigation of the accident within 24 hours after receiving the written notice, the Division will commence its investigation of the accident and begin accruing costs.

3. The provisions of subsection 2 do not preclude the Division from commencing its investigation immediately if the Division determines that time is of the essence in gathering data.

4. The decision by the Division to conduct an investigation pursuant to this section does not relieve the owner or operator of the obligation to investigate pursuant to [NAC 459.95429](#).

5. Except as otherwise provided in subsection 6, the Division shall accrue costs for the investigation and invoice the owner or operator the following amounts:

(a) For activities conducted by personnel of the Division, the amount of \$68 per hour;
 (b) For activities conducted by contractors, an amount equal to the cost to the Division; and
 (c) Such other amounts as are necessary for the Division to recover all costs incurred by the Division in conducting the investigation.

6. In no event may the total amount invoiced by the Division pursuant to subsection 5 for an investigation exceed the total costs incurred by the Division in conducting the investigation.

7. An investigation conducted by the Division pursuant to this section shall be deemed complete when, to the satisfaction of the Division:

(a) The direct cause of the accident and each contributing cause or potential cause of the accident has been identified;
 (b) Each root cause of the accident, or each potential root cause, has been identified;
 (c) The remedial steps to prevent recurrence of the accident have been identified; and
 (d) The remedial steps so identified have been implemented.

8. As used in this section:

(a) "Direct cause of the accident" means the condition or event that resulted in the accident.
 (b) "Expertise to conduct an investigation" means having technical or operational knowledge plus knowledge of investigative techniques to make a determination of the direct, contributing and root causes of an accident.
 (c) "In a timely manner" means to start the investigation process with a formally defined investigation team within 48 hours after the accident.
 (d) "Is not capable of conducting an investigation" means that the owner or operator does not have the expertise to conduct an investigation within the group of employees and contractors of the owner or operator.
 (e) "Root cause of the accident" means a condition or event that, if corrected, would prevent recurrence of the accident.

(Added to NAC by Environmental Comm'n by R137-04, eff. 2-15-2005)

NAC 459.95523 Protection of confidentiality of certain information. ([NRS 459.3818](#), [459.3822](#))

1. The Division shall, in accordance with this section and [NRS 459.3822](#), protect the confidentiality of any information that is obtained pursuant to C.A.P.P., including any information obtained through an observation made by the Division during a visit to a facility.

2. To protect the confidentiality of information, the owner or operator of the facility must request such protection in writing, indicating which information is to be protected and stating how the conditions in [NRS 459.3822](#) are satisfied.

3. A request for, and the granting of, the protection of the confidentiality of information made pursuant to this section does not constitute a request for, or the granting of, an extension of any deadlines for reporting required pursuant to C.A.P.P., and the pending status of such a request does not prohibit access to the information or facility by the Division.

4. In addition to providing the confidential information to the Division, the owner or operator of the facility for which protection of the confidentiality of information is obtained pursuant to this section shall, upon the request of the Division, provide a redacted version of any submitted information that is intended for public review which substitutes the term "CBI" or provides generic information for the information deemed confidential. (Added to NAC by Environmental Comm'n by R137-04, eff. 2-15-2005)

NAC 459.95526 Administration and enforcement of certain federal regulations. ([NRS 459.3818](#), [459.3833](#))

1. The provisions of this section apply only during periods when federal authority is delegated to the Division pursuant to Subpart E of 40 C.F.R. Part 63.

2. Upon receiving delegation of federal authority pursuant to Subpart E of 40 C.F.R. Part 63, the Division shall administer and enforce the provisions of 40 C.F.R. §§ 68.3 to 68.215, inclusive, and Appendix A of 40 C.F.R. Part 68, which are hereby adopted by reference.

3. A copy of the volume that contains 40 C.F.R. §§ 68.3 to 68.215, inclusive, or Appendix A of 40 C.F.R. Part 68 can be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost of \$29. These sections are also available, free of charge, from the Government Printing Office at the Internet address <http://www.gpoaccess.gov>.

(Added to NAC by Environmental Comm'n by R137-04, eff. 2-15-2005)

NAC 459.95528 Adoption by reference of certain codes and standards. ([NRS 459.3818](#), [459.3833](#)) The following provisions are hereby adopted by reference:

1. Codes 211112, 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311 and 32532 of the 2002 version of the N.A.I.C.S. A copy of the N.A.I.C.S. may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, at a cost of \$49.

2. *N.F.P.A. 704: Standard System for the Identification of the Hazards of Materials for Emergency Response*, 2001 edition. A copy may be obtained from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, at a cost of \$28.75.

3. *N.F.P.A. 30: Flammable and Combustible Liquids Code*, 2003 edition. A copy may be obtained from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, at a cost of \$38.25.

4. ERPG-2 of the *Emergency Response Planning Guidelines Series*. A copy of ERPG-2 may be obtained from the American Industrial Hygiene Association, 2700 Prosperity Avenue, Suite 250, Fairfax, Virginia 22031, at a cost of \$15.

5. *R.M.P. Guidance for Off-Site Consequence Analysis*. A copy may be obtained free of charge from the United States Environmental Protection Agency, National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati, Ohio 45242-2419.

6. N.F.P.A. 70, the 2002 version of the *National Electrical Code*. A copy may be obtained from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, at a cost of \$65.

7. 49 C.F.R. § 172.101. A copy of the volume that contains 49 C.F.R. § 172.101 may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost of \$49. That section is also available, free of charge, from the Government Printing Office at the Internet address <http://www.gpoaccess.gov>.

8. *ASME B31.3 - 1999 Process Piping with Addenda*. A copy of this standard may be obtained from the American Society of Mechanical Engineers, P.O. Box 2300, Fairfield, New Jersey 07007-2300, at a cost of \$255.

9. *ASME B31.5 - 2001 Refrigeration Piping and Heat Transfer Components*. A copy of this standard may be obtained from the American Society of Mechanical Engineers, P.O. Box 2300, Fairfield, New Jersey 07007-2300, at a cost of \$105.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001; R137-04, 2-15-2005)

NUCLEAR PROJECTS

NAC 459.960 Definitions. ([NRS 459.0092](#)) As used in [NAC 459.960](#) to [459.969](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 459.009](#) have the meanings ascribed to them in that section.

(Added to NAC by Comm'n on Nuclear Projects, eff. 6-23-86)

NAC 459.963 Clarification of regulations. ([NRS 459.0092](#))

1. An interested party may obtain clarification of any of the provisions of [NAC 459.960](#) to [459.969](#), inclusive, by directing a request to the Executive Director of the Agency at the following address:

Agency for Nuclear Projects/Nuclear
Waste Project Office
Capitol Complex
1802 North Carson Street, Suite 252
Carson City, Nevada 89710

2. If the requester is dissatisfied with the response of the Executive Director, he may petition the Commission for such clarification. In order to be heard at its next regularly scheduled meeting, the petition must be received by the Commission in time to be included as an item on the agenda for that meeting.

(Added to NAC by Comm'n on Nuclear Projects, eff. 6-23-86)

NAC 459.965 Meetings of Commission. ([NRS 459.0092](#)) Regular meetings of the Commission will be scheduled at the pleasure of a majority of the members of the Commission. Special meetings may be called by the Chairman to consider matters which must be addressed in advance of the regular meeting. Interested parties may present items for the Commission to consider for inclusion in the agenda for special or regularly scheduled meetings.

(Added to NAC by Comm'n on Nuclear Projects, eff. 6-23-86)

NAC 459.967 Correspondence with Agency. ([NRS 459.0092](#)) All written communications, payments, transactions and other pertinent documents involving the business of the Agency must be addressed to the Executive Director, who shall receive and process the documents or assign the matter to the administrator of a division of the Agency for disposition. The Executive Director or a person on the staff delegated by him shall respond to any correspondence in the name of the Agency.

(Added to NAC by Comm'n on Nuclear Projects, eff. 6-23-86)

NAC 459.969 Notification of action of Agency; fee for copies. ([NRS 459.0092](#))

1. The Agency shall notify every person, who has submitted a written request to be notified, of any significant action by the Agency, including the adoption of rules or regulations. Each such request expires each year on December 31. A renewal of such a request for the following year may be made on or after December 1st. Information disseminated pursuant to such a request must be sent to the last address filed by the person with the Agency.

2. The Agency may charge a person who is not a governmental entity a fee for providing copies of any regulations of the Commission. The fee must be based on the cost of reproduction.

(Added to NAC by Comm'n on Nuclear Projects, eff. 6-23-86)

CERTIFICATION OF LABORATORIES TO ANALYZE WASTE SAMPLES

General Provisions

NAC 459.96902 Definitions. ([NRS 459.485](#), [459.500](#)) As used in [NAC 459.96902](#) to [459.9699](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.96904](#) to [459.96944](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96904 "Accuracy" defined. ([NRS 459.485](#), [459.500](#)) "Accuracy" has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96906 “Analyst” defined. ([NRS 459.485](#), [459.500](#)) “Analyst” means a chemist, microbiologist, physicist or technician who:

1. Is qualified to conduct analyses of waste samples pursuant to the provisions of the manual specified in paragraph (e) of subsection 1 of [NAC 459.96948](#); and
2. Performs those tests or assists in performing those tests with other qualified employees of a certified laboratory.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96908 “Analyte” defined. ([NRS 459.485](#), [459.500](#)) “Analyte” means any compound, element, radical, isotope, contaminant organism, species or other substance for which a waste sample is tested by a laboratory.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.9691 “Approved method of testing” defined. ([NRS 459.485](#), [459.500](#)) “Approved method of testing” means a laboratory procedure specified in subsection 4 of [NAC 459.96958](#) that is approved by the Environmental Protection Agency or the Division to test a waste sample.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96912 “Certified laboratory” defined. ([NRS 459.485](#), [459.500](#)) “Certified laboratory” means a laboratory for which a certificate to conduct analyses of waste samples is issued pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96914 “Commission” defined. ([NRS 459.485](#), [459.500](#)) “Commission” means the State Environmental Commission.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96916 “Director” defined. ([NRS 459.485](#), [459.500](#)) “Director” means:

1. A person who is qualified to administer any technical or scientific operation of a certified laboratory and supervise the procedures for the testing and reporting of the results of tests pursuant to the provisions of the *Standards*; or
2. A chemist, microbiologist or physicist who is qualified to engage in an activity specified in subsection 1 pursuant to the provisions of the manual specified in paragraph (e) of subsection 1 of [NAC 459.96948](#).

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96918 “Division” defined. ([NRS 459.485](#), [459.500](#)) “Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.9692 “Federal Act” defined. ([NRS 459.485](#), [459.500](#)) “Federal Act” means the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96922 “National Environmental Laboratory Accreditation Conference” defined. ([NRS 459.485](#), [459.500](#)) “National Environmental Laboratory Accreditation Conference” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96924 “National Environmental Laboratory Accreditation Program” defined. ([NRS 459.485](#), [459.500](#)) “National Environmental Laboratory Accreditation Program” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96926 “Performance-based measurement system” defined. ([NRS 459.485](#), [459.500](#))

“Performance-based measurement system” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.96928 “Precision” defined. ([NRS 459.485](#), [459.500](#)) “Precision” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.9693 “Proficiency test sample” defined. ([NRS 459.485](#), [459.500](#)) “Proficiency test sample” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.96932 “Proficiency testing program” defined. ([NRS 459.485](#), [459.500](#)) “Proficiency testing program” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.96934 “Quality control sample” defined. ([NRS 459.485](#), [459.500](#)) “Quality control sample” means an uncontaminated waste sample that is spiked with a known analyte and provided to a laboratory for analysis to determine the performance of the laboratory in testing for the presence of that analyte by using a specified method of testing for the analyte.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.96936 “Quality manual” defined. ([NRS 459.485](#), [459.500](#)) “Quality manual” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.96938 “Sensitivity” defined. ([NRS 459.485](#), [459.500](#)) “Sensitivity” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.9694 “Spike” defined. ([NRS 459.485](#), [459.500](#)) “Spike” has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.96942 “Standards” defined. ([NRS 459.485](#), [459.500](#)) “Standards” means the *Standards* of the National Environmental Laboratory Accreditation Conference adopted by reference pursuant to the provisions of [NAC 459.96946](#).

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

NAC 459.96944 “Waste sample” defined. ([NRS 459.485](#), [459.500](#)) “Waste sample” means a sample of any substance obtained from any natural source or any other source to identify whether waste is hazardous waste or to detect the presence of hazardous waste or a regulated substance in soil or water.

(Added to NAC by Environmental Comm’n by R061-04, eff. 10-7-2004)

Guidelines and Procedures

NAC 459.96946 Adoption by reference of *National Environmental Laboratory Accreditation Conference Constitution, Bylaws, and Standards*. ([NRS 459.485](#), [459.500](#)) The Commission hereby adopts by reference the *National Environmental Laboratory Accreditation Conference Constitution, Bylaws, and Standards*, EPA 600/R-98/151, in the form most recently published by the Environmental Protection Agency, unless the Commission gives notice pursuant to the provisions of [NAC 459.9699](#) that the most recent publication is not suitable for this State. The publication is available, free of charge, from the Environmental Protection Agency, Office of Research and Development, 401 M Street, SW, Washington, D.C. 20460, or from the Environmental Protection Agency at

the Internet address <http://www.epa.gov/nerlesd1/land-sci/nelac/index.html>.
(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96948 Adoption by reference of certain publications related to sample collection procedures, analytical methodologies and requirements for certification. (NRS 459.485, 459.500)

1. The Commission hereby adopts by reference the following publications in the forms most recently published, unless the Commission gives notice pursuant to the provisions of [NAC 459.9699](#) that the most recent publication is not suitable for this State. The publications are available, unless otherwise provided in this section, by mail from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (800) 553-6847. The publications may also be obtained from the National Technical Information Service at the Internet address <http://www.ntis.gov/ordering.htm>. The publications are:

(a) *Consensus Method for Determining Groundwaters Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)*, EPA/910/9-92/029, Order Number PB93-180818, for the price of \$37.

(b) *DBP/ICR Analytical Methods Manual*, EPA/814/B-96/002, Order Number PB96-157516, for the price of \$52.

(c) *ICR Microbial Laboratory Manual*, EPA/600/R-95/178, Order Number PB96-157557, for the price of \$74.

(d) *ICR Sampling Manual*, April 1996, EPA/814/B-96/001, Order Number PB96-157508, for the price of \$52.

(e) *Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures, Quality Assurance*, 4th edition, EPA/815/B-97/001, Order Number PB97-171490, for the price of \$51.

(f) *Method 100.2: Determination of Asbestos Structures over 10 Micrometers in Length in Drinking Water*, June 1994, EPA/600/R-94/134, Order Number PB94-201902, for the price of \$33.50.

(g) *Method 1613: Tetra-Through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS, Revision B*, October 1994, EPA/821/B-94/005, Order Number PB95-104774, for the price of \$39.50.

(h) *Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry*, February 1999, EPA/821/R-98/002, Order Number PB99-121949, for the price of \$33.50. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <http://www.epa.gov/ost/methods/1664f051.html>.

(i) *Methods for the Determination of Inorganic Substances in Environmental Samples*, August 1993, EPA/600/R-93/100, Order Number PB94-120821, for the price of \$52.

(j) *Methods for the Determination of Metals in Environmental Samples*, EPA/600/4-91/010, Order Number PB91-231498, for the price of \$81.

(k) *Methods for the Determination of Metals in Environmental Samples, Supplement I*, EPA/600/R-94/111, Order Number PB95-125472, for the price of \$74.

(l) *Methods for the Determination of Nonconventional Pesticides in Municipal and Industrial Wastewater, Volume I, Revision 1*, August 1993, EPA/821/R-93/010A, Order Number PB94-121654, for the price of \$152.50.

(m) *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 1*, EPA/600/4-90/020, Order Number PB91-146027, for the price of \$68.50.

(n) *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 2*, EPA/600/R-92/129, Order Number PB92-207703, for the price of \$74.

(o) *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 3*, EPA/600/R-95/131, Order Number PB95-261616, for the price of \$117.

(p) *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 4th edition, EPA/600/4-90/027F, Order Number PB94-114733, for the price of \$81.

(q) *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms*, 3rd edition, EPA/600/4-91/002, Order Number PB96-141452, for the price of \$86.50.

(r) *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms*, 2nd edition, EPA/600/4-91/003, Order Number PB96-141445, for the price of \$111.50.

(s) *Technical Notes on Drinking Water Methods*, EPA/600/R-94/173, Order Number PB95-104766, for the price of \$37.

(t) *Test Methods for "Escherichia Coli" in Drinking Water: EC Medium with Mug Tube Procedure, Nutrient Agar with Mug Membrane Filter Procedure*, EPA/600/4-91/016, Order Number PB91-234591, for the price of \$17.50.

(u) *USEPA Contract Laboratory Program: Statement of Work for Organics Analysis: Multi-Media, Multi-Concentration, OLM01.0 (Includes Revisions OLM01.1 through OLM01.8)*, EPA/540/R-94/078, Order Number PB95-963508, for the price of \$100. The publication is also available, free of charge, from the Environmental

Protection Agency at the Internet address <http://www.epa.gov/superfund/programs/clp/organic.htm>.

(v) *USEPA Contract Laboratory Program: Statement of Work for Inorganics Analysis: Multi-Media, Multi-Concentration, ILM02.1*, EPA/540/R-94/095, Order Number PB95-963514, for the price of \$81. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <http://www.epa.gov/superfund/programs/clp/inorg.htm>.

2. The Commission hereby adopts by reference the following publications in the forms most recently published, unless the Commission gives notice pursuant to the provisions of [NAC 459.9699](#) that the most recent publication is not suitable for this State. The publications are available by mail from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (800) 553-6847. The publications are:

(a) *Interim Radiochemical Methodology for Drinking Water*, EPA/600/4-75-008, Order Number PB253258, for the price of \$37.

(b) *Method 100.1: Analytical Method for Determination of Asbestos Fibers in Water*, September 1983, EPA/600/4-83-043, Order Number PB83-260471, for the price of \$78.50.

(c) *Methods for the Chemical Analysis of Water and Wastes*, EPA/600/4-79-020, Order Number PB84-128677, for the price of \$117.

(d) *Methods for the Determination of Organic Compounds in Drinking Water*, Revised July 1991, EPA/600/4-88/039, Order Number PB91-231480, for the price of \$89.50.

(e) *Prescribed Procedures for Measurement of Radioactivity in Drinking Water*, EPA/600/4-80-032, Order Number PB80-224744, for the price of \$47.50.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.9695 Adoption by reference of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846*. ([NRS 459.485](#), [459.500](#)) The Commission hereby adopts by reference *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846*, 3rd edition, and *Updates I, II, IIA, IIB and III*, Publication Number 955-001-00000-1, in the form most recently published, unless the Commission gives notice pursuant to the provisions of [NAC 459.9699](#) that the most recent publication is not suitable for this State. The publication is available by mail from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, or by telephone at (202) 512-1800, for the price of \$367. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <http://www.epa.gov/epaoswer/hazwaste/test/main.htm>.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96952 Adoption by reference of *Method 1600-Membrane Filter Test Method for Enterococci in Water*. ([NRS 459.485](#), [459.500](#)) The Commission hereby adopts by reference *Method 1600-Membrane Filter Test Method for Enterococci in Water*, May 1997, EPA-821-R-97-004, in the form most recently published, unless the Commission gives notice pursuant to the provisions of [NAC 459.9699](#) that the most recent publication is not suitable for this State. The publication is available, free of charge, by mail from the Environmental Protection Agency, National Center for Environmental Publications and Information, P.O. Box 42419, Cincinnati, Ohio 45242-0419, or by telephone at (800) 490-9198.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96954 Adoption of certain ASTM standards and other publications related to calibration and testing laboratories, and examination of water and wastewater. ([NRS 459.485](#), [459.500](#)) The following publications are hereby adopted by the Commission in the forms most recently published, unless the Environmental Protection Agency fails to publish notice of its approval of the publication in the Federal Register or the Commission gives notice pursuant to the provisions of [NAC 459.9699](#) that the most recent publication is not suitable for this State:

1. *Annual Book of ASTM Standards*, Section 5, "Petroleum Products, Lubricants, and Fossil Fuels," which is available by mail from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$999.

2. *Annual Book of ASTM Standards*, Section 11, "Water and Environmental Technology," which is available by mail from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the

price of \$906.

3. *ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories*, 1990, which is available by mail from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112-5776, by telephone at (800) 854-7179 or at the Internet address <http://www.global.ihs.com>, for the price of \$35.

4. *Standard Methods for the Examination of Water and Wastewater*, Order Number 10079, available by mail from the American Water Works Association, Customer Service, 6666 West Quincy Avenue, Denver, Colorado 80235, by telephone at (800) 926-7337 or at the Internet address <http://www.awwa.org/bookstore/ProductList.cfm>, for the price of \$155 for members and \$200 for nonmembers.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96956 Interpretation of provisions; resolution of conflicting requirements. ([NRS 459.485](#), [459.500](#))

1. The provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, must not be interpreted to circumvent any of those provisions to make them less effective. If more than one interpretation exists for any of those provisions, the more restrictive interpretation applies.

2. If any publication adopted by reference pursuant to the provisions of [NAC 459.96946](#) to [459.96954](#), inclusive, conflicts with any provision of [NAC 459.96902](#) to [459.9699](#), inclusive, or with the *Standards*, the provision set forth in [NAC 459.96902](#) to [459.9699](#), inclusive, or the *Standards* applies.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96958 Scope of certification. ([NRS 459.485](#), [459.500](#))

1. A laboratory may obtain certification pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, to perform analyses for the purposes of [NRS 459.400](#) to [459.600](#), inclusive, [459.610](#) to [459.658](#), inclusive, and [459.800](#) to [459.856](#), inclusive, to identify whether waste is hazardous waste or to detect the presence of hazardous waste or a regulated substance in soil or water.

2. The scientific disciplines for which a laboratory may obtain certification are:

- (a) Chemistry;
- (b) Microbiology; and
- (c) Radiochemistry.

3. A laboratory may obtain certification pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, for any program relating to the analysis of a waste sample approved by the Environmental Protection Agency pursuant to the Federal Act.

4. Except as otherwise provided in subsection 5, the approved methods of testing for which a laboratory may obtain certification are set forth in:

- (a) Title 40 C.F.R. § 136.3 and Appendices A, C and D to 40 C.F.R. Part 136;
- (b) Title 40 C.F.R. § 260.11;
- (c) Appendix I to 40 C.F.R. Part 261;
- (d) Appendix IX to 40 C.F.R. Part 266;
- (e) Appendices A and B to 40 C.F.R. Part 425;
- (f) Title 40 C.F.R. § 434.64;
- (g) Appendices 1 and 2 to 40 C.F.R. Part 435, Subpart A;
- (h) Table 7 to 40 C.F.R. Part 455;
- (i) Title 40 C.F.R. § 465.03(c);
- (j) Title 40 C.F.R. § 503.8; and

(k) The publications specified in [NAC 459.96952](#), paragraphs (h) to (r), inclusive, and (u) and (v) of subsection 1 of [NAC 459.96948](#), [NAC 459.9695](#) and subsections 1, 2 and 4 of [NAC 459.96954](#).

5. A laboratory may obtain certification to use a performance-based measurement system or any other alternative method of testing if the laboratory:

- (a) Complies with the provisions of subsection 5 of [NAC 459.96962](#);
- (b) Obtains approval for that method of testing from the Environmental Protection Agency pursuant to the provisions of 40 C.F.R. § 403.7(b)(2)(v), 403.12(b)(5)(vi) or 403.12(g)(4);
- (c) Complies with the requirements for application set forth in 40 C.F.R. § 136.4; and
- (d) Provides proof and evaluates the performance-based measurement system or other alternative method of

testing in accordance with the provisions of:

- (1) Appendix E of chapter 5 of the *Standards*;
- (2) "Guidelines Establishing Test Procedures for the Analysis of Pollutants: Flexibility in Existing Test Procedures and Streamlined Approach for Approving New Test Methods," set forth in Volume 62 of the Federal Register at pages 14975 et seq., March 28, 1997; and
- (3) "Performance Based Measurement System," set forth in Volume 62 of the Federal Register at pages 52098 et seq., October 6, 1997.

6. To be certified to conduct an analysis of an analyte using an approved method of testing specified in subsection 4, the analyte must be listed by the Division in the approved method of testing pursuant to that subsection.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.9696 Categories of analytes for which laboratory may be certified. ([NRS 459.485](#), [459.500](#))

For the purposes of charging and collecting fees and conducting performance evaluations pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, the Division shall classify each analyte for which a laboratory may be certified into the following categories:

1. Bulk asbestos analysis of hazardous waste.
2. Characteristics of hazardous waste.
3. Dioxin in hazardous waste.
4. Herbicides.
5. Immunoassay methods for hazardous waste.
6. Infrared analysis of hazardous waste.
7. Inorganic chemistry of hazardous waste.
8. Liquid chromatography for hazardous waste.
9. Microbiology.
10. Miscellaneous screening methods for hazardous waste.
11. Pesticides.
12. Physical properties of hazardous waste.
13. Polyaromatic hydrocarbons in hazardous waste.
14. Polychlorinated biphenyls in hazardous waste.
15. Radiochemistry of hazardous waste.
16. Semivolatile organic chemistry of hazardous waste.
17. Toxicity bioassay of hazardous waste.
18. Trace metals in hazardous waste.
19. Volatile organic chemistry of hazardous waste.
20. Any other individual contaminant.
21. Any other individual multicontaminant method.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96962 Requirements for certification. ([NRS 459.485](#), [459.500](#))

1. To be certified to conduct laboratory testing, a laboratory must comply with the requirements set forth in sections 1.8.3, 4.1.1, 5.0, 5.1, 5.4 and 5.5 of the *Standards*.

2. To be certified in:

- (a) Chemistry, a laboratory must comply with the requirements set forth in section 1.8.5 and Appendix D.1 of chapter 5 of the *Standards*;
- (b) Microbiology, a laboratory must comply with the requirements set forth in section 1.8.7 and Appendix D.3 of chapter 5 of the *Standards*; or
- (c) Radiochemistry, a laboratory must comply with the requirements set forth in section 1.8.8 and Appendix D.4 of chapter 5 of the *Standards*.

3. To be certified pursuant to the program specified in subsection 3 of [NAC 459.96958](#), a laboratory must comply with:

(a) If the laboratory supports a solid waste disposal facility or a municipal solid waste landfill, the provisions concerning:

- (1) The requirements for a groundwater monitoring program relating to sampling, preservation and transport, analysis, chain-of-custody, quality assurance and quality control set forth in 40 C.F.R. §§ 257.23(a) and 258.53(a); and

(2) The methodological requirements for the testing of solid waste to determine whether the waste is subject to the land disposal restrictions set forth in 40 C.F.R. §§ 268.7(a)(1), 268.7(b)(1) and 268.40(f).

(b) If the laboratory supports a hazardous waste facility, the provisions concerning:

(1) The requirements for a waste analysis plan relating to sampling, preservation and transport, analysis and chain-of-custody set forth in 40 C.F.R. §§ 264.13 and 265.13;

(2) The requirements for a groundwater monitoring plan set forth in 40 C.F.R. §§ 264.97(d), 264.97(e) and 265.92(a); and

(3) If applicable to the laboratory, the requirements for soil and soil-pore liquid monitoring set forth in 40 C.F.R. § 264.278(e).

(c) If the laboratory performs the testing of waste to determine compliance with air emission standards from tanks, surface impoundments or containers, the requirements for sampling and analysis set forth in 40 C.F.R. § 265.1084.

(d) If the laboratory supports an underground injection control program for hazardous waste, the requirements relating to an approved waste analysis plan set forth in 40 C.F.R. § 146.68(a).

(e) If the laboratory performs testing to determine compliance with air emission standards for process vents and equipment leaks, the methodological requirements set forth in 40 C.F.R. §§ 264.1033(e)(1), 264.1034, 264.1063, 265.1033(e)(1), 265.1034 and 265.1063.

(f) If the laboratory performs the sampling and analysis of hazardous waste burned in a boiler or industrial furnace, the methodological requirements set forth in 40 C.F.R. §§ 266.100(c)(1)(ii), 266.100(f), 266.102(b), 266.104(e)(1), 266.106(g), 266.107(f) and 266.112(b).

(g) If the laboratory performs the analysis of waste for a hazardous waste permit and a trial burn plan for incinerators, boilers and industrial furnaces, the methodological requirements set forth in 40 C.F.R. §§ 270.19(c)(1)(iii), 270.22(a)(2)(ii)(B), 270.62(b)(2)(i)(C) and 270.66(c)(2)(i).

(h) If the laboratory supports the processing of used oil or a re-refining facility, the requirements to determine whether used oil is hazardous for representative sampling and the analytical methodological requirements set forth in 40 C.F.R. §§ 279.10(b)(1)(ii), 279.44(c), 279.53(c), 279.55 and 279.63(c).

4. To be certified for an approved method of testing, a laboratory must comply with the requirements for using that approved method of testing specified in subsection 4 of [NAC 459.96958](#) and the *Standards*. If a conflict occurs between a provision specified in that subsection and the *Standards* concerning an approved method of testing, the *Standards* apply. If a manufacturer provides instructions for maintaining any equipment used for testing or for ensuring the performance of any test or demonstrating the performance of any system of measurement, the laboratory shall comply with those instructions. If a conflict occurs between a provision of those instructions and a provision specified in subsection 4 of [NAC 459.96958](#) or the *Standards*, the provisions specified in that section or the *Standards* apply.

5. If a laboratory intends to use a performance-based measurement system or any other alternative method of testing, the laboratory shall, before the Division conducts an inspection of the laboratory pursuant to the provisions of [NAC 459.96972](#), submit to the Division a written statement setting forth the performance-based measurement system or other alternative method of testing it intends to use. The Division may approve the performance-based measurement system or alternative method of testing if, as determined by the Division:

(a) The system or method is equivalent to or exceeds the approved method of testing for accuracy, precision, completeness and comparability relating to determining compliance with the regulatory concentration levels or system conditions;

(b) An approved method of testing is not available for use by the laboratory to determine the presence of an analyte for which the laboratory requests certification pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive; or

(c) The laboratory obtains approval for the system or method from the Environmental Protection Agency.

6. To be certified to test for a specific analyte using an approved method of testing, a laboratory must comply with the requirements established by the Division for the approved method of testing and the standards for initial and continuing calibrations of test equipment and demonstrations by analysts of precision, accuracy, sensitivity and low system background for each analyte. If a conflict occurs between the requirements established by the Division and the *Standards*, the *Standards* apply.

7. As used in this section:

(a) "Limit of detection" means the smallest amount or concentration of an analyte that can be reliably detected in a given sample by a specific measurement process.

(b) "Low system background" means an analysis of a method blank that does not yield contamination at a concentration that is greater than the method detection limit or the limit of detection, whichever is applicable to

the particular analyte.

(c) "Method blank" has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(d) "Method detection limit" has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(e) "Quality assurance" has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96964 Certification by Division or pursuant to National Environmental Laboratory Accreditation Program. ([NRS 459.485](#), [459.500](#))

1. A laboratory may apply for certification by the Division or certification pursuant to the National Environmental Laboratory Accreditation Program.

2. To obtain certification by the Division, a laboratory must comply with the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive.

3. A laboratory that is certified by the Division may provide analytical data for a waste sample originating in this State for each analyte for which the laboratory is certified.

4. To obtain certification pursuant to the National Environmental Laboratory Accreditation Program, a laboratory must:

(a) Comply with the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive;

(b) Before obtaining certification pursuant to the Program and every 2 years after obtaining that certification, submit to an assessment of the laboratory conducted at the laboratory under the direction of a person who is approved pursuant to the Program; and

(c) Specify in its application for certification at least one approved method of testing an analyte pursuant to the provisions of subsections 4 and 6 of [NAC 459.96958](#).

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96966 Application for certification. ([NRS 459.485](#), [459.500](#))

1. To apply for certification pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, the director of the laboratory for which certification is requested must submit an application to the Division on a form approved by the Division. The application must be accompanied by the fees prescribed in [NAC 459.96986](#) and include the information specified in sections 4.1.7 and 4.1.9 of the *Standards*.

2. The provisions of this section do not require an application and certificate for each building or other portion of a certified laboratory that:

(a) Is operated by the same management, quality manual and quality assurance officer as the certified laboratory;

(b) Uses only methods for which the laboratory is certified;

(c) Does not issue reports directly but forwards data to the certified laboratory for reporting purposes; and

(d) The Division determines is used to analyze the same waste samples as the certified laboratory.

È As used in this subsection, "quality assurance officer" means the quality assurance officer specified in section 5.4.2 of the *Standards*.

3. The Division shall not consider an application for certification submitted pursuant to this section to be complete unless:

(a) The laboratory specifies in the application the approved methods of testing in accordance with the provisions of [NAC 459.96958](#);

(b) The laboratory satisfactorily analyzes proficiency test samples in accordance with the provisions of [NAC 459.96968](#);

(c) The laboratory adopts a quality manual and submits the manual to the Division pursuant to the provisions of [NAC 459.9697](#);

(d) Except for a laboratory that complies with the provisions of [NAC 459.96988](#), the Division conducts an inspection of the laboratory for the approved methods of testing analytes for which the laboratory requests certification pursuant to the provisions of [NAC 459.96972](#);

(e) If the report of an inspection of the laboratory conducted by the Division includes any deficiency that must be corrected, the laboratory submits to the Division a written plan to correct the deficiency in accordance with the provisions of subsection 7 of [NAC 459.96972](#);

(f) The director of the laboratory is qualified for that position pursuant to the provisions of subsection 4.1 of chapter 4 of the *Standards*; and

(g) The applicable fees prescribed in [NAC 459.96986](#) have been paid.

4. An application for certification shall be deemed withdrawn by the applicant if it is not completed pursuant to the provisions of this section within 1 year after the Division receives the application. The Division may extend the period in which an application must be completed pursuant to this subsection if the applicant submits to the Division a written request for an extension setting forth the reasons for the request.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96968 Participation in proficiency testing program. ([NRS 459.485](#), [459.500](#))

1. Each laboratory for which an application for certification is submitted and each certified laboratory must participate in a proficiency testing program. The laboratory must:

(a) Obtain single-blind proficiency test samples from a provider approved by a Proficiency Testing Oversight Body/Proficiency Testing Provider Accreditor;

(b) Analyze the proficiency test samples, if available, for each category of certification and analyte that is included in the program; and

(c) Report the results of the analysis to the provider specified in paragraph (a).

Ê If the laboratory is a certified laboratory and if a test will be conducted for each category of certification and analyte for which the laboratory is certified, the certified laboratory must analyze a proficiency test sample pursuant to the program not less than once every 6 months.

2. Each laboratory specified in subsection 1 shall pay the costs of subscribing to a program specified in that subsection.

3. Each laboratory specified in subsection 1 must satisfactorily analyze each analyte that is included in the program specified in subsection 3 of [NAC 459.96958](#) on two of the most recent three rounds of testing. Each laboratory shall, before obtaining a proficiency test sample pursuant to paragraph (a) of subsection 1, authorize the provider of the proficiency test sample to submit to the Division the results of any test taken pursuant to the provisions of this section. If the laboratory fails to provide that authorization, the Division may refuse to consider the results of any test taken pursuant to those provisions.

4. The Division shall consider the results of any test taken pursuant to this section to be satisfactory if the results are within the limits of acceptance established by the provider of the proficiency test samples in accordance with the provisions of Appendix C of chapter 2 of the *Standards*.

5. If the Division determines that the results of a test are satisfactory, the laboratory may be certified to use any approved method of testing for each analyte that is satisfactorily analyzed by the laboratory if, as determined by the Division, data sufficient to validate the use of that method of testing on an annual basis are available. If such data are not available, the Division shall deny or revoke certification for that method of testing. As used in this subsection, "data sufficient to validate" means performance of an initial demonstration of capability as defined in section 7.2.8 of the manual specified in paragraph (e) of subsection 1 of [NAC 459.96948](#).

6. If a certified laboratory fails:

(a) Two rounds of testing pursuant to subsection 3, the Division shall suspend the certification of that laboratory for each analyte the laboratory failed to analyze during those rounds; or

(b) Three rounds of testing pursuant to that subsection, the Division shall revoke the certification of that laboratory for each analyte the laboratory failed to analyze during those rounds.

7. If the Division suspends the certification of a certified laboratory pursuant to subsection 6 because the laboratory failed two nonconsecutive rounds of testing, the Division shall reinstate the certification of that laboratory for the method of testing an analyte for which the certification was suspended if the certified laboratory satisfactorily analyzes the analyte in a proficiency test sample that is approved by the Division.

8. If the Division suspends the certification of a certified laboratory pursuant to subsection 6 because the laboratory failed to analyze an analyte on two consecutive rounds of testing, the laboratory must satisfactorily analyze the analyte during each of two consecutive rounds of testing conducted after the Division suspends the certification.

9. If the Division revokes the certification of a certified laboratory pursuant to subsection 6, the laboratory must:

(a) Analyze satisfactorily the analyte for which the certification was revoked during each of two consecutive rounds of testing conducted after the Division revoked the certification; and

(b) Reapply for certification and pay the applicable fees pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive.

Ê If a certified laboratory complies with the provisions of this subsection and is otherwise qualified for

certification pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, the Division shall reinstate the certification of the laboratory for each method of testing and analyte for which the laboratory was certified.

10. Each certified laboratory must comply with the requirements concerning enrollment, testing, conduct and participation in the program specified in subsection 1 pursuant to the provisions of sections 2.4, 2.5 and 2.7 of the *Standards*.

11. As used in this section, "Proficiency Testing Oversight Body/Proficiency Testing Provider Accreditor" has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.9697 Adoption of quality manual by laboratory; contents. ([NRS 459.485](#), [459.500](#))

1. Each laboratory that applies for certification pursuant to [NAC 459.96902](#) to [459.9699](#), inclusive, shall adopt a quality manual and comply with the provisions of that manual. The director of the laboratory shall submit the manual to the Division before the Division conducts an inspection of the laboratory.

2. Each quality manual specified in subsection 1 must be adopted in accordance with the provisions of section 5.5 of the *Standards* and include, without limitation:

(a) A statement setting forth the requirements of the laboratory for sensitivity, precision and accuracy for each method of testing or analyte for which the laboratory requests certification;

(b) The policy of the laboratory concerning any unauthorized use of data or fraudulent activity that occurs at the laboratory; and

(c) The policy of the laboratory concerning the collection of samples for the purpose of determining compliance with the Federal Act. The policy must provide that:

(1) A person taking a sample shall sign and date an attestation indicating the validity and authenticity of the sample; and

(2) Tampering with or intentionally mislabeling the location, date, time or collection of a sample may be considered grounds for the denial of an application for certification or the revocation, suspension or limitation of certification pursuant to the provisions of [NAC 459.96974](#).

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96972 Inspection of laboratory by Division. ([NRS 459.485](#), [459.500](#))

1. Unless a laboratory satisfies the provisions of paragraph (c) of subsection 2 of [NAC 459.96988](#), the Division shall conduct an inspection of the premises and operation of each certified laboratory or laboratory for which an application for certification is submitted pursuant to the provisions of [NAC 459.96966](#). An inspection conducted pursuant to this section must be conducted in accordance with the provisions of sections 3.4 to 3.7, inclusive, of the *Standards*. If a certified laboratory conducts analyses of waste samples, the laboratory must be inspected in accordance with the manual adopted by reference pursuant to the provisions of paragraph (e) of subsection 1 of [NAC 459.96948](#). A certified laboratory shall analyze a quality control sample for each method of testing an analyte for which it is certified:

(a) At least once every 3 months; and

(b) Each time a new calibration curve is generated.

2. The Division shall conduct an inspection specified in subsection 1:

(a) Not less than once every 2 years, if the laboratory is a certified laboratory; or

(b) If the laboratory submits an application for certification pursuant to the provisions of [NAC 459.96966](#), not more than 30 days after the Division determines that the laboratory has complied with the provisions of paragraphs (a), (b) and (c) of subsection 3 of that section.

3. The Division may conduct an inspection of a laboratory more than once every 2 years pursuant to this section if:

(a) The Division receives a complaint concerning the quality of the laboratory from a member of the general public or any public agency;

(b) The Division has reasonable cause to believe the laboratory is engaging in fraudulent activity;

(c) The Division identifies deficiencies in the operation of the laboratory after conducting an inspection of the laboratory pursuant to this section;

(d) The laboratory notifies the Division pursuant to the provisions of [NAC 459.96982](#) of any changes specified in that section; or

(e) Any circumstance specified in section 3.3 of the *Standards* occurs.

4. An inspection conducted pursuant to the provisions of this section may include, without limitation:

(a) Requiring the laboratory to conduct an analysis of a proficiency test sample; and

(b) Photocopying, photographing or videotaping:

(1) Any part of the laboratory that is used for analyzing waste samples pursuant to the Federal Act;

(2) Any equipment, activity, waste sample, records or results of any test relating to the analysis of a waste sample pursuant to the Federal Act;

(3) Any data concerning the control of the quality of any analysis conducted by the laboratory pursuant to the Federal Act; or

(4) Any other information required by the Division to ensure compliance with the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive.

5. Except as otherwise provided in this subsection, the Division shall announce each inspection conducted pursuant to the provisions of this section. The Division may conduct an unannounced inspection of a laboratory if the Division determines that such an inspection is required to ensure compliance by the laboratory with the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive. In determining whether to conduct an unannounced inspection, the Division shall consider:

(a) The laboratory's record of compliance with the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive;

(b) The results of any proficiency test taken by the laboratory;

(c) The performance of any analyst or other employee of the laboratory in conducting an analysis of a waste sample pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive;

(d) Any complaints concerning the laboratory that the Division has received from members of the general public or any public agency; and

(e) The performance of the laboratory in conducting analyses pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive.

6. If the Division conducts an inspection of a laboratory pursuant to the provisions of this section, the laboratory shall:

(a) Ensure that any record or other information which relates to compliance by the laboratory with the Federal Act or [NAC 459.96902](#) to [459.9699](#), inclusive, and which is required by the Division to conduct the inspection is available for review, including, without limitation:

(1) The quality manual adopted pursuant to the provisions of [NAC 459.9697](#);

(2) Any information concerning the methods of testing used by the laboratory;

(3) Any data concerning the control of the quality of an analysis conducted by the laboratory; and

(4) Any information concerning any proficiency test taken by the laboratory; and

(b) Allow the Division to:

(1) Examine any records of the laboratory concerning the operation or certification of the laboratory that relate to compliance by the laboratory with the Federal Act or [NAC 459.96902](#) to [459.9699](#), inclusive;

(2) Observe the operation, facilities and equipment of the laboratory that relate to compliance with the Federal Act or [NAC 459.96902](#) to [459.9699](#), inclusive;

(3) Interview any employee of the laboratory who performs duties relating to compliance by the laboratory with the Federal Act or [NAC 459.96902](#) to [459.9699](#), inclusive; and

(4) Engage in any activity which is necessary and appropriate for determining compliance by the laboratory with the Federal Act or [NAC 459.96902](#) to [459.9699](#), inclusive, and which is required by the Division.

7. If the Division conducts an inspection of a laboratory, it shall, within 30 days after it conducts the inspection, provide to the laboratory a copy of the report of the inspection. The report must include any deficiency the Division discovers during its inspection of the laboratory. The laboratory shall prepare a plan to correct the deficiency specified in the report. The plan must:

(a) Be submitted to the Division not more than 30 days after the laboratory receives the report from the Division;

(b) Be submitted on a form approved by the Division; and

(c) Include, without limitation:

(1) The signature of the person who prepared the plan; and

(2) The proposed date by which the laboratory will correct the deficiency.

8. If, after reviewing the plan submitted pursuant to subsection 7, the Division determines that the plan is insufficient to correct the deficiency, the Division shall notify the laboratory of that fact in writing. Upon receipt of the written notice, the laboratory shall, not more than 30 days after receiving the notice, submit a revised plan to the Division. If, after reviewing the revised plan, the Division determines that the revised plan is insufficient to

correct the deficiency, or if the Division conducts an inspection of the laboratory and determines that the deficiency has not been corrected, the Division shall deny the laboratory's application for certification or revoke its certification.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96974 Grounds for denial of application for certification, or revocation, suspension or limitation of certification. ([NRS 459.485](#), [459.500](#))

1. The Division may deny an application for certification of a laboratory or revoke, suspend or limit the certification of a certified laboratory if the laboratory:

(a) Makes a false statement in:

(1) An application for certification;

(2) A report concerning the analysis of a waste sample; or

(3) Any other document relating to certification in violation of the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive;

(b) Falsifies any results of laboratory testing or misrepresents any information obtained from laboratory testing in violation of the provisions of [NAC 459.96962](#) or [459.96984](#);

(c) Fails to maintain the facilities or equipment of the laboratory in accordance with the quality manual or quality system of the laboratory;

(d) Fails to participate satisfactorily in a proficiency testing program, if the program is available, in violation of the provisions of [NAC 459.96968](#);

(e) Falsely claims certification for a method of testing or an analyte for which the laboratory is not certified in violation of the provisions of [NAC 459.96984](#);

(f) Fails to prepare a plan of correction or to correct any deficiency specified by the Division within the period specified in the plan in violation of the provisions of [NAC 459.96972](#);

(g) Fails to pay any fees or expenses of the Division in violation of the provisions of [NAC 459.96986](#);

(h) Fails to notify the Division of any changes specified in [NAC 459.96982](#);

(i) Authorizes a person who is not qualified to perform an analysis in violation of the provisions of [NAC 459.96962](#);

(j) Communicates with or receives a communication concerning the results of a proficiency test sample from a laboratory on or before the date established for submitting the results of that sample to the provider of the sample pursuant to the provisions of [NAC 459.96968](#);

(k) Knowingly receives a proficiency test sample from a laboratory or provides a proficiency test sample to a laboratory on or before the date specified in paragraph (j);

(l) Prohibits an employee of the Division from conducting an inspection of the laboratory in violation of the provisions of [NAC 459.96972](#);

(m) Fails to provide to the Division any information required by the Division to determine whether a laboratory is operated in compliance with the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive;

(n) Misrepresents any material fact to obtain or maintain certification pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive;

(o) Engages in any activity that is a ground for the denial of an application for certification or for the suspension or revocation of the certification of a laboratory set forth in section 4.1.4(d) or 4.4 of the *Standards*; or

(p) Knowingly employs, directly or indirectly, a person who has violated a provision of [NRS 459.400](#) to [459.600](#), inclusive, [459.610](#) to [459.658](#), inclusive, [459.800](#) to [459.856](#), inclusive, or [NAC 459.96902](#) to [459.9699](#), inclusive.

2. In determining whether to deny an application for certification or to revoke, suspend or limit the certification of a laboratory pursuant to this section, the Division shall consider:

(a) The gravity of the violation;

(b) The harm to the health and safety of the members of the general public;

(c) The intent of the person who committed the violation;

(d) The extent of the violation; and

(e) Any proposed correction of the violation.

3. As used in this section, "quality system" has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96976 Reapplication after denial of application or revocation of certification. ([NRS 459.485](#), [459.500](#)) If the Division denies an application for certification submitted by a laboratory or revokes the certification of a certified laboratory, the laboratory may, after the period specified in section 4.4 of the *Standards* expires, reapply for certification in the manner prescribed in [NAC 459.96966](#).

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96978 Renewal of certification. ([NRS 459.485](#), [459.500](#))

1. The Division may renew the certificate of a certified laboratory if:

(a) The laboratory pays the applicable fee to renew the certificate;

(b) The laboratory submits a statement on a form approved by the Division indicating that it is in compliance with the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, concerning each category of testing, method of testing and analyte for which it is certified;

(c) The laboratory submits a report to the Division indicating that it has received satisfactory proficiency test results for each category of testing and analyte for which it is certified; and

(d) The Division determines that the laboratory is in compliance with the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive.

2. A certificate issued to a laboratory pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, expires on July 31 of each year. If the certificate of a certified laboratory expires, the laboratory may apply for certification in the manner prescribed in [NAC 459.96966](#).

3. The Division shall make available to each certified laboratory a notice for the renewal of the certificate and a form to provide a statement of compliance specified in paragraph (b) of subsection 1.

4. Each certified laboratory shall maintain any record specified in section 4.3.3 of the *Standards* in accordance with the provisions of that section.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.9698 Display of certificate; conditions for surrender of certificate; issuance of document. ([NRS 459.485](#), [459.500](#))

1. The director of the laboratory shall display the certificate issued by the Division in a conspicuous place in the laboratory to which the members of the general public have access.

2. The certificate is the property of the Division and must be surrendered to the Division if:

(a) The Division revokes the certificate;

(b) The laboratory for which the certificate is issued ceases to conduct analyses of waste samples for which a certificate is required; or

(c) The Division ceases to be an accrediting authority approved by the Environmental Protection Agency. As used in this paragraph, "accrediting authority" has the meaning ascribed to it in Appendix A of chapter 1 of the *Standards*.

3. In addition to issuing a certificate to each certified laboratory, the Division shall provide to each certified laboratory a document which indicates each category of testing an analyte for which the laboratory is certified. If, after the Division provides the document to the laboratory, the Division certifies the laboratory for an additional analyte or the Division revokes, suspends or limits the certification of the laboratory for a category of testing or analyte, the Division shall revise the document to include the additional analyte for which the laboratory is certified or the category of testing or analyte that is revoked, suspended or limited by the Division.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96982 Notification of Division of certain changes concerning certified laboratory. ([NRS 459.485](#), [459.500](#)) If, as determined by the Division, a change concerning a certified laboratory occurs that substantially affects the ability of the laboratory to perform any analysis for which the laboratory is certified, the director of the laboratory shall, not more than 30 days after the change occurs, notify the Division of the change in writing. For the purposes of this section, a change includes, without limitation, a change in the name, ownership, location or personnel of a laboratory or any other change specified in sections 4.1.8 and 4.3.2 of the *Standards*.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96984 Contractual agreements, records and reports. ([NRS 459.485](#), [459.500](#))

1. A certified laboratory shall ensure that each analysis it performs complies with the provisions of Appendix D of chapter 5 of the *Standards*.
 2. A certified laboratory shall maintain any document or other information required by the provisions of section 4.3.3 of the *Standards* in accordance with the provisions of that section.
 3. If a certified laboratory prepares a report of any test conducted pursuant to the provisions of this section, the report must be prepared in accordance with the provisions of section 5.13 of the *Standards*.
 4. If a certified laboratory is not certified to conduct a test in a category of testing or to use a method of testing or test for an analyte pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, the director of the laboratory may contract with a certified laboratory to perform that test if:
 - (a) Before entering into the contract, the director notifies in writing the person for whom the test will be conducted of his intent to enter into the contract; and
 - (b) The laboratory complies with the requirements specified in section 5.14 of the *Standards*.
 5. If a certified laboratory contracts with another certified laboratory pursuant to the provisions of this section, the director of the certified laboratory shall ensure that the certified laboratory that will conduct the test is certified pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive. If the certified laboratory that offered the contract maintains any record of the contract or of any test conducted pursuant to the contract, it shall include in that record:
 - (a) Any report submitted by the certified laboratory that conducted the test concerning the results of the test; and
 - (b) The certification number of the certified laboratory that conducted the test.
 6. If the certified laboratory that offered the contract prepares a report concerning the results of any test conducted pursuant to the contract, it shall specify in the report that the results of that test were obtained by contract pursuant to the provisions of this section.
- (Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

Miscellaneous Provisions

NAC 459.96986 Fees for certification. ([NRS 459.485](#), [459.500](#))

1. Except as otherwise provided in subsection 2, a laboratory must submit an annual fee of \$500 with each application for certification.
2. A laboratory which only performs analysis for microbiology is not required to pay the fee provided pursuant to subsection 1.
3. In addition to the fee required pursuant to the provisions of subsections 1 and 4, a laboratory must submit an annual certification fee for each category of contaminant for which certification is requested. The categories of contaminants and annual fees are:

CATEGORY OF CONTAMINANT	ANNUAL FEE
Bulk asbestos analysis of hazardous waste.....	... \$400
Characteristics of hazardous waste.....	..... 350
Dioxin in hazardous waste.....	..... 400
Herbicides.....	..... 545
Immunoassay methods for hazardous waste.....	..... 545
Infrared analysis of hazardous waste.....	..... 545
Inorganic chemistry of hazardous waste.....	..... 545
Liquid chromatography for hazardous waste.....	..... 545
Microbiology.....	..... 400
	..... 400
Miscellaneous screening methods for hazardous waste.....	per method
Pesticides.....	..... 545
Physical properties of hazardous waste.....	..... 350

Polyaromatic hydrocarbons in hazardous waste.....	545
Polychlorinated biphenyls in hazardous waste.....	545
Radiochemistry of hazardous waste.....	545
Semivolatile organic chemistry of hazardous waste.....	545
Toxicity bioassay of hazardous waste.....	400
Trace metals in hazardous waste.....	545
Volatile organic chemistry of hazardous waste.....	545
Any other individual contaminant.....	200
Any other individual multicontaminant method.....	400

4. In addition to the fees required pursuant to the provisions of subsections 1 and 3, if a laboratory applies for certification for a contaminant in more than two of the approved methods of testing for that contaminant, the laboratory must submit a fee of \$200 for each additional approved method of testing.

5. If a laboratory applies for certification for additional contaminants after the laboratory has been issued a certification for an annual period of certification, the fee for certification for each additional contaminant is the fee provided for that contaminant pursuant to the provisions of subsection 3. The fee must be prorated pursuant to subsection 6 if the provisions of that subsection otherwise apply. If the Division conducts an evaluation for certification at the laboratory, the laboratory must pay, at the rate provided for state officers and employees generally, the actual travel and per diem expenses of the Division. If the laboratory is located outside of this State, the expenses must be paid pursuant to the provisions of subsection 7.

6. The fees are effective for 12 months beginning on August 1 of each year. If an application for certification to test for an analyte is submitted during that period, the fees for that certification must be prorated using the following formula:

$$\text{Fee} \times .083 \times \text{the number of months remaining in the period of certification.}$$

For the purpose of prorating fees, an application for certification to test for an analyte shall be deemed to have been submitted at the beginning of a month regardless of the date of the application. The prorated fee must be rounded to the next highest dollar. The fee provided pursuant to the provisions of subsection 1 must not be prorated.

7. If an evaluation for certification of a laboratory that is located outside of this State is conducted, the laboratory must pay the actual travel and per diem expenses of the employee of the Division who conducts the evaluation.

8. The fee for certification to test for a specific analyte must be paid before a certificate for that analyte may be issued.

9. Any fee paid pursuant to the provisions of this section is nonrefundable.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.96988 Acceptance of analyses conducted by laboratory located outside State. ([NRS 459.485](#), [459.500](#)) The Division shall accept data relating to the analysis of contaminants regulated pursuant to [NRS 459.400](#) to [459.600](#), inclusive, [459.610](#) to [459.658](#), inclusive, and [459.800](#) to [459.856](#), inclusive, that are submitted from a laboratory located outside of this State if:

1. The laboratory has otherwise complied with the requirements set forth in [NAC 459.96902](#) to [459.9699](#), inclusive;

2. The:

(a) Laboratory is certified by the United States Environmental Protection Agency;

(b) Division determines that the state where the laboratory is located:

(1) Has adopted a program for certifying laboratories for the analysis of water that is equivalent to the program for certifying those laboratories adopted by the Division; and

(2) Accepts the results of evaluations conducted pursuant to the program adopted by the Division; or

(c) Laboratory:

(1) Is located in a state that has established an agreement with this State concerning certification of laboratories by reciprocity; or

(2) Is certified pursuant to the National Environmental Laboratory Accreditation Program; and

3. The laboratory submits to the Division a copy of an acceptable report relating to the most recent evaluation conducted at the laboratory by:

- (a) The state where the laboratory is certified;
- (b) An independent organization that is approved by the Division to certify laboratories for the analysis of waste samples; or
- (c) The United States Environmental Protection Agency.

È The evaluation to which the report relates must be conducted within the 2 years immediately preceding the date of the application of the laboratory for certification.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

NAC 459.9699 Review by Commission of publications adopted by reference. ([NRS 459.485](#), [459.500](#)) If any publication adopted by reference pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive, is revised, the Commission may review the revision to determine its suitability for this State. If the Commission 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 Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to the provisions of [NAC 459.96902](#) to [459.9699](#), inclusive.

(Added to NAC by Environmental Comm'n by R061-04, eff. 10-7-2004)

CERTIFICATION OF CERTAIN CONSULTANTS AND CONTRACTORS

NAC 459.970 Definitions. ([NRS 459.485](#), [459.500](#)) As used in [NAC 459.970](#) to [459.9729](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.9701](#) to [459.9716](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9701 "Consultant" defined. ([NRS 459.485](#), [459.500](#)) "Consultant" means a person who provides information, opinion or advice for a fee or in conjunction with other services for which a fee is charged.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9702 "Division" defined. ([NRS 459.485](#), [459.500](#)) "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9703 "Employee" defined. ([NRS 459.485](#), [459.500](#)) "Employee" includes:

1. Any officer of a corporation;
 2. Any natural person whose activities are subject to a right of control by the person paying for his services;
- and
3. Any other natural person who would be considered an employee under any common-law definition of employee.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9704 "Environmental manager" defined. ([NRS 459.485](#), [459.500](#)) "Environmental manager" means a natural person who is certified by the Division pursuant to [NAC 459.972](#) or [459.9724](#) to act as a consultant relating to:

1. The management of hazardous waste;
2. The investigation of a site to determine the release or potential release of a hazardous substance;
3. The sampling of air, soil, surface water or groundwater to determine the release of a hazardous substance;
4. The response to a release of a hazardous substance;
5. The cleanup of a release of a hazardous substance; or
6. The remediation of water or soil contaminated by a hazardous substance.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9705 “Handler of underground storage tanks” defined. ([NRS 459.485](#), [459.500](#)) “Handler of underground storage tanks” means a natural person who is certified by the Division pursuant to [NAC 459.9722](#) or [459.9724](#) to install, repair, upgrade or close underground storage tanks pursuant to 40 C.F.R. Part 280, as that part existed on June 12, 1990.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9706 “Hazardous material” defined. ([NRS 459.485](#), [459.500](#)) “Hazardous material” has the meaning ascribed to it in [NRS 459.428](#).

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9707 “Hazardous substance” defined. ([NRS 459.485](#), [459.500](#)) “Hazardous substance” means:

1. Any hazardous material;
2. Any hazardous waste; or
3. Any regulated substance.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9708 “Hazardous waste” defined. ([NRS 459.485](#), [459.500](#)) “Hazardous waste” has the meaning ascribed to it in [NRS 459.430](#) and [NAC 444.843](#).

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9709 “Management of hazardous waste” defined. ([NRS 459.485](#), [459.500](#)) “Management of hazardous waste” means services relating to the identification, sampling, handling, packaging, storage, labeling, treatment, reduction, recycling, permitting, recordkeeping, manifesting, transportation or disposal of hazardous waste.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.971 “Person” defined. ([NRS 459.485](#), [459.500](#)) “Person” has the meaning ascribed to it in [NRS 0.039](#).

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9711 “Regulated substance” defined. ([NRS 459.485](#), [459.500](#)) “Regulated substance” has the meaning ascribed to it in [NRS 459.448](#).

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9712 “Release of a hazardous substance” defined. ([NRS 459.485](#), [459.500](#)) “Release of a hazardous substance” means the discharge, deposit, injection, dumping, spilling, emitting, leaking, escaping, leaching, pumping, pouring, emptying, disposing or placing of a hazardous substance into the air or on land or the waters of the State. The term does not include a release of a hazardous substance:

1. Specifically allowed by a permit issued pursuant to state or federal law; or
2. For which a permit is not required by state or federal law.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9713 “Response” defined. ([NRS 459.485](#), [459.500](#)) “Response” means the provision of remedial services to protect the public health, safety, welfare or environment from a release of a hazardous substance, including, but not limited to, the digging, cleanup, removal, abatement, containment, control, absorbance, treatment or remediation of soil or water contaminated with a hazardous substance.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9714 “Specialist in the management of hazardous waste” defined. ([NRS 459.485](#), [459.500](#)) “Specialist in the management of hazardous waste” means a natural person who is certified by the Division pursuant to [NAC 459.9721](#) or [459.9724](#) to act as a consultant relating to the management of hazardous waste.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9715 “Tester of underground storage tanks” defined. ([NRS 459.485](#), [459.500](#)) “Tester of

underground storage tanks” means a natural person who is certified by the Division pursuant to [NAC 459.9723](#) or [459.9724](#) to test the tightness of underground storage tanks pursuant to 40 C.F.R. Section 280.43(c), as that section existed on June 12, 1990.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9716 “Underground storage tank” defined. ([NRS 459.485](#), [459.500](#)) “Underground storage tank” has the meaning ascribed to it in 40 C.F.R. Section 280.12, as that section existed on June 12, 1990.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.9717 Intent of provisions. ([NRS 459.485](#), [459.500](#)) The intent of [NAC 459.970](#) to [459.9729](#), inclusive, is to carry out the provisions of [NRS 459.500](#) to protect persons who employ consultants concerning hazardous materials and wastes.

(Added to NAC by Environmental Comm’n, eff. 3-6-91; A 5-3-96)

NAC 459.9718 Applicability of provisions. ([NRS 459.485](#), [459.500](#)) The provisions of [NAC 459.970](#) to [459.9729](#), inclusive, do not apply to:

1. Services provided by an employee of a business or public agency relative to the hazardous waste management, release investigation or response or underground storage tank management responsibilities of his employer, exclusively, while acting in the course of that employment.
2. Services provided by an employee of a public agency with the responsibility of regulatory enforcement, emergency response, or protection of public health, welfare or the environment, while acting in the course of that employment.
3. Services provided by a person who is a transporter of hazardous waste that are:
 - (a) Designated as the specific responsibility of the transporter of hazardous waste under the applicable state or federal regulations; and
 - (b) Necessary to perform the service of transportation of hazardous waste in accordance with the applicable state or federal regulations.
4. Services provided by a person under contract at a federal facility, while acting within the scope of that contract.
5. Services provided by a person that are requested by a state agency or political subdivision of the State if fees are not charged for those services.
6. Services provided by a public utility to its customers if incidental to the services ordinarily provided by the utility.

(Added to NAC by Environmental Comm’n, eff. 3-6-91; A 10-29-93)

NAC 459.9719 Services for which certification is required. ([NRS 459.485](#), [459.500](#))

1. A person shall not provide services as:
 - (a) An environmental manager;
 - (b) A specialist in the management of hazardous waste;
 - (c) A handler of underground storage tanks; or
 - (d) A tester of underground storage tanks,
 either for a fee or in conjunction with other services for which a fee is charged, unless those services are performed under the direction and responsible control of a natural person who has obtained certification from the Division.
2. The provisions of this section do not prohibit the engagement of an apprentice or assistant if a natural person who is certified by the Division pursuant to the provisions of [NAC 459.970](#) to [459.9729](#), inclusive, supervises that apprentice or assistant and maintains responsibility for the work of that apprentice or assistant.

(Added to NAC by Environmental Comm’n, eff. 3-6-91)

NAC 459.972 Certification as environmental manager. ([NRS 459.485](#), [459.500](#)) An applicant for certification as an environmental manager must:

1. Be of good character and reputation as determined by the Division upon review of the applicant’s references, record of violations of environmental laws and regulations and such other considerations as the Division deems necessary and proper. Certification must be denied if such a review indicates that the applicant fails to meet the applicable standards.
2. Submit to the Division:

- (a) An application on a form provided by the Division;
 - (b) A nonrefundable fee of \$100 for the review of the application;
 - (c) A color photograph of the applicant which is approximately 2 inches by 2 inches;
 - (d) A statement signed by the applicant under penalty of perjury declaring the details of all pleas of guilty or nolo contendere in any criminal proceeding and all convictions of any crimes; and
 - (e) Three letters of reference from natural persons with experience in the services of that classification attesting to the applicant's moral character and competence in that classification.
3. Demonstrate to the Division that he meets one of the following qualifications:
- (a) A bachelor's or advanced degree from an accredited college or university in an area relating to the environment including, but not limited to, environmental science, engineering, geology, hydrology, hydrogeology, biology, toxicology, environmental health, physics, industrial hygiene or chemistry and at least 3 years of relevant environmental experience within the 5 years immediately preceding the date of the application;
 - (b) A relevant professional registration or certification recognized by the Division and at least 3 years of relevant environmental experience within the 5 years immediately preceding the date of the application; or
 - (c) An equivalent combination of appropriate education or experience, or both, as determined by the Division.
4. Pass an examination pursuant to [NAC 459.9726](#).
- (Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9721 Certification as specialist in the management of hazardous waste. ([NRS 459.485](#), [459.500](#)) An applicant for certification as a specialist in the management of hazardous waste must:

1. Be of good character and reputation as determined by the Division upon review of the applicant's references, record of violations of environmental laws and regulations and such other considerations as the Division deems necessary and proper. Certification must be denied if such a review indicates that the applicant fails to meet the applicable standards.

2. Submit to the Division:

- (a) An application on a form provided by the Division;
- (b) A nonrefundable fee of \$100 for the review of the application;
- (c) A color photograph of the applicant which is approximately 2 inches by 2 inches;
- (d) A statement signed by the applicant under penalty of perjury declaring the details of all pleas of guilty or nolo contendere in any criminal proceeding and all convictions of any crimes; and
- (e) Three letters of reference from natural persons with experience in the services of that classification attesting to the applicant's moral character and competence in that classification.

3. Demonstrate to the Division that he meets one of the following qualifications:

- (a) A bachelor's or advanced degree from an accredited college or university in an area relating to the environment, including, but not limited to, environmental science, engineering, geology, hydrology, hydrogeology, biology, toxicology, environmental health, physics, or industrial hygiene or chemistry and at least 2 years of relevant hazardous waste experience within the 3 years immediately preceding the date of the application;

- (b) A relevant professional registration or certification recognized by the Division and at least 2 years of relevant hazardous waste experience within the 3 years immediately preceding the date of the application;
- (c) A high school diploma or general equivalency diploma and at least 6 years of relevant hazardous waste experience within the 8 years immediately preceding the date of the application; or

- (d) An equivalent combination of appropriate education and experience as determined by the Division.

4. Pass an examination pursuant to [NAC 459.9726](#).

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9722 Certification as handler of underground storage tanks. ([NRS 459.485](#), [459.500](#)) An applicant for certification as a handler of underground storage tanks must:

1. Be of good character and reputation as determined by the Division upon review of the applicant's references, record of violations of environmental laws and regulations and such other considerations as the Division deems necessary and proper. Certification must be denied if such a review indicates that the applicant fails to meet the applicable standards.

2. Submit to the Division:

- (a) An application on a form provided by the Division;
- (b) A nonrefundable fee of \$100 for the review of the application;

- (c) A color photograph of the applicant which is approximately 2 inches by 2 inches;
 - (d) A specific record of at least 2 years' experience and the direct participation in at least 10 projects relating to the handling of underground storage tanks;
 - (e) A copy of an appropriate license issued by the State Contractors' Board pursuant to [chapter 624](#) of NRS;
 - (f) Proof of completion of a course approved by the Division concerning the safe handling of underground storage tanks;
 - (g) A statement signed by the applicant under penalty of perjury declaring the details of all pleas of guilty or nolo contendere in any criminal proceeding and all convictions of any crimes; and
 - (h) Three letters of reference from natural persons with experience in the services of that classification attesting to the applicant's moral character and competence in that classification.
3. Pass an examination pursuant to [NAC 459.9726](#).
- (Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9723 Certification as tester of underground storage tanks. ([NRS 459.485](#), [459.500](#)) An applicant for certification as a tester of underground storage tanks must:

1. Be of good character and reputation as determined by the Division upon review of the applicant's references, record of violations of environmental laws and regulations and such other considerations as the Division deems necessary and proper. Certification must be denied if such a review indicates that the applicant fails to meet the applicable standards.

2. Submit to the Division:

- (a) An application on a form provided by the Division;
 - (b) A nonrefundable fee of \$100 for the review of the application;
 - (c) A color photograph of the applicant which is approximately 2 inches by 2 inches;
 - (d) A specific record of direct participation in at least 50 tests of underground storage tanks;
 - (e) A specific record of at least 1 year of experience in the testing of underground storage tanks;
 - (f) Proof of training provided by the manufacturer of the equipment which is used for testing;
 - (g) Proof of completion of a course approved by the Division concerning the safe handling of underground storage tanks;
 - (h) A statement signed by the applicant under penalty of perjury declaring the details of all pleas of guilty or nolo contendere in any criminal proceeding and all convictions of any crimes; and
 - (i) Three letters of reference from natural persons with experience in the services of that classification attesting to the applicant's moral character and competence in that classification.
3. Pass an examination pursuant to [NAC 459.9726](#).
- (Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9724 Certification of person certified by another state or recognized organization. ([NRS 459.485](#), [459.500](#))

1. Except as otherwise provided in this section, a natural person who is certified as:

- (a) An environmental manager;
- (b) A specialist in the management of hazardous waste;
- (c) A handler of underground storage tanks; or
- (d) A tester of underground storage tanks,

and by another state or an organization recognized by the Division, may be certified by the Division if he complies with the requirements set forth in subsection 2.

2. A natural person who applies for certification pursuant to this section must submit to the Division:

- (a) An application on a form provided by the Division;
- (b) A nonrefundable fee of \$100 for the review of the application;
- (c) A color photograph of the applicant which is approximately 2 inches by 2 inches; and
- (d) Proof of certification by another state or an organization recognized by the Division in the classification for which he is applying for certification in this State.

3. The Division may not issue a certificate to a natural person who is certified by another state or organization if the requirements for certification by that state or organization are not substantially equivalent to the requirements for certification in this State.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9725 Waiver of requirements for training. ([NRS 459.485](#), [459.500](#)) The Division may waive any requirements for training for a certificate if that training is not available.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9726 Action on applications; examinations for certification. ([NRS 459.485](#), [459.500](#))

1. The Division will review each application and send each applicant written notice within 6 weeks of receipt of all required materials whether his application has been approved or rejected.

2. An applicant whose application is approved by the Division and who wishes to take the examination must submit to the Division a nonrefundable examination fee set by the Division, not to exceed \$150, at least 30 days before the examination is given.

3. The Division shall determine the content of the examinations.

4. A score of 70 is a passing score on an examination for certification.

5. An examination for each classification will be given at least once each year.

6. The examinations are the property of the Division and must remain confidential.

7. An applicant who fails the examination may apply for a reexamination. The nonrefundable fee for reexamination must be set by the Division not to exceed \$150.

8. Each application for certification will remain on file with the Division for 2 years after the date that all required materials are received by the Division. If the applicant does not pass an examination for certification or request reexamination within the 2-year period, the applicant must file with the Division a new application for certification.

(Added to NAC by Environmental Comm'n, eff. 3-6-91; A 1-24-92)

NAC 459.9727 Contents and duration of certificate. ([NRS 459.485](#), [459.500](#))

1. Each certificate issued by the Division to an applicant must bear:

(a) The name of the applicant;

(b) The number of the certificate;

(c) The date of expiration of the certificate; and

(d) The specific classification of certification.

2. Each certificate is valid for 2 years after the date the Division issues the certificate.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.9728 Renewal of certificate. ([NRS 459.485](#), [459.500](#)) A holder of a certificate who wishes to renew his certificate must:

1. Demonstrate to the Division that he continues to meet all qualifications and performance requirements of [NAC 459.970](#) to [459.9729](#), inclusive;

2. Submit an application for renewal of the certificate to the Division on a form provided by the Division;

3. Submit a nonrefundable fee set by the Division not to exceed \$100; and

4. Complete an examination for renewal if the Division has determined that such a renewal examination is appropriate.

(Added to NAC by Environmental Comm'n, eff. 3-6-91)

NAC 459.97285 Contents of document relating to service for which certification is required. ([NRS 459.485](#), [459.500](#)) A holder of a certificate who is responsible for a service requiring certification shall ensure that each document relating to the service includes:

1. The following language:

I hereby certify that I am responsible for the services described in this document and for the preparation of this document. The services described in this document have been provided in a manner consistent with the current standards of the profession and to the best of my knowledge comply with all applicable federal, state and local statutes, regulations and ordinances.

2. A description of the services provided.

3. The signature of the holder of the certificate and the date on which the document was signed.

4. The number of the certificate.

5. The date of expiration of the certificate.

(Added to NAC by Environmental Comm'n, eff. 5-3-96)

NAC 459.9729 Standards of practice. ([NRS 459.485](#), [459.500](#))

1. Each holder of a certificate issued by the Division pursuant to the provisions of [NAC 459.970](#) to [459.9729](#), inclusive:

(a) Shall provide services which are ethical, meet the current standards of the profession and which comply with federal, state and local regulations concerning hazardous substances or underground storage tanks.

(b) Is responsible for the work of other persons he employs or supervises.

(c) Shall have a copy of his certificate at the location where he is supervising work. Upon the request of the Division, client or potential client, a holder of a certificate shall present his certificate for inspection.

(d) Shall make a written report to the facility owner or operator, within 24 hours, upon the discovery of a release of a hazardous substance or the existence of an unregistered underground storage tank and advise that facility owner or operator of any applicable reporting requirements.

(e) Shall report to the Division the discovery of a release of a hazardous substance which presents an imminent and substantial hazard to human health, public safety or the environment as soon as possible after he has knowledge of a release.

(f) Shall secure the services of a qualified person to perform any part of his job which requires a level of service or skill which he is not qualified to provide.

(g) Shall make complete prior disclosures to his clients or potential clients of potential conflicts of interest or other circumstances which could influence his judgment or the quality of the services he provides.

(h) Shall not falsify or misrepresent his education or experience, the degree of responsibility for prior assignments or the complexity of prior employment or business, relevant factors concerning employers, employees, associates or joint ventures or past accomplishments.

(i) Shall maintain a written record of each project requiring certification for 3 years after the project is completed. The Division may inspect those records during normal business hours and will establish requirements concerning the information which must be included in the records.

2. Certification may be suspended, revoked or denied for renewal if the Division determines that the certificate holder has not performed in accordance with these standards.

(Added to NAC by Environmental Comm'n, eff. 3-6-91; A by R021-99, 9-27-99)

PARTICIPATION IN PROGRAM FOR VOLUNTARY CLEANUP OF HAZARDOUS SUBSTANCES AND RELIEF FROM LIABILITY

NAC 459.973 Definitions. ([NRS 459.656](#)) As used in [NAC 459.973](#) to [459.9743](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.9731](#) to [459.9736](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9731 "Administrator" defined. ([NRS 459.656](#)) "Administrator" means the Administrator of the Division.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9732 "Division" defined. ([NRS 459.656](#)) "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9733 "Eligible property" defined. ([NRS 459.656](#)) "Eligible property" has the meaning ascribed to it in [NRS 459.618](#).

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9734 "Participant" defined. ([NRS 459.656](#)) "Participant" has the meaning ascribed to it in [NRS 459.622](#).

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9735 "Program" defined. ([NRS 459.656](#)) "Program" has the meaning ascribed to it in [NRS](#)

459.624.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9736 “Responsible party” defined. ([NRS 459.656](#)) “Responsible party” has the meaning ascribed to it in [NRS 459.630](#).

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9737 Signature requirement. ([NRS 459.656](#)) Any application, remedial agreement, certification to the Administrator or information submitted to the Division pursuant to [NAC 459.973](#) to [459.9743](#), inclusive, must be signed by a consultant or contractor who is certified pursuant to [NAC 459.970](#) to [459.9729](#), inclusive, in the area that is appropriate for the type of cleanup that is the subject of such documents or information.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9738 Application; environmental assessment; additional information. ([NRS 459.634](#), [459.656](#))

1. A person who desires to apply for participation in the program pursuant to [NRS 459.634](#) must apply on the application form prescribed by the Administrator.

2. An environmental assessment of the eligible property required pursuant to [NRS 459.634](#) may be conducted pursuant to the Standard Practice for Environmental Site Assessments described in E1527-97 and E1528-96 of the American Society for Testing and Materials or pursuant to a similar method that is approved by the Administrator. Such an assessment must include:

(a) Information regarding the site, including property ownership, current property use, proposed property use and all written communications with regulatory agencies that relate to the environmental condition of the property;

(b) A legal description of the property;

(c) A description of the physical characteristics of the property;

(d) To the extent known by the applicant, the operational history of the site;

(e) To the extent known by the applicant, information concerning the nature and extent of any contamination or release at the eligible property or at property that is contiguous to the eligible property; and

(f) To the extent known by the applicant, relevant information concerning the potential for human and environmental exposure to contamination at the property.

3. In addition to the requirements of [NRS 459.634](#), an applicant:

(a) Must submit any additional information specific to the eligible property that is requested by the Administrator; and

(b) May submit any additional information specific to the eligible property that the applicant deems appropriate.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9739 Application fees. ([NRS 459.634](#), [459.656](#)) A person who submits an application for participation in the program must submit to the Division one of the following nonrefundable application fees, as applicable:

Residential.....	.....
	\$400
Commercial	
Less than 1 acre.....	.....
	500
1 to 25 acres.....	.....
	1,000
26 to 100 acres.....	.....
	1,600
More than 100 acres.....	.....
	2,000

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.974 Remedial agreement: Contents; approval. ([NRS 459.636](#), [459.656](#))

1. A participant must submit a remedial agreement to the Administrator within 1 year after the date on which his application was approved by the Administrator. In addition to the requirements of [NRS 459.636](#), a remedial agreement must include:

- (a) A cost estimate and information regarding the financial ability of the participant to perform the voluntary cleanup as set forth in [NAC 459.9741](#);
- (b) A phase II environmental assessment using the Standard Practice for Environmental Site Assessments of the American Society for Testing and Materials or any equivalent method that is approved by the Administrator;
- (c) A corrective action plan that identifies the substances to be removed or remediated, the proposed removal or remediation methods and appropriate remediation standards, consistent with [NAC 445A.226](#) to [445A.22755](#), inclusive; and
- (d) A description of the intended use of the property.

2. A participant may not initiate any removal or remediation that is described in a remedial agreement until the remedial agreement has been approved by the Administrator.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9741 Cost estimate. ([NRS 459.636](#), [459.656](#))

1. A participant must submit a detailed cost estimate to restore the property to the condition to which it would be restored if the Division caused action to be taken pursuant to [NRS 459.537](#). The cost estimate must account for the costs of all activities described in the remedial agreement.

2. Through the cost estimate, the participant must demonstrate to the satisfaction of the Administrator that the participant is financially capable of completing the remedial agreement.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9742 Recovery of costs. ([NRS 459.636](#), [459.656](#))

1. The provisions of the remedial agreement that provide for the recovery of costs by the Division must include, without limitation, the costs the Division incurred for:

- (a) Reviewing the remedial agreement;
- (b) Overseeing and supervising the actions specified in the remedial agreement; and
- (c) Issuing a certificate of completion.

2. After the participant submits a remedial agreement to the Division, the Division shall begin billing the participant on a quarterly basis or on such other schedule as agreed upon by the Division and the participant.

3. The participant and the Administrator may negotiate a prepayment schedule for the estimated costs for the activities specified in subsection 1. Actual costs must be deducted from the prepaid amount according to the billing schedule established pursuant to subsection 2. If the estimated amount of the prepayment is insufficient to cover all the costs of the Division described in subsection 1, the participant and the Administrator shall negotiate additional prepayments sufficient to cover the costs of the Division. After the Division issues a certificate of completion, the Division shall return all excess money prepaid by the participant.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

NAC 459.9743 Report of completion; certificate of partial completion. ([NRS 459.638](#), [459.656](#))

1. To certify that all the activities in the remedial agreement have been completed pursuant to [NRS 459.638](#), the participant shall submit a report to the Administrator which shows that each activity in the agreement has been completed in accordance with the terms of the agreement.

2. The Administrator may issue a certificate of partial completion for a portion of an eligible property that is distinct if such a portion of the eligible property satisfies all the requirements of [NRS 459.610](#) to [459.658](#), inclusive, and [NAC 459.973](#) to [459.9743](#), inclusive.

(Added to NAC by Environmental Comm'n by R054-00, eff. 5-26-2000)

TRANSPORTATION OF HAZARDOUS MATERIALS ON PUBLIC HIGHWAYS

NAC 459.975 Definitions. ([NRS 459.721](#), [459.725](#)) As used in [NAC 459.975](#) to [459.991](#), inclusive, unless

the context otherwise requires, the words and terms defined in [NAC 459.97515](#) to [459.9758](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.97515 “Director” defined. ([NRS 459.721](#), [459.725](#)) “Director” means the Director of the Department of Public Safety.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.9752 “Division” defined. ([NRS 459.721](#), [459.725](#)) “Division” means the Nevada Highway Patrol Division of the Department of Public Safety.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.97525 “Hazardous material” defined. ([NRS 459.721](#), [459.725](#)) “Hazardous material” has the meaning ascribed to it in [NRS 459.7024](#).

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.9753 “Motor carrier” defined. ([NRS 459.721](#), [459.725](#)) “Motor carrier” means a person who owns or operates one or more motor vehicles used to transport hazardous material.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.97535 “Motor vehicle” defined. ([NRS 459.721](#), [459.725](#)) “Motor vehicle” has the meaning ascribed to it in [NRS 706.096](#).

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.9754 “Participating state” defined. ([NRS 459.721](#), [459.725](#)) “Participating state” means a state that has entered into a reciprocal agreement with this State to participate in the uniform program.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.97543 “Permit Section” defined. ([NRS 459.721](#), [459.725](#)) “Permit Section” means the Permit Section of the Division.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)—(Substituted in revision for NAC 459.9756)

NAC 459.97545 “Person” defined. ([NRS 459.721](#), [459.725](#)) “Person” means a natural person, any agency of the Federal Government, any agency or political subdivision of this State, any form of business or social organization, and any other legal entity, including, but not limited to, a corporation, partnership, association, trust, or unincorporated organization.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.9755 “Principal place of business” defined. ([NRS 459.721](#), [459.725](#)) “Principal place of business” means the place where a person maintains his central records relating to the transportation of hazardous material.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.97555 “Reciprocal agreement” defined. ([NRS 459.721](#), [459.725](#)) “Reciprocal agreement” means an agreement entered into by this State and another state to:

1. Participate in a program for the reciprocal registration and permitting of persons who transport hazardous material; and
2. Appoint a governing board to assist in the administration of the agreement and the interpretation of its terms.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.97565 “Single-trip permit” defined. ([NRS 459.721](#), [459.725](#)) “Single-trip permit” means a permit for the transportation of hazardous material which is issued pursuant to [NAC 459.984](#) and valid only in the State of Nevada.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.9757 “Transport” and “transportation” defined. ([NRS 459.721](#), [459.725](#)) “Transport” or “transportation” means the movement of property on any public highway.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.97573 “Uniform application” defined. ([NRS 459.721](#), [459.725](#)) “Uniform application” has the meaning ascribed to it in [NRS 459.703](#).

(Added to NAC by Dep’t of Pub. Safety by R168-03, eff. 12-16-2003)

NAC 459.97575 “Uniform permit” defined. ([NRS 459.721](#), [459.725](#)) “Uniform permit” means a permit for the transportation of hazardous material established pursuant to 49 U.S.C. § 5119 to regulate the transportation of hazardous materials and issued pursuant to [NAC 459.9805](#) or the corresponding statute or regulation of a participating state.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 1-4-96; A by Dep’t of Pub. Safety by R168-03, 12-16-2003)

NAC 459.97577 “Uniform program” defined. ([NRS 459.721](#), [459.725](#)) “Uniform program” has the meaning ascribed to it in [NRS 459.7032](#).

(Added to NAC by Dep’t of Pub. Safety by R168-03, eff. 12-3-2003)

NAC 459.9758 “Vehicle” defined. ([NRS 459.721](#), [459.725](#)) “Vehicle” has the meaning ascribed to it in [NRS 706.146](#).

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.976 Applicability. ([NRS 459.721](#), [459.725](#)) Except as otherwise provided in this section, the provisions of [NAC 459.975](#) to [459.991](#), inclusive, apply to any person who transports hazardous material in this State. Except as otherwise provided by federal law, the provisions of [NAC 459.975](#) to [459.991](#), inclusive, do not apply to the transportation of a hazardous material by any vehicle that is owned and operated by the Federal Government, this State or any political subdivision of this State.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94; eff. 6-30-95; 1-4-96; A by Dep’t of Pub. Safety by R168-03, 12-16-2003; R203-05, 2-23-2006)

NAC 459.977 Adoption of and compliance with certain provisions of Code of Federal Regulations. ([NRS 459.721](#), [459.725](#))

1. The provisions of 49 C.F.R. Parts 40, 100 to 180, inclusive, and 325 to 399, inclusive, are hereby adopted by reference as they existed on October 1, 2005. Each motor vehicle used for the transportation of hazardous materials in this State must, and each driver of such a vehicle shall, comply with those provisions.

2. A copy of the publications which contain these parts may be obtained:

(a) From the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954. The price is:

- (1) For Part 40..... \$60
- (2) For Parts 100 to 185, inclusive..... 63
- (3) For Parts 325 to 399, inclusive..... 64

(b) At the Internet address <http://www.gpoaccess.gov/cfr/index.html>.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 9-13-94; eff. 6-30-95; 1-4-96; A by Dep’t of Pub. Safety by R168-03, 12-16-2003; R203-05, 2-23-2006)

NAC 459.978 Address for communications and payments. ([NRS 459.721](#), [459.725](#)) Any written communication with or payment made to the Permit Section pursuant to [NAC 459.975](#) to [459.991](#), inclusive, must be mailed to the Nevada Highway Patrol, Permit Section, 555 Wright Way, Carson City, Nevada 89711-

0590.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94; eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.9785 Prerequisites to transportation of hazardous materials for which federal safety permit required. ([NRS 459.721](#), [459.725](#)) A motor carrier shall not transport upon a public highway of this State any hazardous material set forth in 49 C.F.R. § 385.403, in the quantity indicated for each, unless the motor carrier:

1. Holds a uniform permit and a safety permit issued by the Federal Motor Carrier Safety Administration of the United States Department of Transportation;
2. Has a "Satisfactory" safety rating assigned by the Federal Motor Carrier Safety Administration as required by 49 C.F.R. § 385.407(a);
3. Certifies that it has a satisfactory security program as required by 49 C.F.R. § 385.407(b), including:
 - (a) A written route plan that meets the requirements of 49 C.F.R. § 397.101; and
 - (b) A communication plan that allows for contact between the operator of a motor vehicle used to transport such hazardous material and the motor carrier, to meet the periodic contact requirements set forth in 49 C.F.R. § 385.415(c)(1);
4. Does not have a crash rate in the top 30 percent of the national average, as indicated in the Motor Carrier Management Information System of the Federal Motor Carrier Safety Administration;
5. Does not have a driver, vehicle, hazardous materials or a total out-of-service rate in the top 30 percent of the national average, as indicated in the Motor Carrier Management Information System of the Federal Motor Carrier Safety Administration;
6. Requires all of its hazardous materials employees to complete successfully the security training required by 49 C.F.R. § 172.704(a)(4) and (a)(5); and
7. Registers with the Research and Special Programs Administration of the United States Department of Transportation in accordance with 49 C.F.R. Part 107, Subpart G.

(Added to NAC by Dep't of Pub. Safety by R203-05, eff. 2-23-2006)

NAC 459.979 Registration and uniform permit required. ([NRS 459.7052](#), [459.721](#), [459.725](#)) Except as otherwise provided in [NAC 459.980](#) and [459.984](#), any person who transports hazardous materials in a vehicle upon a public highway in this State shall register with and obtain a uniform permit from:

1. The Division, if:
 - (a) The person's principal place of business is located in this State; or
 - (b) The person's principal place of business is located in a state other than this State or a participating state, and the mileage over which the person transported hazardous material during the preceding year is higher in this State than any participating state;
2. The participating state in which:
 - (a) The person's principal place of business is located; or
 - (b) The mileage over which the person transported hazardous material during the preceding year is the highest, if:
 - (1) The person's principal place of business is located in a state other than Nevada or a participating state; and
 - (2) The mileage over which the person transported hazardous material during the preceding year is higher in the participating state than in Nevada; or
3. Any state designated by a governing board appointed pursuant to the uniform program if:
 - (a) The person petitions the governing board for such a designation; and
 - (b) The entity from whom the petitioner would otherwise be required to obtain a uniform permit pursuant to this section agrees that the designation:
 - (1) Furthers the administration of the reciprocal agreement; and
 - (2) Does not allow the petitioner to evade any pending action by that entity.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.980 Use of vehicle under lease. ([NRS 459.721](#), [459.725](#))

1. A vehicle which is the subject of a lease agreement may be used to transport hazardous materials in this State if:

(a) The lessee or lessor of the vehicle has obtained a uniform permit from the entity prescribed in [NAC 459.979](#);

(b) The uniform permit has not expired or been suspended; and

(c) A legible copy of the lease agreement and uniform permit are carried in the driver's compartment of the vehicle.

2. If a leased vehicle is used for the transportation of hazardous material pursuant to this section otherwise than under the authority of a uniform permit issued to the lessee of the vehicle, the lessor of the vehicle is liable for the operation of the vehicle and actions of its drivers, including liability for any failure by the vehicle and its drivers to comply with:

(a) Any terms, conditions, or certifications set forth in the uniform permit of the lessor; and

(b) Any state or federal statutes or regulations regarding the transportation of hazardous material, to the same extent as if the vehicle was owned and operated by the lessor and its drivers were employed by the lessor.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.9805 Uniform permit: Uniform application for issuance or renewal; fees; expiration. ([NRS 459.721](#), [459.725](#))

1. A person seeking to obtain a uniform permit from the Division, or to renew a uniform permit issued by the Division, must submit to the Permit Section:

(a) A completed uniform application for the issuance or renewal of a uniform permit, on the form prescribed by the Division;

(b) A general processing fee of \$125;

(c) The apportioned registration fee:

(1) For this State, as prescribed by subsection 2; and

(2) For each participating state in which the person transports hazardous material;

(d) A permit review fee of \$500 to be paid once every 3 years; and

(e) A reasonable fee to cover the administrative expenses of any costs incurred pursuant to [NAC 459.98055](#).

A uniform permit will not be issued or renewed pursuant to this section until the required uniform application and fees have been received by the Permit Section.

2. Except as otherwise provided in this subsection, the apportioned registration fee for this State is the amount obtained by multiplying \$125 by the product of:

(a) The total number of power units used by the applicant for the transportation of all his shipments during the preceding year;

(b) The applicant's total mileage for the transportation of all his shipments in this State during the preceding year divided by the applicant's total mileage for the transportation of all his shipments in all states and countries during the preceding year; and

(c) If the applicant's shipments of hazardous material are by:

(1) Full loads only, the total number of his shipments of hazardous material in this State during the preceding year divided by the total number of all his shipments in this State during the preceding year;

(2) Partial loads only, the total weight of his shipments containing hazardous material in this State during the preceding year divided by the total weight of all his shipments in this State during the preceding year, calculated exactly or to the number midway between the two deciles closest to the person's estimate of that amount; or

(3) Both full and partial loads, the sum obtained by adding:

(I) The percentage of his total shipments of hazardous material in this State during the preceding year which were by full loads times the number obtained by performing the calculation set forth in subparagraph (1) as if all his shipments of hazardous material in this State during the preceding year were by full loads; and

(II) The percentage of his total shipments of hazardous material in this State during the preceding year which were by partial loads times the number obtained by performing the calculation set forth in subparagraph (2) as if all his shipments of hazardous material in this State during the preceding year were by partial loads, calculated exactly or to the number midway between the two deciles closest to the person's estimate of that amount.

3. A uniform permit issued pursuant to this section expires on:

(a) December 31 of the year in which the uniform permit was issued if the uniform permit was issued by the

Division for a calendar year; or

(b) June 30 of the year in which the uniform permit was issued if the uniform permit was issued by the Division for a fiscal year.

4. Except as otherwise provided in subsection 5, a motor carrier who transports hazardous waste in this State shall complete all parts of the uniform application except part III.

5. A motor carrier shall complete all sections of the uniform application if he transports:

(a) Radioactive waste in this State; or

(b) Hazardous waste in a participating state that requires completion of part III of the uniform application.

6. If a motor carrier is required by subsection 5 to complete all sections of the uniform application, the motor carrier shall pay a fee:

(a) For the performance of a background investigation required pursuant to the uniform program. The fee for the background investigation is the actual cost of the investigation. The Permit Section shall inform the applicant of the estimated cost of the investigation, and the Permit Section must receive a fee in that amount before an investigation will begin. Any unexpended portion of the fee will be refunded to the applicant, regardless of the outcome of the investigation.

(b) For on-site investigations by the Division.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.98055 Authority of Division to require fingerprints from principal officers of applicant. ([NRS 459.721](#), [459.725](#))

1. In addition to any other information required by law, the Division may require the principal officers of an applicant to submit a fingerprint card with its uniform application. Fingerprints must be taken by a recognized law enforcement agency.

2. For the purposes of this section, principal officer means any person having responsibility, control, or influence over the environmental, waste management or transportation operations of the applicant.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.982 Uniform permit: Notice of change in information in uniform application. ([NRS 459.721](#), [459.725](#)) If there is any change in the information contained in a uniform application to the Division for the issuance or renewal of a uniform permit, the holder of the uniform permit shall, within 1 year after the change occurs, give written notice of the change to the Permit Section.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.983 Uniform permit: Maintenance at place of business; inspection; copy required in vehicle during transportation. ([NRS 459.721](#), [459.725](#))

1. The original of any uniform permit must be:

(a) Maintained by the holder at his principal place of business, as listed in his uniform application or as stated pursuant to [NAC 459.982](#); and

(b) Made available for inspection upon request by any peace officer.

2. A legible copy of the uniform permit must be carried in the driver's compartment of the vehicle at all times while the vehicle is being used to transport hazardous materials.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.984 Single-trip permit: Obtainment; use; expiration; fee. ([NRS 459.721](#), [459.725](#))

1. A person may, not more than once during any period of 3 consecutive months, obtain a single-trip permit in lieu of a uniform permit, from any authorized vendor before or at the time of entry into this State.

2. A single-trip permit:

(a) Is valid for only a single vehicle and shipment of hazardous material within or through this State.

(b) Must be carried in the driver's compartment of the vehicle for which it is issued, and must not be duplicated.

(c) Expires 72 hours after its issuance.

3. The fee for a single-trip permit is \$125.

4. A single-trip permit must not be used to transport any hazardous material set forth in 49 C.F.R. § 385.403, unless the motor carrier holds a safety permit issued by the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003; R203-05, 2-23-2006)

NAC 459.986 Inspection of vehicles; verification of drivers' qualifications. ([NRS 459.712](#), [459.721](#), [459.725](#))

1. Any vehicle used to transport hazardous materials in this State is subject to inspection.

2. The qualifications of the driver of a vehicle used to transport hazardous materials in this State are subject to verification.

3. Any such inspection will be conducted by employees of the Division, in conformity with the national uniform inspection procedure and vehicle and driver out-of-service standards adopted by the Commercial Vehicle Safety Alliance and by the Division.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90)

NAC 459.9865 Provision of notice before transportation of radioactive waste. ([NRS 459.709](#), [459.721](#), [459.725](#)) A person who transports radioactive waste shall notify the Division not less than 4 hours nor more than 48 hours before he begins to transport the waste in this State. As used in this section, "radioactive waste" includes low-level waste as defined in [NRS 459.007](#).

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 11-16-89, eff. 1-1-90)

NAC 459.987 Reporting certain accidents and incidents. ([NRS 459.718](#), [459.721](#), [459.725](#))

1. Any accident or incident involving hazardous materials must be reported to the Division in the manner provided by [NRS 459.718](#).

2. Any such report must be submitted on a form prescribed by the Division or on the form prescribed for the hazardous material incident report by the United States Department of Transportation (Form No. 5800.1).

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.988 Reimbursement of expenses for response to spill or accident. ([NRS 459.721](#), [459.725](#)) If an incident occurs involving hazardous materials, the expenses for which reimbursement may be sought pursuant to [NRS 459.760](#) and [459.770](#):

1. Include any expenses incurred for immediate action taken to prevent injury to persons or property.

2. Are the obligation, jointly and severally, of:

(a) The holder of the uniform permit, or of the single-trip permit, pursuant to which the hazardous materials are being transported or, if the materials are transported without a uniform permit, or a single-trip permit, the person who is required to obtain the uniform permit, or the single-trip permit, pursuant to the provisions of [NAC 459.979](#) or [459.984](#); and

(b) Each agent or employee of the person described in paragraph (a).

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.989 Disciplinary action: Grounds; imposition of sanctions. ([NRS 459.721](#), [459.725](#)) In addition to the provisions set forth in [NRS 459.7058](#), the Division may deny, refuse to renew or suspend a uniform permit if, in connection with the transportation of hazardous materials, the applicant or holder:

1. Violates any out-of-service regulation of the United States Department of Transportation, compliance with which is his responsibility;

2. Violates any provision of [NRS 459.700](#) to [459.780](#), inclusive, or [NAC 459.975](#) to [459.991](#), inclusive;

3. Knowingly provides false or misleading information in his application for a uniform permit;

4. Knowingly uses a forged uniform permit or a uniform permit which has been altered;

5. Except as otherwise provided by [NAC 459.980](#), allows the uniform permit to be used by a person who is not his agent or employee;

6. Is found to be an unsatisfactory carrier as the result of a safety review or safety management audit conducted by the United States Department of Transportation, Federal Motor Carrier Safety Administration or by the Department of Public Safety;

7. Fails to submit a renewal application and the appropriate fees as required by [NAC 459.9805](#);

8. Fails to comply with any applicable requirement of or any order issued pursuant to:

(a) The Federal Motor Carrier Safety Regulations of the United States Department of Transportation;

(b) The Hazardous Materials Regulations set forth in 49 C.F.R. Parts 171 to 180, inclusive; or

(c) Any statute or regulation of this State governing the transportation of hazardous materials, in a manner showing that the motor carrier is not fit to transport hazardous materials; or

9. Loses its right to operate or has its registration suspended in accordance with 49 C.F.R. § 386.83 or 386.84 for failure to pay a civil penalty or abide by a payment plan.

È In any case it deems appropriate, the Division may impose a sanction greater than that otherwise prescribed by this section.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003; R203-05, 2-23-2006)

NAC 459.990 Disciplinary action: Notice of intended action; request for hearing; time and place of hearing. ([NRS 459.721](#), [459.725](#))

1. Not less than 15 days before it denies, refuses to renew, or suspends a uniform permit pursuant to [NAC 459.989](#), the Division will give notice of its intended action to the applicant or holder by certified mail sent to his principal place of business.

2. Any holder or applicant who receives a notice pursuant to subsection 1 and who is aggrieved by the intended action of the Division may make a written request for a hearing on the matter before the Director or his designee. Any such request must be made by certified mail and must be postmarked not later than 10 days after the date the holder or applicant receives the notice mailed pursuant to subsection 1.

3. If a request for a hearing is made pursuant to subsection 2, the Division will schedule the hearing for a date not later than 30 days after the date it receives the request. Any hearing held pursuant to this section must be held in Carson City.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.991 Disciplinary action: Reinstatement of uniform permit. ([NRS 459.721](#), [459.725](#))

1. The Division may reinstate a uniform permit which has previously been suspended pursuant to [NAC 459.989](#) if the holder corrects the violation and otherwise complies with the provisions of [NRS 459.700](#) to [459.780](#), inclusive, and [NAC 459.975](#) to [459.991](#), inclusive.

2. In such a case, upon the request of the holder, the Division will give written notice to the holder by certified mail of the conditions of reinstatement and any deadline for compliance with those conditions.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94; eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

PLANNING FOR AND RESPONDING TO DISCHARGE OF HAZARDOUS MATERIAL

General Provisions

NAC 459.9912 Definitions. ([NRS 459.740](#)) As used in [NAC 459.9912](#) to [459.99189](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.99121](#) to [459.99128](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by St. Emergency Response Comm'n by R034-00, eff. 6-20-2000; A by R133-03, 3-26-2004; R177-05, 6-1-2006)

NAC 459.99121 "Bylaws Committee" defined. ([NRS 459.740](#)) "Bylaws Committee" means the committee established by the Commission to review annually the bylaws of a local emergency planning committee.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99122 "Commission" defined. ([NRS 459.740](#)) "Commission" means the State Emergency

Response Commission.

(Added to NAC by St. Emergency Response Comm'n by R034-00, eff. 6-20-2000)—(Substituted in revision for NAC 459.9913)

NAC 459.99123 “Emergency plan” defined. (NRS 459.740) “Emergency plan” means an emergency plan established by a local emergency planning committee pursuant to [NAC 459.99133](#) to respond to an emergency caused by the release of a hazardous material.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99124 “Extremely hazardous material” defined. (NRS 459.740) “Extremely hazardous material” has the meaning ascribed to it in [NRS 459.7022](#).

(Added to NAC by St. Emergency Response Comm'n by R034-00, eff. 6-20-2000)—(Substituted in revision for NAC 459.9914)

NAC 459.99125 “Facility” defined. (NRS 459.740) “Facility” includes any group of activities which are involved in the storage, use or manufacture of extremely hazardous materials, are located on one or more contiguous properties and are owned, operated or controlled by the same person.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99126 “Funding Committee” defined. (NRS 459.740) “Funding Committee” means the committee established by the Commission to assist the Commission in matters concerning funding.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.991265 “Local emergency planning committee” defined. (NRS 459.740) “Local emergency planning committee” means the committee appointed by the Commission pursuant to 42 U.S.C. § 11001.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

NAC 459.99127 “Person” defined. (NRS 459.740) “Person” includes any agency or political subdivision of this State.

(Added to NAC by St. Emergency Response Comm'n, eff. 8-25-92; A by R034-00, 6-20-2000)—(Substituted in revision for NAC 459.9915)

NAC 459.99128 “Planning and Training Subcommittee” defined. (NRS 459.740) “Planning and Training Subcommittee” means the subcommittee appointed by the Funding Committee to assist the Committee in matters concerning planning and training for emergency response.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

Emergency Planning

NAC 459.99131 Powers and duties of Commission. (NRS 459.740) In accordance with the requirements of 42 U.S.C. §§ 11001 et seq., the Commission will:

1. Designate emergency planning districts in this State to facilitate the preparation and implementation of emergency plans. The Commission may revise the designation of an emergency planning district at its discretion.
2. Designate the facilities that are within the jurisdiction of each emergency planning district.
3. Within 30 days after the designation of an emergency planning district, establish a local emergency planning committee for the emergency planning district and appoint the members to serve on the local emergency planning committee. The Commission may, at its discretion, revise the appointment of any member to a local emergency planning committee. An interested person may petition the Commission for a modification of the membership of a local emergency planning committee.
4. Supervise and coordinate the activities of each local emergency planning committee.
5. Through the Planning and Training Subcommittee, annually review the emergency plan of each local emergency planning committee and approve the emergency plan if it complies with the guidelines for emergency plans published by the National Response Team established pursuant to the National Contingency Plan set forth in 42 U.S.C. § 9605. The Commission may make recommendations to a local emergency planning committee for revisions of the emergency plan to ensure coordination of the emergency plan with the emergency plan

established by any other local emergency planning committee.

6. Through the Bylaws Committee, annually review the bylaws of each local emergency planning committee to ensure compliance with federal and state laws and regulations.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99132 Local emergency planning committees: Administrative duties. ([NRS 459.740](#)) Each local emergency planning committee shall:

1. Appoint a chairman;
2. Adopt rules for the performance of its duties and functions;
3. Annually submit to the Bylaws Committee a copy of its bylaws and a list of the members of the local emergency planning committee;
4. Hold quarterly meetings;
5. Submit to the Commission a copy of the agenda and minutes of every meeting;
6. Annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, inventory forms and any follow-up notices are available for public review pursuant to 42 U.S.C. § 11044;
7. Submit to the Commission an affidavit of publication stating that the local emergency planning committee has complied with the requirement of subsection 6; and
8. Submit to the Commission a Compliance Certification Form indicating that the local emergency planning committee has complied with administrative requirements.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99133 Emergency plans: Establishment, review and approval; correction of deficiencies; failure to comply. ([NRS 459.740](#))

1. Each local emergency planning committee shall:
 - (a) In compliance with the guidelines for emergency plans published by the National Response Team established pursuant to the National Contingency Plan set forth in 42 U.S.C. § 9605, establish an emergency plan;
 - (b) Annually review the emergency plan; and
 - (c) On or before January 31 of each year, submit the emergency plan to the Planning and Training Subcommittee for review and approval.
2. If the Planning and Training Subcommittee identifies any deficiency in the emergency plan submitted by the local emergency planning committee and notifies the local emergency planning committee of the deficiency, the local emergency planning committee shall, within 45 days after receipt of notification by the Planning and Training Subcommittee:

- (a) Revise the emergency plan to correct the deficiency; and
- (b) Submit the revised emergency plan to the Planning and Training Subcommittee for approval.

3. If a local emergency planning committee fails to submit an emergency plan on or before January 31 of each year pursuant to subsection 1 or fails to submit a revised emergency plan within 45 days after receipt of notification of any deficiency pursuant to subsection 2, the local emergency planning committee is ineligible for any funding available from the Commission until the Planning and Training Subcommittee reviews and approves the emergency plan in February of the following year.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99134 Emergency plans: Implementation; report; failure to comply. ([NRS 459.740](#))

1. Each local emergency planning committee shall:
 - (a) Annually implement the emergency plan required pursuant to [NAC 459.99133](#) by exercise, drill or response to a real event; and
 - (b) Submit to the Commission a report of the exercise, drill or response to a real event.
2. If a local emergency planning committee fails to meet the requirements of this section, the Commission may suspend the current unencumbered funds of the local emergency planning committee and deem the local emergency planning committee ineligible for any future grants until the requirements of this section are met.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

Funding for Local Emergency Planning Committees

NAC 459.99135 Authority of Commission: Grants of money from Contingency Account for Hazardous Materials. ([NRS 459.735](#), [459.740](#)) Pursuant to [NRS 459.742](#) and in accordance with the provisions set forth in

[NAC 459.99138](#) to [459.99146](#), inclusive, the Commission may:

1. Use the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees for the operating, planning, training and equipment needs of the local emergency planning committees to carry out the emergency plans of the local emergency planning committees;
2. Use the fees collected pursuant to subsection 4 of [NRS 482.379365](#) and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees for the operating, planning, training and equipment needs of the local emergency planning committees to carry out the emergency plans of the local emergency planning committees; and
3. Use any money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees for the planning and training needs of the local emergency planning committees to carry out the emergency plans of the local emergency planning committees.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99136 Requests for funding: Determination and approval of amount; scope. ([NRS 459.735](#), [459.740](#))

1. Before a local emergency planning committee may submit an application for a grant pursuant to the provisions of [NAC 459.99138](#) to [459.99146](#), inclusive, the local emergency planning committee must meet to determine and approve, based upon the needs of its emergency planning district, the amount of funding it will request in the application.

2. In submitting an application for a grant pursuant to [NAC 459.99138](#) to [459.99146](#), inclusive, a local emergency planning committee may request funding to provide planning, training and equipment to certain persons and entities, including, without limitation:

- (a) State and local entities;
- (b) Private companies;
- (c) Nonprofit corporations;
- (d) Public utilities owned and operated by political subdivisions of the State; and
- (e) General improvement districts involved in preventing and responding to incidents involving hazardous materials or mitigating such incidents.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99137 Dissemination of application forms for grants. ([NRS 459.735](#), [459.740](#)) The Commission will send application forms for grants to each local emergency planning committee not later than 6 weeks before the deadline for submission of an application for a grant to the Commission by the local emergency planning committees.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99138 Provision of money from proceeds of certain fees to pay for operating costs. ([NRS 459.735](#), [459.740](#)) If a local emergency planning committee is in compliance with all applicable provisions of the Nevada Revised Statutes and the Nevada Administrative Code relating to local emergency planning committees and the official policies of the Commission, the Commission may provide a portion of the money from fees collected by the Commission pursuant to subsection 4 of [NRS 482.379365](#) and [NAC 459.9918](#) to [459.991825](#), inclusive, to the local emergency planning committee for reasonable and appropriate operating costs of the local emergency planning committee, as determined by the Commission, including, without limitation, office supplies, overhead expenses and costs related to meetings of the local emergency planning committee.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99139 Requests for money from proceeds of certain fees to pay for planning. ([NRS 459.735](#), [459.740](#)) A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to subsection 4 of [NRS 482.379365](#) and [NAC 459.9918](#) to [459.991825](#), inclusive, for planning that is necessary to carry out the emergency plan of the local emergency planning committee.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99141 Requests for money from proceeds of certain fees to pay for training. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to subsection 4 of [NRS 482.379365](#) and [NAC 459.9918](#) to [459.991825](#), inclusive, for training that is necessary to carry out the emergency plan of the local emergency planning committee.

2. A local emergency planning committee may not request grant money from the Commission pursuant to subsection 1 to pay for training unless the local emergency planning committee previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99142 Requests for money from proceeds of certain fees to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee may, in its application for a grant from the Commission for planning or training, request grant money from the fees collected by the Commission pursuant to subsection 4 of [NRS 482.379365](#) and [NAC 459.9918](#) to [459.991825](#), inclusive, for services to be provided by a consultant or contractor which relate to planning or training to carry out the emergency plan of the local emergency planning committee.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) The scope of the services to be provided by the consultant or contractor; and

(b) A quote for the costs of the services to be provided by the consultant or contractor, which must not exceed \$450 per day.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99143 Requests for money from proceeds of certain fees to pay for equipment. ([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to subsection 4 of [NRS 482.379365](#) and [NAC 459.9918](#) to [459.991825](#), inclusive, for equipment that is necessary to carry out the emergency plan of the local emergency planning committee.

2. Except as otherwise provided in this subsection, the request for equipment must be for equipment designated on the list of appropriate equipment for matters relating to emergency response of hazardous materials that is provided by the Commission. The local emergency planning committee may include a request for equipment not designated on the list provided by the Commission if the local emergency planning committee includes a quote for the cost of the equipment in the application.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99144 Requests for money from federal funding to pay for planning. ([NRS 459.735](#), [459.740](#))

A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for planning that is necessary to carry out the emergency plan of the local emergency planning committee.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99145 Requests for money from federal funding to pay for training. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a local emergency planning committee may, in its application for a grant from the Commission, request grant money from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for training that is necessary to carry out the emergency plan of the local emergency planning committee.

2. A local emergency planning committee may not request grant money from the Commission pursuant to subsection 1 to pay for training unless the local emergency planning committee previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99146 Requests for money from federal funding to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee may, in its application for a grant from the Commission for planning or training, request grant money from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for services to be provided by a consultant or contractor which relate to planning or training to carry out the emergency plan of the local emergency planning committee.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) The scope of the services to be provided by the consultant or contractor; and

(b) A quote for the costs of the services of the consultant or contractor, which must not exceed \$450 per day.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99147 Review of applications and award of money. ([NRS 459.735](#), [459.740](#)) The Commission may:

1. Place each application for grant money that is submitted to the Commission on an agenda for consideration at a future meeting of the Commission;

2. Review each application for grant money that is submitted by a local emergency planning committee; and

3. Award grant money to a local emergency planning committee based on the following factors:

(a) The availability of money for grants in the Contingency Account for Hazardous Materials;

(b) Whether the application for grant money satisfies the conditions set forth in [NAC 459.99138](#) to [459.99146](#), inclusive; and

(c) Whether the local emergency planning committee has complied with all applicable statutes, regulations and policies.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99148 Documentation of awards of money. ([NRS 459.735](#), [459.740](#)) Upon the determination of the Commission to award a grant to a local emergency planning committee, the Commission will prepare documentation of the award and keep such documentation on file with the Commission.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99149 Completion and submission of certain forms. ([NRS 459.735](#), [459.740](#)) Before any grant money may be distributed by the Commission to a local emergency planning committee, the local emergency planning committee must complete and submit to the Commission the following forms provided by the Commission:

1. The Certified Assurances Form indicating that the local emergency planning committee agrees to comply with the rules and regulations governing the grant money awarded in the grant. The form must be signed by the chairman of the local emergency planning committee and a designee of the appropriate governmental entity for which the grant has been awarded.

2. The Compliance Certification Form indicating that the local emergency planning committee has complied with the administrative requirements for a grant.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99151 Reimbursement of expenditures: Requirements for disbursement of money. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in [NAC 459.99152](#), the grant money awarded to a local emergency planning committee by the Commission will be disbursed on the basis of reimbursement for expenditures authorized in the grant.

2. If a local emergency planning committee seeks to be reimbursed for an expenditure authorized in the grant, the local emergency planning committee must submit a request for reimbursement to the Commission not later than 30 days after the last day of the quarter or 45 days after the end of the award period.

3. A request for reimbursement must include a financial report, on a form approved by the Commission, consisting of an accounting of the expenditure, the invoice for the expenditure and proof of payment by the local emergency planning committee.

4. Within 5 working days after receiving a request for reimbursement, the Commission will conduct an audit of the financial report submitted to the Commission to ensure that the expenditure for which the local emergency

planning committee is requesting reimbursement is authorized in the grant. If the Commission approves the request, the Commission will process the payment within 1 working day after approval of the request.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99152 Advance funding for expected expenditures exceeding \$2,000. ([NRS 459.735](#), [459.740](#))

1. If a local emergency planning committee has an expected expenditure exceeding \$2,000, the local emergency planning committee may submit a request to the Commission for advance funding.

2. The request for advance funding must include a financial report, on a form approved by the Commission, consisting of a copy of the purchase order indicating the date of processing for the purchase and the cost of the purchase.

3. Within 5 working days after receiving a request for advance funding, the Commission will verify that the expenditure for which the local emergency planning committee is requesting advance funding is authorized in the grant. If the Commission approves the request, the Commission will process the payment to the local emergency planning committee.

4. Within 30 days after a check for advance funding is issued to a local emergency planning committee, the local emergency planning committee shall submit to the Commission a financial report, on a form approved by the Commission, that includes any invoices for the expenditure and proof of payment.

5. If the expenditure is not made within 30 days after a check for advance funding is issued to a local emergency planning committee, the local emergency planning committee must return to the Commission the amount of the advance funding within 45 days after the issuance of the check for advance funding.

6. If a check for advance funding issued to a local emergency planning committee is in excess of the actual expenditure, the local emergency planning committee must return to the Commission the amount of the advance funding that is in excess of the actual expenditure within 45 days after the date of issuance of the check for advance funding.

7. If a local emergency planning committee fails to return an amount of advance funding as required pursuant to this section, the Commission may withhold funding from the local emergency planning committee in the future.

8. As used in this section, "advance funding" means an advance of the grant money awarded to pay for any expenditures.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99153 Quarterly financial reports. ([NRS 459.735](#), [459.740](#)) Unless a financial report is submitted pursuant to [NAC 459.99151](#) or [459.99152](#), a local emergency planning committee must submit to the Commission a quarterly financial report. The quarterly financial report must be submitted on a form approved by the Commission not later than 30 days after the last day of the quarter indicating that no expenditures were made during that quarter.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99154 Past due financial reports. ([NRS 459.735](#), [459.740](#)) If a financial report required to be submitted pursuant to [NAC 459.99151](#), [459.99152](#) or [459.99153](#):

1. Is at least 30 days past due but less than 45 days past due, the Commission will notify the chairman of the local emergency planning committee required to submit the financial report.

2. Is at least 45 days past due but less than 60 days past due, the Commission will notify the designee of the appropriate governmental entity for which the grant has been awarded.

3. Is at least 60 days past due, the Commission may in the future withhold funding from the local emergency planning committee required to submit the financial report.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99156 Authorization and procedure to revise use of money after award of grant. ([NRS 459.735](#), [459.740](#))

1. If circumstances pertaining to the use of grant money change after the award of a grant to a local emergency planning committee, the local emergency planning committee may submit to the Commission a request, on a form approved by the Commission, to revise the use of the grant money for another purpose.

2. Except as otherwise provided in subsection 4, if the request to revise the use of grant money constitutes a change of 10 percent or more of the total amount of the grant or constitutes a significant change to the scope of the intent of the original grant application, before the local emergency planning committee may carry out the

change, the request must be:

(a) Approved by the Chairman of the Funding Committee; and

(b) If required by the Chairman of the Funding Committee, reviewed and approved by the Funding Committee on the record at a meeting of the Funding Committee.

3. The Chairman of the Funding Committee will approve or deny a request described in subsection 2 within 5 working days after receiving the request. If applicable, the Funding Committee will, within 5 working days, schedule a hearing to review the request. The local emergency planning committee will be notified of any action taken concerning the request within 5 working days after the action is taken.

4. A local emergency planning committee may appeal any action taken pursuant to this section to the Commission. If a local emergency planning committee appeals an action pursuant to this subsection, the local emergency planning committee may carry out a change described in subsection 2 upon approval by the Commission on the record at a meeting of the Commission.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

Funding for State Agencies

NAC 459.99161 Authority of Commission: Allocation of money from Contingency Account for Hazardous Materials. ([NRS 459.735](#), [459.740](#)) Pursuant to paragraph (d) of subsection 2 of [NRS 459.735](#) and in accordance with the provisions set forth in [NAC 459.99163](#) to [459.99167](#), inclusive, the Commission may:

1. Allocate the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, and deposited in the Contingency Account for Hazardous Materials to state agencies for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials;

2. Allocate the fees collected pursuant to subsection 4 of [NRS 482.379365](#) and deposited in the Contingency Account for Hazardous Materials to state agencies for the operating, planning, training and equipment needs of state and local personnel to respond to accidents and incidents involving hazardous materials; and

3. Allocate any money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 and deposited in the Contingency Account for Hazardous Materials to state agencies for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99162 Application for allocation of money; determination and approval of amount to request. ([NRS 459.735](#), [459.740](#)) In accordance with the provisions set forth in [NAC 459.99163](#) to [459.99167](#), inclusive, a state agency which wishes to provide training or equipment to state and local personnel to respond to accidents and incidents involving hazardous materials may submit an application to the Commission for an allocation of money for such training or equipment from the Contingency Account for Hazardous Materials on a form approved by the Commission. Before such a state agency may submit an application for an allocation of money pursuant to the provisions of [NAC 459.99163](#) to [459.99167](#), inclusive, the head of the state agency must determine and approve, based upon the needs of the state agency, the amount of funding the state agency will request in the application.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99163 Requests for money from proceeds of certain fees to pay for training. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to subsection 4 of [NRS 482.379365](#) and [NAC 459.9918](#) to [459.991825](#), inclusive, for training state and local personnel to respond to accidents and incidents involving hazardous materials.

2. A state agency may not request money from the Commission pursuant to subsection 1 to pay for training unless the state agency previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99164 Requests for money from proceeds of certain fees to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to subsection 4 of [NRS 482.379365](#) and [NAC 459.9918](#) to [459.991825](#), inclusive, for services to be provided by a consultant or contractor which relate to the training of state and local personnel to respond to accidents and incidents involving hazardous materials.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) The scope of the services to be provided by the consultant or contractor; and

(b) A quote for the costs of the services to be provided by the consultant or contractor, which must not exceed \$450 per day.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99165 Requests for money from proceeds of certain fees to pay for equipment. ([NRS 459.735](#), [459.740](#))

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to subsection 4 of [NRS 482.379365](#) and [NAC 459.9918](#) to [459.991825](#), inclusive, for equipping state and local personnel to respond to accidents and incidents involving hazardous materials.

2. Except as otherwise provided in this subsection, the request for equipment must be for equipment designated on the list of appropriate equipment for matters relating to emergency response of hazardous materials that is provided by the Commission. The state agency may include a request for equipment not designated on the list provided by the Commission if the state agency includes a quote for the cost of the equipment in the application.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99166 Requests for money from federal funding to pay for training. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request an allocation from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for training state and local personnel to respond to accidents or incidents involving hazardous materials.

2. A state agency may not request money from the Commission pursuant to subsection 1 to pay for training unless the state agency previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99167 Requests for money from federal funding to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request an allocation from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for services to be provided by a consultant or contractor which relate to training state and local personnel to respond to accidents and incidents involving hazardous materials.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) The scope of the services to be provided by the consultant or contractor; and

(b) A quote for the costs of the services to be provided by the consultant or contractor, which must not exceed \$450 per day.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99168 Review of applications and allocation of money. ([NRS 459.735](#), [459.740](#)) The Commission may:

1. Place each application for an allocation of money from the Contingency Account for Hazardous Materials that is submitted to the Commission by a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials on an agenda for consideration at a future meeting of the Commission;

2. Review each application for an allocation of money that is submitted by a state agency; and

3. Allocate money to a state agency:

(a) Based on the availability of money in the Contingency Account for Hazardous Materials; and

(b) If the application for an allocation of money satisfies the conditions set forth in [NAC 459.99163](#) to [459.99167](#), inclusive.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99169 Documentation of allocations of money. ([NRS 459.735](#), [459.740](#)) Upon the determination of the Commission to allocate money to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials, the Commission will prepare documentation of the allocation of money and keep such documentation on file with the Commission.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99171 Completion and submission of certain forms. ([NRS 459.735](#), [459.740](#)) Before any money may be distributed by the Commission to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials, the state agency must complete and submit to the Commission the following forms provided by the Commission:

1. The Certified Assurances Form indicating that the state agency agrees to comply with the rules and regulations governing the allocation of money by the Commission. The form must be signed by the head of the state agency or his designee.

2. The Compliance Certification Form indicating that the state agency has complied with the administrative requirements for an allocation of money from the Contingency Account for Hazardous Materials.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99172 Reimbursement of expenditures: Requirements for disbursement of money. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in [NAC 459.99173](#), the money allocated to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials by the Commission from the Contingency Account for Hazardous Materials will be disbursed on the basis of reimbursement for expenditures authorized in the allocation of money.

2. If the state agency seeks to be reimbursed for an expenditure authorized in the allocation of money, the state agency must submit a request for reimbursement to the Commission not later than 30 days after the last day of the quarter or 45 days after the end of the award period.

3. A request for reimbursement must include a financial report, on a form approved by the Commission, consisting of an accounting of the expenditure, the invoice for the expenditure and proof of payment by the state agency.

4. Within 5 working days after receiving a request for reimbursement, the Commission will conduct an audit of the financial report submitted to the Commission to ensure that the expenditure for which the state agency is requesting reimbursement is authorized in the allocation of money. If the Commission approves the request, the Commission will process the payment within 1 working day after approval of the request.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99173 Advance funding for expected expenditures exceeding \$2,000. ([NRS 459.735](#), [459.740](#))

1. A state agency which receives an allocation of money from the Commission for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials and which has an expected expenditure exceeding \$2,000 may submit a request to the Commission for advance funding.

2. The request for advance funding must include a financial report, on a form approved by the Commission, consisting of a copy of the purchase order indicating the date of processing for the purchase and the cost of the purchase.

3. Within 5 working days after receiving a request for advance funding, the Commission will verify that the expenditure for which the state agency is requesting advance funding is authorized in the documentation of the allocation of money. If the Commission approves the request, the Commission will process the payment to the state agency.

4. Within 30 days after a check for advance funding is issued to the state agency, the state agency shall submit to the Commission a financial report, on a form approved by the Commission, that includes any invoices for the expenditure and proof of payment.

5. If the expenditure is not made within 30 days after a check for advance funding is issued to the state agency, the state agency must return to the Commission the amount of the advance funding within 45 days after the issuance of the check for advance funding.

6. If a check for advance funding issued to the state agency is in excess of the actual expenditure, the state agency must return to the Commission the amount of the advance funding that is in excess of the actual expenditure within 45 days after the date of issuance of the check for advance funding.

7. If the state agency fails to return an amount of advance funding as required pursuant to this section, the Commission may withhold funding from the state agency in the future.

8. As used in this section, "advance funding" means an advance of the money allocated to pay for any expenditures.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99174 Quarterly financial reports. ([NRS 459.735](#), [459.740](#)) Unless a financial report is submitted pursuant to [NAC 459.99172](#) or [459.99173](#), a state agency which receives an allocation of money from the Commission for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials must submit to the Commission a quarterly financial report. The quarterly financial report must be submitted on a form approved by the Commission not later than 30 days after the last day of the quarter indicating that no expenditures were made during that quarter.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99175 Past due financial reports. ([NRS 459.735](#), [459.740](#)) If a financial report required to be submitted pursuant to [NAC 459.99172](#), [459.99173](#) or [459.99174](#):

1. Is at least 30 days past due but less than 45 days past due, the Commission will notify the state agency required to submit the financial report.

2. Is at least 45 days past due but less than 60 days past due, the Commission will notify the head of the state agency required to submit the financial report.

3. Is at least 60 days past due, the Commission may in the future withhold funding from the state agency required to submit the financial report.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99176 Annual progress reports. ([NRS 459.735](#), [459.740](#))

1. On or before July 31 of each year, a state agency which receives an allocation of money from the Commission for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials shall submit an annual progress report to the Commission, on a form approved by the Commission, concerning the money allocated to the state agency.

2. An annual progress report submitted pursuant to subsection 1 must include, without limitation:

(a) The activities performed during the year relating to the allocation received from the Commission; and

(b) Information concerning the progress of the state agency in achieving the goals and objectives outlined in its application for an allocation of money.

3. The Commission will review each annual progress report to ensure that the activities of the state agency are in compliance with the goals and objectives outlined in its application for an allocation of money.

4. If the state agency fails to submit the annual progress report on or before July 31 of each year, the Commission may withhold funding from the state agency in the future.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99177 Authorization and procedure to revise use of money after allocation. ([NRS 459.735](#), [459.740](#))

1. If circumstances pertaining to the use of money change after the Commission approves the allocation of money to a state agency for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials, the state agency may submit to the Commission a request, on a form approved by the Commission, to revise the use of the money for another purpose.

2. Except as otherwise provided in subsection 4, if the request to revise the use of money constitutes a change of 10 percent or more of the total amount of the money allocated or constitutes a significant change to the scope of the intent of the original application, before the state agency may carry out the change, the request must be:

(a) Approved by the Chairman of the Funding Committee; and

(b) If required by the Chairman of the Funding Committee, reviewed and approved by the Funding Committee on the record at a meeting of the Funding Committee.

3. The Chairman of the Funding Committee will approve or deny a request described in subsection 2 within 5 working days after receiving the request. If applicable, the Funding Committee will, within 5 working days, schedule a hearing to review the request. The state agency will be notified of any action taken concerning the request within 5 working days after the action is taken.

4. A state agency may appeal any action taken pursuant to this section to the Commission. If the state agency appeals an action pursuant to this subsection, the state agency may carry out a change described in subsection 2 upon approval by the Commission on the record at a meeting of the Commission.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

Imposition and Payment of Fees

NAC 459.9918 Fees for certain services and regulatory activities of Commission. ([NRS 459.740](#), [459.744](#)) The Commission will charge a person for whom it performs a service or regulatory activity the fees set forth in the following schedule:

1. For processing a report filed with the Commission pursuant to 40 C.F.R. Part 370, Subpart B, except for a report of an extremely hazardous material pursuant to [NAC 459.99181](#)..... \$100

2. For each hour or fraction thereof that an employee, agent, contractor or other designee of the Commission spends in responding to a request for information, except for a request for information made pursuant to 40 C.F. R. Part 370, Subpart C..... \$50

(Added to NAC by St. Emergency Response Comm'n by R034-00, eff. 6-20-2000; A by R133-03, 3-26-2004)
—(Substituted in revision for NAC 459.9916)

NAC 459.99181 Fees for storage of extremely hazardous materials. ([NRS 459.704](#), [459.740](#), [459.744](#))

1. The filing fee required pursuant to paragraph (a) of subsection 2 of [NRS 459.744](#) is \$100 for each facility in which extremely hazardous material is stored.

2. The surcharge required pursuant to paragraph (b) of subsection 2 of [NRS 459.744](#) is \$100 per ton for each ton of material stored in excess of 1 ton.

(Added to NAC by St. Emergency Response Comm'n, eff. 8-25-92; A by R077-98, 9-25-98; R034-00, 6-20-2000; R133-03, 3-26-2004; R177-05, 6-1-2006)

NAC 459.99182 Fees for manufacture for transport of extremely hazardous material. ([NRS 459.704](#), [459.740](#), [459.744](#))

1. The filing fee required pursuant to paragraph (a) of subsection 3 of [NRS 459.744](#) is \$100.

2. The surcharge required pursuant to paragraph (b) of subsection 3 of [NRS 459.744](#) is \$100 for each ton of material which is manufactured for transport in this State.

3. In accordance with subsection 3 of [NRS 459.744](#), the Commission will not require any person to pay more than \$2,000 in fees imposed pursuant to this section for any calendar year.

(Added to NAC by St. Emergency Response Comm'n, eff. 8-25-92; A by R077-98, 9-25-98; R034-00, 6-20-2000; R133-03, 3-26-2004)—(Substituted in revision for NAC 459.9919)

NAC 459.991825 Reporting fee for submission of toxic chemical release form. ([NRS 459.704](#), [459.740](#), [459.744](#)) The reporting fee required pursuant to subsection 4 of [NRS 459.744](#) is \$500 for each person who is required to submit a toxic chemical release form pursuant to 42 U.S.C. §§ 11001 et seq.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

NAC 459.99183 Failure to pay required fee when due. ([NRS 459.704](#), [459.740](#))

1. If a person fails to pay a fee required pursuant to [NAC 459.9918](#), [459.99181](#), [459.99182](#) or [459.991825](#) on or before the applicable due date, the Commission will send a written notice to the person stating that the fee has not been paid and notifying the person of the provisions of subsection 2.

2. If a person fails to pay a fee required pursuant to [NAC 459.9918](#), [459.99181](#), [459.99182](#) or [459.991825](#) within 90 days after receiving written notification of failure to pay pursuant to subsection 1, the Commission will submit the matter to the Attorney General to initiate proceedings against the person.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.991835 Limitation on amount of certain fees. ([NRS 459.704](#), [459.740](#), [459.744](#)) The Commission will not require any person to pay more than \$7,500 in fees imposed pursuant to subsection 1 of [NAC 459.9918](#), [NAC 459.99181](#) or [459.991825](#) for any calendar year.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

NAC 459.99184 Overpayment of required fee. ([NRS 459.704](#), [459.740](#)) If a person has overpaid a fee required pursuant to [NAC 459.9918](#), [459.99181](#), [459.99182](#) or [459.991825](#), the Commission will:

1. Send a written notice to the person indicating the amount of the overpayment; and
2. Unless the person submits a request for a refund of the amount of the overpayment, credit the account of the person in the amount of the overpayment to be applied toward future fees imposed upon the person pursuant to [NAC 459.9918](#), [459.99181](#), [459.99182](#) or [459.991825](#).

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

Appeals

NAC 459.99189 Appeal by local emergency planning committee or state agency of grant-related decision. ([NRS 459.740](#))

1. If a local emergency planning committee or a state agency is not satisfied with a grant-related decision by the Commission or by a staff member of the Commission, the local emergency planning committee or state agency may file an appeal with the Executive Director of the Commission. The appeal must be filed in writing, including the grounds for the appeal and any supporting documentation, within 35 days after the receipt of notice by the local emergency planning committee or state agency of the original decision.

2. Except as otherwise provided in this subsection, after the receipt of an appeal pursuant to this section, the Executive Director or his designee shall present a report to the Commission at its next meeting. If an appeal is received after the deadline for placing items on the agenda for the next meeting of the Commission, the Executive Director or his designee shall present the report to the Commission at its next following meeting. The report presented to the Commission will include the grounds for the appeal, supporting documentation, information concerning the claim and recommendations for action by the Commission.

3. Not later than 10 days before the date of the meeting in which an appeal will be heard, the Executive Director or his designee shall notify the local emergency planning committee or state agency in writing of the date, time and place of the meeting.

4. The local emergency planning committee or state agency may appear in person to present the reason for appeal.

5. The Commission may render a decision on the claim at the time of the meeting or may defer action to a future meeting if additional information is required for review.

6. The Executive Director or his designee shall mail to the participant by first-class mail notice of the decision of the Commission within 15 days after the decision is rendered.

7. A decision by the Commission regarding an appeal is final.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

STORAGE TANKS

NAC 459.9921 Definitions. ([NRS 459.826](#)) As used in [NAC 459.9921](#) to [459.999](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.9922](#) to [459.9929](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A by R083-05, 10-31-2005)

NAC 459.9922 "Assessment" defined. ([NRS 459.826](#)) "Assessment" means a test for the presence of a regulated substance.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.9923 "Aquifer" defined. ([NRS 459.826](#)) "Aquifer" has the meaning ascribed to it in [NAC 445A.812](#).

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A 1-23-96)

NAC 459.9924 “Corrective action” defined. ([NRS 459.826](#)) “Corrective action” means a permanent remedy that is taken if a regulated substance is released to prevent the substance from migrating and causing danger to the present or future health of the public or to the environment.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.9925 “Department” defined. ([NRS 459.826](#)) “Department” means the State Department of Conservation and Natural Resources.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.9926 “Dissolved product action level” defined. ([NRS 459.826](#)) “Dissolved product action level” means the presence of a regulated substance or a constituent of such a substance in groundwater or surface water in excess of the maximum level of contaminants allowed by the Federal Government.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.9927 “Division” defined. ([NRS 459.826](#)) “Division” means the Division of Environmental Protection of the Department.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.9928 “Groundwater” defined. ([NRS 459.826](#)) “Groundwater” has the meaning ascribed to it in [NAC 444.579](#).

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A 1-23-96)

NAC 459.99283 “Listed” defined. ([NRS 459.826](#)) “Listed” has the meaning ascribed to it in section 202 of the *International Fire Code*, 2003 edition.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.99285 “Marina storage tank” defined. ([NRS 459.826](#)) “Marina storage tank” means a petroleum storage tank used to provide fuel to water vessels, at least 90 percent of which is either above ground level or in or over water and which has a capacity of at least 110 gallons but not more than 12,000 gallons. The term includes all piping connected to the tank, except piping, valves, hoses, filters and nozzles associated with the fuel dispenser.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.99287 “Petroleum” defined. ([NRS 459.826](#)) “Petroleum” has the meaning ascribed to it in [NRS 590.790](#).

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.9929 “Underground storage tank” defined. ([NRS 459.826](#)) “Underground storage tank” has the meaning ascribed to it in 40 C.F.R. § 280.12.

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A by R083-05, 10-31-2005)

NAC 459.993 Federal regulations: Adoption by reference of certain provisions regarding underground storage tanks; compliance required. ([NRS 459.826](#), [459.830](#))

1. The State Environmental Commission hereby adopts by reference the provisions of 40 C.F.R. §§ 280.10 to 280.116, inclusive, as they existed on July 1, 1995. A copy of the volume containing these provisions may be obtained at a cost of \$50 from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20401.

2. Each owner and operator of an underground storage tank shall comply with the requirements of 40 C.F.R. §§ 280.10 to 280.116, inclusive.

3. For the purposes of this section, any reference to “implementing agency” in 40 C.F.R. §§ 280.10 to 280.116, inclusive, shall be deemed to mean the Division.

(Added to NAC by Environmental Comm'n, eff. 6-11-90; A 1-23-96; R083-05, 10-31-2005)

NAC 459.9931 Adoption by reference of certain chapters of *International Fire Code*. ([NRS 459.826](#), [459.830](#)) The State Environmental Commission hereby adopts by reference chapters 2, 22 and 34 of the *International Fire Code*, 2003 edition. A copy of the volume containing these provisions may be obtained at the cost of \$70 from the International Code Council at the Internet address <http://www.iccsafe.org>.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.9933 Marina storage tanks: Registration; fee; date for compliance. ([NRS 459.826](#))

1. On or before January 31, 2006, and each year thereafter, the owner or operator of a marina storage tank shall register each marina storage tank compartment with the Division on a prescribed form and pay a fee of \$50 for each marina storage tank compartment.

2. Marina storage tanks must be in compliance with this chapter not later than September 30, 2006. The Division may require compliance before September 30, 2006, for any part of an existing system that poses a current threat to nearby property, human health or the environment.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.9934 Marina storage tanks: Construction, design, location and overfill prevention. ([NRS 459.826](#), [459.830](#))

1. A marina storage tank must meet the requirements of chapters 2, 22 and 34 of the *International Fire Code*, 2003 edition, with regard to construction, design, location and overfill prevention.

2. A marina storage tank that supplies marina service stations and pumps not integral to the dispensing device must be onshore, except that a double-walled tank not exceeding a capacity of 1,100 gallons may be located on a pier of the solid-fill type if spacing, containment and piping comply with the provisions of chapters 2, 22 and 34 of the *International Fire Code*, 2003 edition.

3. Any metallic portion of a marina storage tank or its piping system that is in contact with the soil or water and is subject to corrosion must be protected from corrosion by a continuously operating cathodic protection system that is properly engineered, installed and maintained in accordance with 40 C.F.R. § 280.20(b)(2). A metal tank sitting on a concrete slab will be considered in contact with the soil unless it is insulated from the concrete by a dielectric material. Anchoring hardware is not considered part of the tank.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.9935 Marina storage tanks: Secondary containment. ([NRS 459.826](#), [459.830](#))

1. A marina storage tank must have a secondary containment area for the fuel stored in the tank.

2. Multiple products stored within the same containment area must be compatible with each other.

3. If the secondary containment area is open to precipitation, it must be capable of containing 110 percent of the capacity of the largest tank plus the volume displaced by the other tanks within the containment area.

4. The secondary containment area must be made of concrete or steel and be compatible with and impermeable to the products stored in the tank.

5. Liquid discharges to the environment from the secondary containment area are prohibited if contamination of the liquid by a regulated substance is suspected or detected.

6. The secondary containment area must not include any uncapped drain that extends outside of the containment area.

7. A double-walled tank does not require additional containment if:

(a) All piping connections to the tank are made above the normal maximum liquid level;

(b) A mechanism is provided to prevent the release of liquid from the tank by siphon flow;

(c) A mechanism, accessible to a delivery operator, is provided for determining the level of liquid in the tank;

(d) A mechanism which does not restrict or interfere with the proper functioning of the normal vent or emergency vent is provided to prevent overfilling by sounding an alarm when the liquid level in the tank reaches 90 percent of capacity and by automatically stopping the delivery of liquid to the tank when the level in the tank reaches 95 percent of capacity;

(e) The interstitial space is enclosed and the space has emergency venting; and

(f) A means is provided to verify the integrity of the double wall.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.9936 Marina storage tanks: Piping and valves. ([NRS 459.826](#), [459.830](#))

1. If, on a marina storage tank:

(a) A submersible pump is used, a listed emergency shutoff valve must be installed at each dispensing device.

(b) A suction pump-type dispensing device is used, a listed vacuum-actuated shutoff valve with a shear section or equivalent-type valve must be installed directly under each dispensing device.

2. Piping and valves subject to pressure extremes caused by thermal expansion of the contents must be equipped with a pressure-relieving device that has secondary containment.

3. Aboveground piping runs must be enclosed in protective containment leading to a catch basin equipped with an operating automatic leak-detection audible alarm and shutoff device.

4. Except as otherwise provided in subsection 5, any new or replacement underground piping installed after October 31, 2005, must be:

(a) Constructed of nonmetallic components;

(b) Double-walled and integral with a listed leak sensor; and

(c) Installed with a tracer locator wire installed in all buried piping trenches.

5. Existing facilities which have metallic or single-walled nonmetallic piping and which are permanently relocated to a fuel island must install dispenser sumps with leak sensors. Any additions to the metallic piping must be nonmetallic single- or double-walled piping.

6. For piping used at floating marinas:

(a) Suitable lengths of oil-, weather- and UV-resistant flexible hose, UL-approved for use at marinas, must be used between the onshore piping and the piping on the floating structure.

(b) Piping at all hinge locations must be connected with UL-approved listed flexible piping.

(c) All docks and pier installations must have double-walled piping.

(d) A listed emergency breakaway device designed to retain liquid on both sides of the breakaway point must be installed in a spill containment box monitored with a leak sensor on each line serving the dock and anchored at the onshore end of the piping.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.9937 Marina storage tanks: Dispensing equipment. ([NRS 459.826](#), [459.830](#))

1. A control must be installed that will permit the fuel delivery pump to operate only when a dispensing nozzle is removed from its bracket or normal position with respect to the dispensing device and only when the switch on the dispensing device is manually actuated. The control must also stop the pump when all nozzles have been returned either to their brackets or to the normal nondispensing position.

2. Dispensers not integral with the tank must have sumps with operating leak-monitoring sensors that automatically shut off the electricity to the pumping device.

3. Dispenser hoses must be checked and a record kept on a daily basis for evidence of blistering, carcass saturation or separation, for cuts, nicks or abrasions that expose reinforced material, and for slippage, misalignment or leaks at couplings. Defective hoses must be removed from service within 48 hours after evidence of failure.

4. At least once each month, each dispenser hose must be completely extended and inspected as follows:

(a) The hose couplings and the first 12 inches of hose adjacent to the couplings must be examined.

(b) The dispenser hose must be checked for structural weakness evidenced by soft spots by pressing the hose in the area around its entire circumference. Any hose that shows evidence of soft spots must be removed from service.

5. Any dispensing nozzle used at a marina service station must be equipped with a nondrip check valve.

6. Daily and monthly inspections of dispenser hoses are not required when a marina is closed during the off-season.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.9938 Marina storage tanks: Filling equipment; monitoring; testing; daily inventory records. ([NRS 459.826](#), [459.830](#))

1. Except for tanks not exceeding a capacity of 1,100 gallons or tanks not equipped to accept a tight-fill that are instead filled from a delivery nozzle on a delivery vehicle:

(a) All aboveground marina storage tanks must be filled through a liquid-tight connection enclosed in a grounded fill pipe spill-containment box that is located at least 3 feet above the ground and at least 20 feet away from a body of water and is capable of containing a minimum of 5 gallons.

(b) All marina storage tanks filled by means of remote piping must have installed in the piping at a point where connection and disconnection is made between the tank and a delivery vehicle either a check valve and shutoff valve with a quick-connect coupling or a check valve with a dry-break coupling. The check valve device

must be protected from tampering and physical damage.

2. Except for double-walled, aboveground marina storage tanks which are exempt from weekly monitoring requirements and except as otherwise provided in subsection 4, aboveground marina storage tanks must be visually inspected weekly for leaks. The results of the weekly visual inspections must be dated and recorded.

3. Except as otherwise provided in subsection 4, aboveground marina storage tanks must be inspected monthly in accordance with the provisions of subsection 2 of [NAC 590.740](#) and must be inspected for release detection in accordance with 40 C.F.R. § 280.43(a)-(d) and (g).

4. Weekly and monthly monitoring of an aboveground marina storage tank is not required when a marina is closed during the off-season if the tank contains only a de minimis quantity of fuel.

5. All underground or underwater piping that is not double-walled with interstitial leak sensors must be tightness-tested for leaks in accordance with the requirements of 40 C.F.R. § 280.41(b).

6. All electronic and mechanical equipment used for release detection, monitoring or warning must be tested for proper operation and calibration annually or pursuant to the manufacturer's recommendation, whichever is more frequent.

7. If, because of the nature of the aboveground marina storage tank or its secondary containment, visual inspections are not adequate for the purpose of determining whether a leak has occurred, an owner or operator of an aboveground storage tank shall keep daily inventory records. Daily inventory records for the most recent 3 years must be kept on the premises or made available for inspection upon 24 hours' notice. Daily inventory records are not required when a marina is closed during the off-season if the tank contains only a de minimis quantity of fuel.

(Added to NAC by Environmental Comm'n by R083-05, eff. 10-31-2005)

NAC 459.994 Underground storage tanks: Testing for tightness. ([NRS 459.826](#), [459.830](#))

1. Except as otherwise provided in this section, each owner or operator of an underground storage tank shall perform or cause to be performed a test of the tank for tightness in accordance with the schedule contained in subsection (c) of 40 C.F.R. § 280.40.

2. The test must be performed by a contractor certified by the Division.

3. The owner or operator shall retain a certificate from the person performing the test showing that the test has been performed. The certificate must be made on a form approved by the Division.

4. In lieu of a test for tightness, each owner or operator may conduct any release detection methods prescribed in 40 C.F.R. §§ 280.43 and 280.44 as an acceptable means of release detection.

5. An operator of an underground storage tank that is not empty but is temporarily closed in accordance with 40 C.F.R. § 280.70 shall perform or cause to be performed a test of the storage tank for tightness in accordance with 40 C.F.R. §§ 280.40 to 280.45, inclusive.

6. Except as otherwise provided in this subsection, an abandoned storage tank must be tested for tightness in accordance with subsection (c) of 40 C.F.R. § 280.43 before it is returned to service. If a test of the abandoned storage tank will cause a threat to human health or the environment, as determined by the Division, the Division may waive the test for tightness or require any other method of testing in accordance with the provisions of subsection (h) of 40 C.F.R. 280.43 and subsection (c) of 40 C.F.R. 280.44. The allocation of costs pursuant to [NRS 590.880](#) or [590.890](#) will be applied if there is a discharge from the storage tank.

7. A test for tightness is not required before an underground storage tank is closed pursuant to subsection (b) of 40 C.F.R. § 280.71 if the Division:

(a) Has no record of the storage tank being installed, operated or closed; and

(b) Is unable to locate the owner of the storage tank.

8. As used in subsection 6, "abandoned storage tank" means an underground storage tank that:

(a) Is not maintained and whose owner or operator has not provided the Division with a written statement of his intention to close the storage tank; or

(b) Is not in service and does not comply with 40 C.F.R. § 280.70 or 280.71.

(Added to NAC by Environmental Comm'n, eff. 6-11-90; A 3-26-92; 1-23-96; R083-05, 10-31-2005)

NAC 459.995 Financial responsibility of owners and operators. ([NRS 459.826](#), [459.834](#))

1. If requested by the Division, each owner and operator of a registered storage tank shall submit to the Division evidence of his financial responsibility. As used in this subsection, "registered storage tank" means a storage tank operated by a person who is:

(a) Required to demonstrate financial responsibility pursuant to 40 C.F.R. § 280.93; or

(b) Required to or who elects to register the storage tank pursuant to [NRS 590.850](#) or [590.920](#).

2. An owner or operator may demonstrate his financial responsibility pursuant to the provisions of 40 C.F.R. §§ 280.94 to 280.103, inclusive.

3. An owner or operator:

(a) Who operates a storage tank containing fuel for jet or turbine-powered aircraft; and

(b) Who does not elect to obtain coverage pursuant to subsection 2 of [NRS 590.920](#),

shall comply with the requirements for financial responsibility contained in 40 C.F.R. §§ 280.90 to 280.116, inclusive.

(Added to NAC by Environmental Comm'n, eff. 6-11-90; A 3-26-92; 1-23-96)

NAC 459.996 Releases: Reporting; protection of site; inspection by Division. ([NRS 459.826](#))

1. The owner or operator of a storage tank shall report any release promptly in accordance with the requirements of [NAC 445A.347](#) and 40 C.F.R. §§ 280.50 and 280.53.

2. As soon as possible after the release, the operator shall provide the Division with a written description of how, when and where the release occurred. This report must include a description of any damage known to the operator to have been caused by the release.

3. The owner or operator shall take all steps for initial response and abatement prescribed in 40 C.F.R. §§ 280.60, 280.61, and 280.62 to protect the site of the release from further damage.

4. The owner or operator shall permit the Division to inspect any property or records relating to the release or damage caused by the release.

(Added to NAC by Environmental Comm'n, eff. 6-11-90; A 1-23-96)

NAC 459.997 Releases: Authority of Administrator of Division. ([NRS 459.826](#), [459.834](#)) If a release occurs from an underground storage tank, the Administrator of the Division may, at such times as are reasonably required:

1. Question the owner or operator of the tank, under oath, about any matter relating to the release;

2. Examine the books and records of the owner or operator; and

3. Waive any of the provisions of subsections 1, 2, and 6 of [NAC 459.9973](#) and require corrective action to be taken immediately based on:

(a) Any actual or imminent impacts to bodies of water or groundwater; and

(b) Any hazards to human health and safety.

(Added to NAC by Environmental Comm'n, eff. 6-11-90; A 1-23-96; R083-05, 10-31-2005)

NAC 459.9971 Releases: Assessment of contaminated soil or water. ([NRS 459.826](#))

1. If a regulated substance is released, the Division may require the owner or operator to assess the soil or water contaminated by the release to determine if hazardous waste generated from that release is present.

2. As used in this section, "hazardous waste" has the meaning ascribed to it in [NAC 445A.826](#).

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A 1-23-96)

NAC 459.9972 Assessment required before closure of tank; removal of tank from ground. ([NRS 459.826](#), [459.832](#))

1. The owner or operator of a storage tank shall provide an assessment to the Division before a storage tank is permanently closed.

2. The assessment must be conducted:

(a) Using analytical test method 8015 of the Environmental Protection Agency that is modified for petroleum hydrocarbons and other constituents as required by the Division; and

(b) On two soil samples that are obtained from native soil less than 2 feet below the bottom of the excavation, from opposite sides or ends of the excavation in an area where contamination is most likely to be present.

3. The analysis must be conducted by a laboratory that is approved by the Division.

4. The owner or operator of an underground storage tank that is removed from the ground shall:

(a) Dispose of or reuse the tank in accordance with the provisions of [NRS 459.800](#) to [459.856](#), inclusive; and

(b) Maintain a record of the disposal or reuse.

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A 1-23-96; R083-05, 10-31-2005)

NAC 459.9973 Presence of excessive petroleum in soil: Evaluation; assessment of risk; corrective

action. ([NRS 459.826](#), [459.834](#))

1. If soil exceeds the soil action level, the Division shall consider, after an initial response and abatement as prescribed in 40 C.F.R. §§ 280.60, 280.61 and 280.62, an evaluation based upon the following factors before taking any corrective action:

- (a) The depth of groundwater;
- (b) The distance to irrigation or drinking water wells;
- (c) The type of soil;
- (d) The annual precipitation;
- (e) The type of regulated substance released;
- (f) The extent of contamination;
- (g) The present and potential land use;
- (h) The preferred routes of migration;
- (i) The location of structures or impediments;
- (j) The potential for a hazard related to fire, vapor or explosion; and
- (k) Any other factor that is specific to a site as determined by the Division.

2. If corrective action is required pursuant to subsection 1, the owner or operator may conduct an assessment of the site based on the risk that it poses to human health and the environment using test method E1739-95 of the American Society for Testing and Materials, or any equivalent method approved by the Division, to determine the necessary corrective action or to establish that corrective action is not necessary. A reimbursement of the cost of the assessment and the corrective action taken may be sought pursuant to the provisions of [NRS 590.700](#) to [590.920](#), inclusive.

3. The Division shall determine whether an assessment complies with the requirements of test method E1739-95, or any equivalent method, and may reject, require revisions to, or withdraw its concurrence with the assessment at any time after the completion of the assessment because:

- (a) The assessment does not comply with those requirements; or
- (b) Conditions at the site have changed or previously unidentified or new information has become available which may have a detrimental impact on human health or the environment, unless the new condition or information would not alter the results of the assessment.

4. The Division shall provide written notice of its determination and the reasons for rejecting or requiring revisions to the assessment to the owner or operator. The owner or operator may submit a revised assessment to the Division or take the appropriate corrective action.

5. Unless the assessment is rejected or returned for revisions, the Division shall consider the results of the assessment pursuant to the evaluation of the level of petroleum hydrocarbons in the soil and the points of compliance to be elements of the plan for corrective action.

6. If corrective action is proposed pursuant to the requirements of this section or [NAC 459.9976](#) or [459.9977](#), the owner or operator of a storage tank and his environmental manager, if applicable, shall prepare and submit to the Division a written certification that the corrective action selected is cost-effective.

7. As used in this section, "soil action level" means the presence in soil of a petroleum substance in excess of 100 milligrams per kilogram measured by using the analytical test method 8015 modified for petroleum hydrocarbons, or any other method approved by the Division.

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A 1-23-96)

NAC 459.9974 Management and evaluation of contaminated soil. ([NRS 459.826](#), [459.834](#))

1. Soil that is removed through a corrective action and:

- (a) Is contaminated at or above the soil action level by:
 - (1) A petroleum hydrocarbon substance only must be managed:
 - (I) In a municipal solid waste landfill unit or a Class III site, after obtaining written approval from the holder of the permit to operate the landfill unit or site, and the solid waste management authority; or
 - (II) At a disposal or treatment facility that is approved by the Division.
 - (2) A petroleum hydrocarbon substance and any other hazardous substance must be evaluated by the responsible person, who is certified pursuant to [NAC 459.970](#) to [459.9729](#), inclusive, to determine if the soil is a hazardous waste.

(b) Is below the soil action level must be managed in a manner approved by the Division after obtaining written approval from the Division.

2. As used in this section:

(a) "Hazardous substance" has the meaning ascribed to it in [NRS 459.429](#).

(b) "Hazardous waste" has the meaning ascribed to it in [NAC 445A.826](#).

(c) "Soil action level" has the meaning ascribed to it in [NAC 459.9973](#).

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A 1-23-96; R083-05, 10-31-2005)

NAC 459.9975 Monitoring of groundwater. ([NRS 459.826](#), [459.830](#))

1. If a regulated substance is detected in or is suspected to have contaminated groundwater, the owner or operator shall, with the approval of the Division, install at least one monitoring well. The number of wells and the location, design and installation of each well must be approved by the Division of Water Resources of the Department and the Division.

2. Monitoring of groundwater must be conducted for:

(a) Benzene, toluene, xylene, and ethylbenzene (BTEX), by test method 8260 of the Environmental Protection Agency or an equivalent method that is approved by the Division;

(b) If suspected or detected, methyl tertiary-butyl ether (MTBE), by test method 8260 of the Environmental Protection Agency or an equivalent method that is approved by the Division;

(c) Any other pollutant that is present in the groundwater as a result of the action of the owner or operator; and

(d) Any other constituent as directed by the Division.

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A 1-23-96; R083-05, 10-31-2005)

NAC 459.9976 Corrective action required when excessive petroleum floating on surface of water of aquifer. ([NRS 459.826](#), [459.834](#))

1. The owner or operator shall take corrective action if the free product action level is exceeded.

2. As used in this section, "free product action level" means the presence of 1/2 inch or more of a petroleum substance that is free-floating on the surface of the water of an aquifer using a measurement of accuracy of .01 feet.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.9977 Corrective action required when dissolved product action level exceeded; exemptions. ([NRS 459.826](#), [459.834](#))

1. Except as otherwise provided in subsections 2 and 3, the owner or operator of a storage tank shall take corrective action if the dissolved product action level is exceeded.

2. The Administrator of the Division may exempt an owner or operator from the requirements of subsection 1 if a written request and supporting information are filed with the Division. The Administrator may grant an exemption if:

(a) The groundwater affected by the release does not serve as a source of drinking water and is not likely to serve as a source of drinking water in the future because it is economically or technologically impractical to:

(1) Recover the water for drinking because of the depth or location of the water; or

(2) Render the water fit for human consumption.

(b) The total dissolved solids in the groundwater is more than 10,000 milligrams per liter and the groundwater is not reasonably expected to become a supply of drinking water; or

(c) The owner or operator demonstrates that the contamination does not and will not in the future exceed the dissolved product action level beyond the boundary of the site.

3. The Division:

(a) Will not require corrective action for dissolved product action level if the owner or operator provides a study which demonstrates that it is not feasible to achieve the water quality criteria based on a review of the available technology and the cost of corrective action.

(b) May require the owner or operator to take corrective action for dissolved product that is below the dissolved product action level if the use or potential use of the ground or surface water affected by the release would be detrimental to the potential or actual beneficial use of that water.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.9978 Corrective action: Determining when aquifer is clean. ([NRS 459.826](#), [459.834](#))

1. After corrective action, an aquifer is clean if:

(a) The results of an assessment indicate that the affected groundwater is consistently below the dissolved product action level; or

(b) After treatment of groundwater for not less than 1 year, the concentration of dissolved constituents versus time, measured monthly, fits a curve that is substantially linear and approaches zero slope at the final portion of the curve. The curve is defined by the following equation:

$$C = C_f + C_o e^{-kt}$$

2. For the purposes of subsection 1:

(a) "C" means the concentration of contaminant at t in micrograms per liter.

(b) "C_f" means the final concentration in micrograms per liter which the curve approaches asymptotically.

(c) "C_o" means the difference between the final concentration and the concentration at time zero in micrograms per liter.

(d) "e" means the base of the natural log or 2.718.

(e) "k" means the decay constant.

(f) "t" means time in days.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.9979 Corrective action: Periodic monitoring; use of alternative technology. ([NRS 459.826](#), [459.834](#))

1. After any corrective action has been taken, the responsible person shall monitor the groundwater for not less than 1 year. The Division shall determine the frequency of the monitoring, but in no case may the Division require monitoring more frequent than once each month of that year.

2. The Division may allow an owner or operator to use alternative technology when taking corrective action on soil or groundwater.

(Added to NAC by Environmental Comm'n, eff. 10-9-90; A 1-23-96)

NAC 459.9985 No relief of responsibility to secure approval or permit. ([NRS 459.826](#)) [NAC 459.9971](#) to [459.9979](#), inclusive, does not relieve the owner or operator of the responsibility for securing an approval or permit from other governmental or regulatory entities.

(Added to NAC by Environmental Comm'n, eff. 10-9-90)

NAC 459.999 Severability. ([NRS 459.826](#)) If any provision of [NAC 459.9921](#) to [459.999](#), inclusive, or the application of any such provision to any person, thing or circumstance is held invalid, it is intended that the invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

(Added to NAC by Environmental Comm'n, eff. 6-11-90; A 10-9-90)—(Substituted in revision for NAC 459.998)

FUND FOR BROWNFIELD PROJECTS

General Provisions

NAC 459.9991 Definitions. ([NRS 459.892](#)) As used in [NAC 459.9991](#) to [459.99939](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.99911](#) to [459.99923](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99911 "Applicant" defined. ([NRS 459.892](#)) "Applicant" means any person who has submitted an application to the Division for financial assistance from the Fund.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99912 "Brownfield site" defined. ([NRS 459.892](#)) "Brownfield site" has the meaning ascribed to it in [NRS 459.866](#).

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99913 "Corrective action" defined. ([NRS 459.892](#)) "Corrective action" means any action taken at

a brownfield site pursuant to the requirements of [NAC 445A.226](#) to [445A.22755](#), inclusive.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99914 “Disadvantaged business” defined. ([NRS 459.892](#)) “Disadvantaged business” means a business owned or controlled by women or members of a racial or ethnic minority group.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99915 “Division” defined. ([NRS 459.892](#)) “Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99916 “Eligible entity” defined. ([NRS 459.892](#)) “Eligible entity” has the meaning ascribed to it in 42 U.S.C. § 9604(k)(1), except that the term:

1. Includes a nonprofit organization; and

2. Does not include:

(a) A government entity created by a state legislature;

(b) An Alaska Native Regional Corporation or an Alaska Native Village Corporation, as defined in the Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1601 et seq., or the Metlakatla Indian Community; or

(c) Any person who is otherwise ineligible to receive a loan from the Fund pursuant to [NAC 459.99924](#).

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99917 “Financial assistance” defined. ([NRS 459.892](#)) “Financial assistance” means a loan or subgrant from the Fund.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99918 “Fund” defined. ([NRS 459.892](#)) “Fund” means the Fund for Brownfield Projects created by [NRS 459.878](#).

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99919 “Hazardous substance” defined. ([NRS 459.892](#)) “Hazardous substance” has the meaning ascribed to it in [NRS 459.429](#).

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.9992 “Person” defined. ([NRS 459.892](#)) “Person” includes a government, governmental agency or political subdivision of a government.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99921 “Program for voluntary cleanup” defined. ([NRS 459.892](#)) “Program for voluntary cleanup” means the program established in [NRS 459.610](#) to [459.658](#), inclusive.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99922 “Property” defined. ([NRS 459.892](#)) “Property” means real property located in this State where a brownfield site is located.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99923 “Recipient” defined. ([NRS 459.892](#)) “Recipient” means a person, including an eligible entity, who receives financial assistance from the Fund.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

Loans From Fund

NAC 459.99924 Eligibility for loan: Ineligible persons. ([NRS 459.892](#)) A person is ineligible to receive a loan from the Fund with respect to a property if the person:

1. Is subject to a pending investigation or ongoing enforcement action of the Federal Government pursuant to

the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.;

2. Is subject to a pending investigation or ongoing enforcement action of the Division with respect to the property; or

3. Was an owner or operator of the property who caused or contributed to the release of the hazardous substance which would be the subject of the cleanup using a loan from the Fund.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99925 Eligibility for loan: Requirements for site. ([NRS 459.892](#))

1. Except as otherwise provided in this section, for an applicant to be eligible for a loan from the Fund with respect to a property, the property must contain the site of a release of a hazardous substance, pollutant or petroleum product and qualify as a brownfield site.

2. An applicant may be eligible for a loan from the Fund with respect to a disposal site only if the Division determines that:

(a) The disposal site poses a threat to human health or the environment because of the presence of a hazardous substance and presents a danger to human health beyond any physical hazards that may be present at the disposal site;

(b) The disposal site was closed before the enactment of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; and

(c) Corrective action is not required by the Division pursuant to [NAC 444.7481](#) to [444.7499](#), inclusive.

3. An applicant is not eligible for a loan from the Fund with respect to a property which is eligible for funding pursuant to [NAC 590.700](#) to [590.790](#), inclusive, or is otherwise subject to [NAC 459.9921](#) to [459.999](#), inclusive, unless:

(a) The loan will be used for corrective action on the property exclusively to address a hazardous substance which is distinct from, and not commingled with, petroleum contamination that is eligible for reimbursement pursuant to [NAC 590.700](#) to [590.790](#), inclusive;

(b) The Division determines that the applicant is not eligible for funding pursuant to [NAC 590.700](#) to [590.790](#), inclusive, for petroleum contamination on the property and:

(1) The applicant did not cause or contribute to the release of petroleum products; and

(2) The cleanup of the petroleum contamination would protect human health and the environment and result in the redevelopment of the site; or

(c) The loan will be used to continue the remediation of a hazardous substance commingled with petroleum contamination after the issues relating to the petroleum contamination have been mitigated.

4. As used in this section, "disposal site" has the meaning ascribed to it in [NRS 444.460](#).

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99926 Application for loan: Submission; form and contents. ([NRS 459.892](#))

1. A person may submit an application for a loan from the Fund at any time. The application must be submitted on a form prescribed by the Division.

2. An application for a loan from the Fund must include:

(a) An accurate description of the property;

(b) Documentation of a source of loan repayment;

(c) An agreement that the applicant or, if the applicant does not own the property, the owner of the property will, if required pursuant to [NAC 459.99928](#), grant a security interest in the property to the Division to secure the financing necessary for the completion of the corrective action;

(d) Documentation that the planned future development of the property is consistent with the current and reasonably foreseeable future land uses in the area;

(e) An accounting of the total debt against the property;

(f) An appraisal of the estimated value of the property after all necessary corrective actions are complete;

(g) A copy of a phase I and phase II environmental assessment of the site which is performed in a manner consistent with the requirements established by the Division or ASTM International; and

(h) A detailed credit history of the applicant.

3. In addition to the original application, the applicant must provide two copies of the application for review by the Division.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99927 Application for loan: Additional requirements for certain applicants. ([NRS 459.892](#))

1. If an applicant for a loan from the Fund is not the property owner of the brownfield site, the applicant must submit with the application a copy of a written option that entitles the applicant to purchase the property.

2. If the applicant is a governmental entity, the applicant must demonstrate that it has the legal authority to enter into a legally binding obligation to repay the loan.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99928 Application for loan: Provision of collateral. ([NRS 459.892](#)) The Division may require an applicant for a loan from the Fund to provide collateral in an amount that is equal to the amount of the loan. The required collateral may include, without limitation, the granting to the Division of a security interest in the property for which the loan is being sought.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

Subgrants From Fund

NAC 459.99929 Duties of Division; eligibility of applicant for subgrant. ([NRS 459.892](#))

1. The Division may use not more than 40 percent of the money in the Fund to make subgrants to eligible entities. In determining whether to make a subgrant, the Division shall consider the benefit of promoting the long-term availability of money from the Fund for remediation at brownfield sites.

2. An applicant may be eligible for a subgrant from the Fund with respect to a property if:

(a) The property is owned or held in trust by the applicant; and

(b) The property is of a type described in [NAC 459.99925](#) with respect to which an applicant may be eligible for a loan from the Fund.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.9993 Application for subgrant: Submission; form and contents; consideration for approval. ([NRS 459.892](#))

1. An eligible entity may submit an application for a subgrant from the Fund with respect to a property at any time.

2. The application must be submitted on a form prescribed by the Division and include:

(a) A demonstration that the applicant is an eligible entity;

(b) A detailed description of the intended redevelopment of the property and its projected benefits; and

(c) A statement as to whether there is an intention to transfer ownership of the property after the corrective action is completed.

3. In determining whether to approve an application for a subgrant from the Fund, the Division shall consider:

(a) The extent to which the subgrant will facilitate the creation of, preservation of or addition to a park, greenway, undeveloped property, recreational property or other property used for nonprofit purposes;

(b) The extent to which the subgrant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community; and

(c) The extent to which the subgrant will facilitate the use or reuse of existing infrastructure in the community.

4. In addition to the original application, the applicant must provide one copy of the application for review by the Division.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99931 Duties of recipient upon completion of cleanup. ([NRS 459.892](#)) Upon completion of the cleanup of a brownfield site with respect to which a subgrant has been made, the eligible entity that received the subgrant shall close out the account for the subgrant in the manner required by the Division. The eligible entity shall promptly remit to the Division for deposit in the Fund all money from the subgrant which has not been expended or committed for expenditure for the cleanup of the brownfield site as of the date established by the Division for closing the account.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

Recipients of Financial Assistance

NAC 459.99932 Conditions for payment and repayment of financial assistance. ([NRS 459.892](#))

1. As soon as an agreement for financial assistance between the Division and a recipient is signed and the money is available, the entire amount of the financial assistance will be paid to the recipient.
2. Conditions for the payment and any repayment of financial assistance from the Fund:
 - (a) Must be set forth in the agreement for financial assistance between the Division and the recipient; and
 - (b) Are subject to any requirements and limitations that may be imposed by the United States Environmental Protection Agency.
3. As a condition of receiving financial assistance from the Fund, a recipient must agree to provide matching money equal to at least 20 percent of the amount received as financial assistance from the Fund. The recipient must demonstrate through its project accounting that the requirement concerning matching money is being met. (Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99933 Use of money received as financial assistance. ([NRS 459.892](#))

1. A recipient may not use money received as financial assistance for the payment of:
 - (a) The application fee for the program for voluntary cleanup;
 - (b) The recovery by the Division of costs incurred by the Division under the program for voluntary cleanup;
 - (c) Costs for precleanup environmental response activities, such as site assessment, identification and characterization;
 - (d) Costs for activities related to site development and construction that are not corrective actions;
 - (e) Costs for monitoring and data collection that are necessary to apply for, or comply with, environmental permits required by other state or federal laws unless such a permit is a required component of the corrective action; or
 - (f) A penalty or fine.
2. A recipient may use money received as financial assistance for the preparation of a plan for corrective action pursuant to [NAC 445A.2271](#) or [445A.2273](#) or a remedial agreement pursuant to [NRS 459.636](#) if the characterization data needed to support such a plan or agreement was developed without the use of the financial assistance.
3. A recipient shall not use money received as financial assistance to pay any of its administrative costs related to the management of the financial assistance. An administrative cost for an activity that is determined by the Division to be an allowable cost may be used to meet the requirement of matching money set forth in subsection 3 [NAC 459.99932](#). The Division shall determine an administrative cost to be an allowable cost if the administrative cost directly involves the design and monitoring of performance of a corrective action.
4. A recipient of a subgrant shall not use money from the subgrant to purchase any equipment which costs more than \$5,000. Any such equipment which is necessary to conduct corrective actions at the property must be rented or leased by the recipient for the period necessary to complete the corrective actions. (Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99934 Cleanup by recipient enrolled in program for voluntary cleanup. ([NRS 459.892](#))

1. Any cleanup of a brownfield site financed with money from the Fund by a recipient who is enrolled in the program for voluntary cleanup must be done in compliance with [NRS 459.610](#) to [459.658](#), inclusive, and [NAC 459.973](#) to [459.9743](#), inclusive.
2. The Division may withdraw financial assistance paid to a recipient if the Division determines that the recipient is not complying with the requirements set forth in [NRS 459.610](#) to [459.658](#), inclusive, and [NAC 459.973](#) to [459.9743](#), inclusive. (Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99935 Cleanup by recipient not enrolled in program for voluntary cleanup. ([NRS 459.892](#))

1. Any cleanup of a brownfield site financed with money from the Fund by a recipient who is not enrolled in the program for voluntary cleanup must be done in compliance with [NAC 445A.226](#) to [445A.22755](#), inclusive.
2. Before approving a plan and schedule for completing the corrective action that is submitted by the recipient pursuant to [NAC 445A.2271](#) or [445A.2273](#), the Division must:
 - (a) Publish a notice and brief summary of the plan and schedule in a newspaper of general circulation in the county where the brownfield site is located;
 - (b) Make an electronic version of the entire plan and schedule available on its Internet website;

(c) Make reasonable efforts to provide personal notice to all owners and residents of property located within 500 yards of the outer boundary of the property on which the corrective action is to be performed; and

(d) Provide 30 days for the submission of written comments by the public.

3. The Division may withdraw financial assistance paid to a recipient if the Division determines that the recipient is not complying with the requirements set forth in [NAC 445A.226](#) to [445A.22755](#), inclusive.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99936 Certification of compliance with federal requirements; maintenance of records and accounts; audit of financial records. ([NRS 459.892](#))

1. Before a contract for financial assistance is transmitted to a recipient for signature, the recipient must certify that it has complied and will continue to comply with all requirements of federal law that apply to the operation of the Fund.

2. A recipient shall:

(a) Establish an official file that contains an adequate record of all significant actions relating to the brownfield site;

(b) Establish accounts that accurately and adequately show all amounts of money:

(1) Received as financial assistance from the Fund;

(2) Spent on the brownfield site; and

(3) Used to comply with requirements concerning matching money;

(c) Establish a system of accounting which ensures that the final total costs relating to the cleanup of the brownfield site, including all direct and indirect costs, are recorded accurately;

(d) Establish and maintain such other accounts and records as are required by the Division to comply with requirements for reporting established by the Federal Government; and

(e) Retain all records relating to the brownfield site for:

(1) At least 3 years after the final repayment of financial assistance or the date on which the account for the subgrant is closed out by the Division, as appropriate; or

(2) Such longer period as required by the Division.

3. All records of a recipient relating to the brownfield site must be made available at any reasonable time for inspection or copying by any authorized representative of the Division.

4. If an audit is required by federal law or by an agency of the Federal Government, or if the Division determines that an audit is necessary to ensure the integrity of the Fund, the Division may require an audit of the financial records of a recipient relating to a brownfield site. Such an audit must be performed at the expense of the recipient by a certified public accountant who is independent of the recipient. A report of the audit must be prepared by the auditor in the form prescribed by the Division.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99937 Contracts for remedial services. ([NRS 459.892](#)) Before a recipient may contract for remedial services relating to a brownfield site which involves money from the Fund, the recipient must submit to the Division, in the form prescribed by the Division, a request for approval of the contract. The Division may approve the contract only if the contract is being awarded to the lowest responsive, responsible bidder. The Division shall review the request for approval to ensure that the recipient, its consultants and its contractors have complied with the requirements set forth in [NAC 459.99938](#) relating to disadvantaged businesses. The Division shall not participate in the resolution of any dispute concerning bidding relating to the contract for remedial services. The resolution of any such dispute is the sole responsibility of the recipient. The Division shall not approve a request for the approval of a contract for remedial services until all such disputes have been resolved.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

NAC 459.99938 Compliance with certain labor laws; participation of disadvantaged businesses. ([NRS 459.892](#))

1. A recipient shall comply with all applicable provisions of the Davis-Bacon Act, 40 U.S.C. §§ 3141 et seq., and [NRS 338.010](#) to [338.090](#), inclusive. The Division shall review the final contract documents to verify that the proper determinations of wages pursuant to federal and state law have been included. The recipient is responsible for ensuring compliance with all applicable labor laws.

2. An applicant for and recipient of financial assistance shall comply with the requirements of federal law concerning the participation of disadvantaged businesses.

3. A recipient of financial assistance shall attempt to comply with the fair share percentages established annually for disadvantaged businesses by the Division and the United States Environmental Protection Agency. Any recipient who does not meet these goals shall submit evidence of compliance with the affirmative steps set forth in subsection 5.

4. A recipient of financial assistance shall submit with his request for approval of a contract for remedial services a report, in the form prescribed by the Division, of participation by disadvantaged businesses. If the low bidder on a contract for remedial services does not meet the fair share requirements for disadvantaged businesses, the recipient shall submit to the Division evidence of compliance by the bidder with the affirmative steps set forth in subsection 5.

5. If the recipient awards a contract for remedial services, the recipient shall take affirmative steps to ensure that disadvantaged businesses are used to the extent possible as sources of supplies, equipment, materials and services. These affirmative steps must include, without limitation:

- (a) Including such businesses on solicitation lists;
- (b) Ensuring that such businesses are solicited if they are potential sources; and
- (c) Dividing total requirements, if economically feasible, into small tasks or quantities to permit maximum participation by disadvantaged businesses.

6. During the implementation of corrective actions or the monitoring of the corrective actions after they have been completed, the recipient shall permit any authorized representative of the Division to enter onto the site of the project at any reasonable time.

7. A copy of each executed change order relating to a contract for remedial services must be submitted to the Division.

8. A recipient shall comply with the requirements of [NAC 459.970](#) to [459.9729](#), inclusive.

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

Miscellaneous Provisions

NAC 459.99939 Liability of certain bona fide prospective purchasers or innocent purchasers for response actions or cleanup of site. ([NRS 459.892](#))

1. A person who, as a bona fide prospective purchaser or an innocent purchaser, is not liable for response actions or cleanup of a site pursuant to [NRS 459.930](#) does not become liable for response actions or cleanup at the site solely because the person applied for or received financial assistance from the Fund.

2. The Division may, pursuant to subsection 4 of [NRS 459.930](#), seek to recover costs relating to a response action or cleanup that are incurred and unrecovered by the State of Nevada with respect to a brownfield site for which a subgrant has been made to a bona fide prospective purchaser of the brownfield site if:

- (a) The bona fide prospective purchaser intends to dispose of the property for private development upon completion of the environmental cleanup; and
- (b) The Division determines that the recovery of such costs is in the best interest of the continued operation of the Fund.

3. All money recovered pursuant to subsection 2 must be deposited in the Fund.

4. For the purposes of this section:

- (a) "Bona fide prospective purchaser" has the meaning ascribed to it in [NRS 459.930](#).
- (b) "Innocent purchaser" has the meaning ascribed to it in [NRS 459.930](#).

(Added to NAC by Environmental Comm'n by R084-04, eff. 10-8-2004)

PRACTICE BEFORE STATE ENVIRONMENTAL COMMISSION

NAC 459.9995 Appeal of final decision of State Department of Conservation and Natural Resources. ([NRS 233B.050](#))

1. Any person who requests a hearing before the State Environmental Commission concerning a final decision of the State Department of Conservation and Natural Resources pursuant to [chapter 459](#) of NRS may do so by filing a request, within 10 days after notice of the action of the Department, on form 3* with the State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

2. The provisions of [NAC 445B.875](#) to [445B.899](#), inclusive, apply to a hearing of the State Environmental Commission requested pursuant to subsection 1.

*(See adopting agency for form.)

(Added to NAC by Environmental Comm'n, eff. 10-29-93)

CHAPTER 459 - HAZARDOUS MATERIALS

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COMMITTEE ON HIGH-LEVEL RADIOACTIVE WASTE

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- [NRS 459.3816](#) Designation of highly hazardous substances and explosives: Regulations; amendment.
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[NRS 459.38195](#) Investigation of certain accidents: Powers and duties of Division; duty of owner or operator of facility to cooperate.
[NRS 459.382](#) Reports of regulatory agencies; review of requirements of regulatory agencies; final authority of Division.
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WESTERN INTERSTATE NUCLEAR COMPACT

NRS 459.001 Enactment; text. The Western Interstate Nuclear Compact, denominated in [NRS 459.001](#) to [459.005](#), inclusive, as the “compact,” is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region’s people.

ARTICLE II. THE BOARD

(a) There is hereby created an agency of the party states to be known as the “Western Interstate Nuclear Board” (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be

represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

ARTICLE III. FINANCES

(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II (h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II (h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant

and the report of the audit shall be included in and become a part of the annual report of the Board.

(f) The Accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

ARTICLE IV. ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V. POWERS

The Board shall have power to—

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to nonnuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states of their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor or subcontractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake

any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

ARTICLE VI. MUTUAL AID

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such request: provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

ARTICLE VII. SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted

administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

ARTICLE VIII. OTHER LAWS AND RELATIONS

Nothing in this compact shall be construed to—

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress, nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

ARTICLE IX. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: Provided, that it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to

the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

(Added to NRS by 1969, 1138)—(Substituted in revision for NRS 459.200)

NRS 459.002 Appointment of member of Board by Governor. The Governor shall appoint the member of the Western Interstate Nuclear Board to represent this state.

(Added to NRS by 1969, 1146)—(Substituted in revision for NRS 459.210)

NRS 459.003 Alternate member: Designation; powers and duties. The member representing this State on the Western Interstate Nuclear Board may be represented thereon by an alternate designated by him. Any such alternate may discharge the member's duties and perform the member's functions to the extent and during the time designated by the member, pursuant to Article II (a) of the Compact.

(Added to NRS by 1969, 1146)—(Substituted in revision for NRS 459.220)

NRS 459.004 Bylaws, rules and regulations filed with Secretary of State. Pursuant to Article II (j) of the Compact, the Western Interstate Nuclear Board shall file copies of its bylaws, rules and regulations, and of any amendments thereto, with the Secretary of State.

(Added to NRS by 1969, 1146)—(Substituted in revision for NRS 459.230)

NRS 459.005 Applicability of Nevada Industrial Insurance Act to persons dispatched to another state.

The provisions of the Nevada Industrial Insurance Act, [chapters 616A to 616D](#), inclusive, of NRS, and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state pursuant to Article VI of the Compact. If the persons so dispatched are officers or employees of any political subdivision of this State, they are entitled to the same compensation or other benefits in case of injury or death to which they would have been entitled had such injury or death occurred while coping with a nuclear incident in their respective jurisdictions and in their regular employment.

(Added to NRS by 1969, 1146)—(Substituted in revision for NRS 459.240)

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

NRS 459.007 Enactment; text. The Rocky Mountain Low-level Radioactive Waste Compact, referred to as the "compact" in this section and [NRS 459.008](#) is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE 1

FINDINGS AND PURPOSE

A. The party states agree that each state is responsible for providing for the management of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the Federal Government or federal research and development activities. Moreover, the party states find that the United States Congress, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

B. It is the purpose of the party states, by entering into an interstate compact, to establish the means for cooperative effort in managing low-level radioactive waste; to ensure the availability and economic viability of sufficient facilities for the proper and efficient management of low-level radioactive waste generated within the region while preventing unnecessary and uneconomic proliferation of such facilities; to encourage reduction of the volume of low-level radioactive waste requiring disposal within the region; to restrict management within the region of low-level radioactive waste generated outside the region; to distribute the costs, benefits and obligations of low-level radioactive waste management equitably among the party states; and by these means to promote the health, safety and welfare of the residents within the region.

ARTICLE 2

DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

- A. "Board" means the Rocky Mountain low-level radioactive waste board;
- B. "Carrier" means a person who transports low-level waste;
- C. "Disposal" means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial;
- D. "Facility" means any property, equipment or structure used or to be used for the management of low-level waste;
- E. "Generate" means to produce low-level waste;
- F. "Host state" means a party state in which a regional facility is located or being developed;
- G. "Low-level waste" or "waste" means radioactive waste, other than:
 - (1) Waste generated as a result of defense activities of the Federal Government or federal research and development activities;
 - (2) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;
 - (3) Waste material containing transuranic elements with contamination levels greater than 10 nanocuries per gram of waste material;
 - (4) By-product material as defined in section 11 e. (2) of the Atomic Energy Act of 1954, as amended on November 8, 1978; or
 - (5) Wastes from mining, milling, smelting, or similar processing of ores and mineral-bearing material primarily for minerals other than radium;
- H. "Management" means collection, consolidation, storage, treatment, incineration or disposal;
- I. "Operator" means a person who operates a regional facility;
- J. "Person" means an individual, corporation, partnership or other legal entity, whether public or private;
- K. "Region" means the combined geographical area within the boundaries of the party states; and
- L. "Regional facility" means a facility within any party state which either:
 - (1) Has been approved as a regional facility by the board; or
 - (2) Is the low-level waste facility in existence on January 1, 1982, at Beatty, Nevada.

ARTICLE 3

RIGHTS, RESPONSIBILITIES AND OBLIGATIONS

A. There shall be regional facilities sufficient to manage the low-level waste generated within the region. At least one regional facility shall be open and operating in a party state other than Nevada within 6 years after this compact becomes law in Nevada and in one other state.

B. Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states; provided, however, that a host state may close a regional facility when necessary for public health or safety.

C. Each party state which, according to reasonable projections made by the board, is expected to generate 20 percent or more in cubic feet except as otherwise determined by the board of the low-level waste generated within the region has an obligation to become a host state in compliance with subsection D of this article.

D. A host state, or a party state seeking to fulfill its obligation to become a host state, shall:

(1) Cause a regional facility to be developed on a timely basis as determined by the board, and secure the approval of such regional facility by the board as provided in article 4 before allowing site preparation or physical construction to begin;

(2) Ensure by its own law, consistent with any applicable federal law, the protection and preservation of public health and safety in the siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state;

(3) Subject to the approval of the board, ensure that charges for management of low-level waste at the regional facilities within the state are reasonable;

(4) Solicit comments from each other party state and the board regarding siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state and respond in writing to such comments;

(5) Submit an annual report to the board which contains projections of the anticipated future capacity and availability of the regional facilities within the state, together with other information required by the board; and

(6) Notify the board immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual

report to the board.

E. Once a party state has served as a host state, it shall not be obligated to serve again until each other party state having an obligation under subsection C of this article has fulfilled that obligation. Nevada, already being a host state, shall not be obligated to serve again as a host state until every other party state has so served.

F. Each party state:

(1) Agrees to adopt and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to packaging and transportation requirements and regulations. Such procedures shall include but are not limited to:

- (a) Periodic inspections of packaging and shipping practices;
- (b) Periodic inspections of waste containers while in the custody of carriers; and
- (c) Appropriate enforcement actions with respect to violations;

(2) Agrees that after receiving notification from a host state that a person in the party state has violated packaging, shipping or transportation requirements or regulations, it shall take appropriate action to ensure that violations do not recur. Appropriate action may include but is not limited to the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected;

(3) May impose fees to recover the cost of the practices provided for in paragraphs (1) and (2) of this subsection;

(4) Shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility; and

(5) May impose requirements or regulations more stringent than those required by this subsection.

ARTICLE 4

BOARD APPROVAL OF REGIONAL FACILITIES

A. Within 90 days after being requested to do so by a party state, the board shall approve or disapprove a regional facility to be located within that state.

B. A regional facility shall be approved by the board if and only if the board determines that:

- (1) There will be, for the foreseeable future, sufficient demand to render operation of the proposed facility economically feasible without endangering the economic feasibility of operation of any other regional facility; and
- (2) The facility will have sufficient capacity to serve the needs of the region for a reasonable period of years.

ARTICLE 5

SURCHARGES

A. The board shall impose a compact surcharge per unit of waste received at any regional facility. The surcharge shall be adequate to pay the costs and expenses of the board in the conduct of its authorized activities and may be increased or decreased as the board deems necessary.

B. A host state may impose a state surcharge per unit of waste received at any regional facility within the state. The host state may fix and change the amount of the state surcharge subject to approval by the board. Money received from the state surcharge may be used by the host state for any purpose authorized by its own law, including but not limited to costs of licensure and regulatory activities related to the regional facility, reserves for decommissioning and long-term care of the regional facility and local impact assistance.

ARTICLE 6

THE BOARD

A. The Rocky Mountain low-level radioactive waste board, which shall not be an agency or instrumentality of any party state, is created.

B. The board shall consist of one member from each party state. Each party state shall determine how and for what term its member shall be appointed, and how and for what term any alternate may be appointed to perform that member's duties on the board in the member's absence.

C. Each party state is entitled to one vote. A majority of the board constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the board is necessary for the board to take any action.

D. The board shall meet at least once a year and otherwise as its business requires. Meetings of the board may be held in any place within the region deemed by the board to be reasonably convenient for the attendance of persons required or entitled to attend and where adequate accommodations may be found. Reasonable public notice and opportunity for comment shall be given with respect to any meeting; provided, however, that nothing in this subsection shall preclude the board from meeting in executive session when seeking legal advice from its attorneys or when discussing the employment, discipline or termination of any of its employees.

E. The board shall pay necessary travel and reasonable per diem expenses of its members, alternates and advisory committee members.

F. The board shall organize itself for the efficient conduct of its business. It shall adopt and publish rules consistent with this compact regarding its organization and procedures. In special circumstances the board, with unanimous consent of its members, may take actions by telephone; provided, however, that any action taken by telephone shall be confirmed in writing by each member within 30 days. Any action taken by telephone shall be noted in the minutes of the board.

G. The board may use for its purposes the services of any personnel or other resources which may be offered by any party state.

H. The board may establish its offices in space provided for that purpose by any of the party states or, if space is not provided or is deemed inadequate, in any space within the region selected by the board.

I. Consistent with available funds, the board may contract for necessary personnel services and may employ such staff as it deems necessary to carry out its duties. Staff shall be employed without regard for the personnel, civil service or merit system laws of any of the party states and shall serve at the pleasure of the board. The board may provide appropriate employee benefit programs for its staff.

J. The board shall establish a fiscal year which conforms to the extent practicable to the fiscal years of the party states.

K. The board shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the board shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the board.

L. The board shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

M. Upon legislative enactment of this compact, each party state shall appropriate \$70,000 to the board to support its activities prior to the collection of sufficient funds through the compact surcharge imposed pursuant to subsection A of article 5 of this compact.

N. The board may accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source. The nature, amount and condition, if any, attendant upon any donation, grant or other resources accepted pursuant to this subsection, together with the identity of the donor or grantor, shall be detailed in the annual report of the board.

O. In addition to the powers and duties conferred upon the board pursuant to other provisions of this compact, the board:

(1) Shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the board, including an annual report to be submitted by December 15;

(2) May assemble and make available to the governments of the party states and to the public through its members information concerning low-level waste management needs, technologies and problems;

(3) Shall keep a current inventory of all generators within the region, based upon information provided by the party states;

(4) Shall keep a current inventory of all regional facilities, including information on the size, capacity, location, specific wastes capable of being managed and the projected useful life of each regional facility;

(5) May keep a current inventory of all low-level waste facilities in the region, based upon information provided by the party states;

(6) Shall ascertain on a continuing basis the needs for regional facilities and capacity to manage each of the various classes of low-level waste;

(7) May develop a regional low-level waste management plan;

(8) May establish such advisory committees as it deems necessary for the purpose of advising the board on matters pertaining to the management of low-level waste;

(9) May contract as it deems appropriate to accomplish its duties and effectuate its powers, subject to its projected available resources; but no contract made by the board shall bind any party state;

(10) Shall make suggestions to appropriate officials of the party states to ensure that adequate emergency response programs are available for dealing with any exigency that might arise with respect to low-level waste transportation or management;

(11) Shall prepare contingency plans, with the cooperation and approval of the host state, for management of

low-level waste in the event any regional facility should be closed;

(12) May examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge;

(13) Shall have the power to sue; and

(14) When authorized by unanimous vote of its members, may intervene as of right in any administrative or judicial proceeding involving low-level waste.

ARTICLE 7

PROHIBITED ACTS AND PENALTIES

A. It shall be unlawful for any person to dispose of low-level waste within the region, except at a regional facility; provided, however, that a generator who, prior to January 1, 1982, had been disposing of only his own waste on his own property may, subject to applicable federal and state law, continue to do so.

B. After January 1, 1986, it shall be unlawful for any person to export low-level waste which was generated within the region outside the region unless authorized to do so by the board. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) The economic impact of the export of the waste on the regional facilities;

(2) The economic impact on the generator of refusing to permit the export of the waste; and

(3) The availability of a regional facility appropriate for the disposal of the waste involved.

C. After January 1, 1986, it shall be unlawful for any person to manage any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the board and by the state in which that management takes place. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) The impact of importing waste on the available capacity and projected life of the regional facilities;

(2) The economic impact on the regional facilities; and

(3) The availability of a regional facility appropriate for the disposal of the type of waste involved.

D. It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) The impact of allowing such management on the available capacity and projected life of the regional facilities;

(2) The availability of a facility appropriate for the disposal of the type of waste involved;

(3) The existence of transuranic elements in the waste; and

(4) The economic impact on the regional facilities.

E. Any person who violates subsection A or B of this article shall be liable to the board for a civil penalty not to exceed 10 times the charges which would have been charged for disposal of the waste at a regional facility.

F. Any person who violates subsection C or D of this article shall be liable to the board for a civil penalty not to exceed 10 times the charges which were charged for management of the waste at a regional facility.

G. The civil penalties provided for in subsections E and F of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

H. Out of any civil penalty collected for a violation of subsection A or B of this article, the board shall pay to the appropriate operator a sum sufficient in the judgment of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

I. Any civil penalty collected for a violation of subsection C or D of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

J. Violations of subsection A, B, C, or D of this article may be enjoined by any court of general jurisdiction within the region where necessary jurisdiction is obtained in any appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

K. No state attorney general shall be required to bring any proceeding under any subsection of this article, except

upon his consent.

ARTICLE 8

ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL, EXCLUSION

A. Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming are eligible to become parties to this compact. Any other state may be made eligible by unanimous consent of the board.

B. An eligible state may become a party state by legislative enactment of this compact or by executive order of its governor adopting this compact; provided, however, a state becoming a party by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless before such adjournment the legislature shall have enacted this compact.

C. This compact shall take effect when it has been enacted by the legislatures of two eligible states. However, subsections B and C of article 7 shall not take effect until Congress has by law consented to this compact. Every 5 years after such consent has been given, Congress may by law withdraw its consent.

D. A state which has become a party state by legislative enactment may withdraw by legislation repealing its enactment of this compact; but no such repeal shall take effect until 2 years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until 5 years after the effective date of the withdrawal; provided, however, this provision shall not apply to the existing facility in Beatty, Nevada.

E. A party state may be excluded from this compact by a two-thirds' vote of the members representing the other party states, acting in a meeting, on the ground that the state to be excluded has failed to carry out its obligations under this compact. Such an exclusion may be terminated upon a two-thirds' vote of the members acting in a meeting.

ARTICLE 9

CONSTRUCTION AND SEVERABILITY

A. The provisions of this compact shall be broadly construed to carry out the purposes of the compact.

B. Nothing in this compact shall be construed to affect any judicial proceeding pending on the effective date of this compact.

C. If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

(Added to NRS by 1983, 1251)

NRS 459.008 Appointment of member of Board by Governor; designation of alternate member.

1. The Governor shall appoint the member of the Rocky Mountain Low-Level Radioactive Waste Board to represent this State. The member serves at the pleasure of the Governor.

2. The member representing this State on the Rocky Mountain Low-Level Radioactive Waste Board may, in his absence, be represented on the Board by an alternate designated by him. Such an alternate may discharge the member's duties and perform the member's functions to the extent and during the time designated by the member, pursuant to subsection B of article 6 of the Compact.

(Added to NRS by 1983, 1259)

NRS 459.0083 State surcharge: Imposition; collection; distribution; deposit for credit to Fund for Care of Sites for Disposal of Radioactive Waste. There is hereby imposed a state surcharge of \$2 per cubic foot of radioactive waste received at Nevada's regional facility in Beatty. This state surcharge must be collected at the same time and in the manner provided for the compact surcharge collected pursuant to Article 5 of the Rocky Mountain Low-level Radioactive Waste Compact. Any money collected pursuant to this section which is not otherwise distributed by specific legislative appropriation must be deposited with the State Treasurer for credit to the Fund for the Care of Sites for the Disposal of Radioactive Waste created pursuant to [NRS 459.231](#).

(Added to NRS by 1987, 1748; A 1997, 125)

COMMITTEE ON HIGH-LEVEL RADIOACTIVE WASTE

NRS 459.0085 Creation; membership; duties; compensation and expenses of members.

1. There is hereby created a Committee on High-Level Radioactive Waste. It is a committee of the Legislature composed of:

(a) Four members of the Senate, appointed by the Majority Leader of the Senate.

(b) Four members of the Assembly, appointed by the Speaker.

2. The Legislative Commission shall select a Chairman and a Vice Chairman from the members of the Committee.

3. The Committee shall meet at the call of the Chairman to study and evaluate:

(a) Information and policies regarding the location in this State of a facility for the disposal of high-level radioactive waste;

(b) Any potentially adverse effects from the construction and operation of a facility and the ways of mitigating those effects; and

(c) Any other policies relating to the disposal of high-level radioactive waste.

4. The Committee shall report the results of its studies and evaluations to the Legislative Commission and the Interim Finance Committee at such times as the Legislative Commission or the Interim Finance Committee may require.

5. The Committee may recommend any appropriate legislation to the Legislature and the Legislative Commission.

6. The Director of the Legislative Counsel Bureau shall provide a Secretary for the Committee on High-Level Radioactive Waste. Except during a regular or special session of the Legislature, each member of the Committee is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a Committee meeting or is otherwise engaged in the work of the Committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to [NRS 218.2207](#). Per diem allowances, salary and travel expenses of members of the Committee must be paid from the Legislative Fund.

(Added to NRS by 1985, 685; A 1987, 399; 1989, 1221; 1995, 1454)

NUCLEAR PROJECTS

NRS 459.009 Definitions. As used in [NRS 459.009](#) to [459.0098](#), inclusive, unless the context otherwise requires:

1. "Agency" means the Agency for Nuclear Projects.

2. "Commission" means the Commission on Nuclear Projects.

3. "Executive Director" means the Executive Director of the Agency.

4. "Radioactive waste" is limited to:

(a) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste and any solid material derived from the liquid waste that contains concentrations of matter produced by nuclear fission sufficient to require permanent isolation, as determined by the Nuclear Regulatory Commission;

(b) Spent nuclear fuel that has been withdrawn from a reactor following irradiation and has not been separated into its constituent elements by reprocessing; and

(c) Other material that the Nuclear Regulatory Commission determines must be permanently isolated.

(Added to NRS by 1985, 2303)

NRS 459.0091 Commission on Nuclear Projects: Creation; membership; terms and salary of members.

1. The Commission on Nuclear Projects, consisting of seven members, is hereby created.

2. The Commission consists of:

(a) Three members of the Governor's own choosing.

(b) Two members chosen by the Governor from a list of three names submitted to him by the Legislative Commission.

(c) Two members chosen by the Governor, one of whom is chosen from a list of three names submitted to him by a statewide organization of county governments and one of whom is chosen from a list of three names submitted to him by a statewide organization of city governments.

3. The members of the Commission shall annually select a Chairman from among themselves.

4. After the initial terms, members shall serve terms of 2 years.

5. Each member of the Commission is entitled to a salary of \$80 for each day's attendance at a meeting of the Commission.

(Added to NRS by 1985, 2303)

NRS 459.0092 Commission on Nuclear Projects: Duties. The Commission shall:

1. Be informed on issues and developments relating to the disposal of radioactive waste.

2. Report to the Governor and the Legislature on any matter relating to the disposal of radioactive waste which it

deems appropriate and on any such matter requested by the Governor.

3. Advise and make recommendations to the Governor and the Legislature on the policy of this State concerning all projects involving the disposal of radioactive waste.

4. Formulate the administrative policies of the Agency and its divisions.

5. Advise the state and local governments on litigation relating to radioactive waste.

6. Adopt such regulations and perform such other duties as are necessary to carry out the provisions of [NRS 459.009](#) to [459.0098](#), inclusive.

(Added to NRS by 1985, 2303)

NRS 459.0093 Agency for Nuclear Projects: Creation; composition; appointment and qualifications of Executive Director.

1. The Agency for Nuclear Projects is hereby created within the Office of the Governor. The Agency consists of the Commission and:

(a) The Division of Technical Programs.

(b) The Division of Planning.

2. The Governor shall appoint an Executive Director, who serves at the pleasure of the Commission, and who must:

(a) Be appointed from a list of three persons submitted to the Governor by the Commission.

(b) Possess broad management skills related to the functions of the Agency and have the ability to coordinate planning and communication among the Federal Government, the state and the local governments of this State on issues related to radioactive waste.

(Added to NRS by 1985, 2304; A 1993, 1630; 1995, 1455)

NRS 459.0094 Executive Director of Agency for Nuclear Projects: Duties. The Executive Director shall:

1. Appoint, with the consent of the Commission, an Administrator of each Division of the Agency.

2. Advise the Commission on matters relating to the potential disposal of radioactive waste in this State.

3. Evaluate the potentially adverse effects of a facility for the disposal of radioactive waste in this State.

4. Consult frequently with local governments and state agencies that may be affected by a facility for the disposal of radioactive waste and appropriate legislative committees.

5. Assist local governments in their dealings with the Department of Energy and its contractors on matters relating to radioactive waste.

6. Carry out the duties imposed on the State by 42 U.S.C. §§ 10101 to 10226, inclusive, as those sections existed on July 1, 1995.

7. Cooperate with any governmental agency or other person to carry out the provisions of [NRS 459.009](#) to [459.0098](#), inclusive.

8. Provide semiannual written reports to the Committee on High-Level Radioactive Waste. The reports must contain:

(a) A summary of the status of the activities undertaken by the Agency since the previous report;

(b) A description of all contracts the Agency has with natural persons or organizations, including, but not limited to, the name of the recipient of each contract, the amount of the contract, the duties to be performed under the contract, the manner in which the contract assists the Agency in achieving its goals and responsibilities and the status of the performance of the terms of the contract;

(c) The status of any litigation relating to the goals and responsibilities of the Agency to which the State of Nevada is a party; and

(d) Any other information requested by the Legislative Committee.

(Added to NRS by 1985, 2304; A 1995, 1455)

NRS 459.0095 Executive Director of Agency for Nuclear Projects: Powers. The Executive Director may:

1. Provide information relating to radioactive waste to the Legislature, local governments and state agencies that may be affected by the disposal of radioactive waste in this State.

2. Consult branches and facilities of the Nevada System of Higher Education or other institutions of higher education on matters relating to radioactive waste.

3. Employ, within the limitations of legislative authorization, technical consultants, specialists, investigators and other professional and clerical employees as are necessary to the performance of his duties.

4. Make and execute contracts and all other instruments necessary for the exercise of the duties of the office.

5. Obtain equipment and supplies necessary to carry out the provisions of [NRS 459.009](#) to [459.0098](#), inclusive.

(Added to NRS by 1985, 2304; A 1993, 407)

NRS 459.0096 Executive Director and Administrators: Administration of laws relating to Division; classification; certain other employment prohibited.

1. The Administrator of each Division shall administer the provisions of law relating to his Division under the supervision of the Executive Director.
 2. The Executive Director and the Administrator of each Division:
 - (a) Are in the unclassified service of the State.
 - (b) Except as otherwise provided in [NRS 284.143](#), shall devote their full time to the business of the Agency and not engage in any other gainful employment or occupation.
- (Added to NRS by 1985, 2305; A 1995, 2315)

NRS 459.0097 Duties of Administrator of Division of Technical Programs. The Administrator of the Division of Technical Programs shall:

1. Evaluate the:
 - (a) Potential effects of radioactive waste upon the physical environment;
 - (b) Potential health hazards from the disposal of radioactive waste; and
 - (c) Design of and engineering techniques involved in a facility for the disposal of radioactive waste.
 2. Assure the quality of techniques and procedures used in research involving radioactive waste and of any information developed as a result of the research.
 3. Analyze the geological and technical information which would affect the feasibility and safety of locating a facility for the disposal of radioactive waste in this State.
 4. Perform any other duties assigned to him by the Executive Director.
- (Added to NRS by 1985, 2305)

NRS 459.0098 Duties of Administrator of Division of Planning. The Administrator of the Division of Planning shall:

1. Coordinate activities between the Agency, political subdivisions of the State and affected state agencies.
 2. Disseminate information to the State, interested political subdivisions of the State or any agency of either and members of the public regarding radioactive waste.
 3. Study the effects of a facility for the disposal of radioactive waste upon transportation and social and economic conditions in this State.
 4. Assess the means of mitigating the adverse effects of a facility for the disposal of radioactive waste.
 5. Perform any other duties assigned to him by the Executive Director.
- (Added to NRS by 1985, 2305)

STATE CONTROL OF RADIATION**General Provisions****NRS 459.010 Definitions.** As used in [NRS 459.010](#) to [459.290](#), inclusive, unless the context requires otherwise:

1. "By-product material" means:
 - (a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or making use of special nuclear material; and
 - (b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore which is processed primarily for the extraction of the uranium or thorium.
2. "General license" means a license effective pursuant to regulations adopted by the State Board of Health without the filing of an application to transfer, acquire, own, possess or use quantities of, or devices or equipment for utilizing, by-product material, source material, special nuclear material or other radioactive material occurring naturally or produced artificially.
3. "Health Division" means the Health Division of the Department of Health and Human Services.
4. "Ionizing radiation" means gamma rays and X rays, alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles, but not sound or radio waves, or visible, infrared or ultraviolet light.
5. "Person" includes any agency or political subdivision of this State, any other state or the United States, but not the Nuclear Regulatory Commission or its successor, or any federal agency licensed by the Nuclear Regulatory Commission or any successor to such a federal agency.
6. "Source material" means:
 - (a) Uranium, thorium or any other material which the Governor declares by order to be source material after the Nuclear Regulatory Commission or any successor thereto has determined that material to be source material.

(b) Any ore containing one or more of the materials enumerated in paragraph (a) in such concentration as the Governor declares by order to be source material after the Nuclear Regulatory Commission or any successor thereto has determined the material in the concentration to be source material.

7. "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235 and any other material which the Governor declares by order to be special nuclear material after the Nuclear Regulatory Commission or any successor thereto has determined such material to be special nuclear material, but does not include source material.

(b) Any material artificially enriched by any of the materials enumerated in paragraph (a), but does not include source material.

8. "Specific license" means a license issued pursuant to the filing of an application to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment for utilizing, by-product material, source material, special nuclear material or other radioactive material occurring naturally or produced artificially.

(Added to NRS by 1963, 577; A 1975, 1327; 1979, 970; 1985, 517)

NRS 459.020 State agency for control of radiation. The Health Division is hereby designated as the state radiation control agency, and is authorized to take all action necessary or appropriate to carry out the provisions of [NRS 459.010](#) to [459.290](#), inclusive.

(Added to NRS by 1963, 578; A 1975, 1328; 1979, 971)

NRS 459.030 Duties of state agency for control of radiation. For the protection of public health and safety, the Health Division shall:

1. Develop and conduct programs for the evaluation of and response to hazards associated with the use of sources of ionizing radiation.

2. Develop programs and formulate, with due regard for compatibility with federal programs, regulations for adoption by the State Board of Health regarding:

(a) Licensing and regulation of by-product materials, source materials, special nuclear materials and other radioactive materials, including radioactive waste.

(b) Control of other sources of ionizing radiation.

3. Adopt such regulations as may be necessary to administer the provisions of [NRS 459.010](#) to [459.290](#), inclusive.

4. Collect and disseminate information relating to control of sources of ionizing radiation, including:

(a) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations.

(b) Maintenance of a file of registrants possessing sources of ionizing radiation which require registration pursuant to the provisions of [NRS 459.010](#) to [459.290](#), inclusive. The file must include a record of any administrative or judicial action pertaining to such registrants.

(c) Maintenance of a file of all regulations, pending or promulgated, relating to the regulation of sources of ionizing radiation, and any proceedings pertaining to the regulations.

(Added to NRS by 1963, 578; A 1975, 1329; 1981, 232; 1991, 211)

NRS 459.050 Inspections; confidentiality of report of inspection.

1. Any authorized representative of the Health Division may enter at any reasonable time upon any private or public property for the purpose of determining whether there is compliance with or violation of the provisions of [NRS 459.010](#) to [459.290](#), inclusive, or of the rules and regulations promulgated under [NRS 459.010](#) to [459.290](#), inclusive, and the owner, occupant or person in charge of such property shall permit such entry and inspection.

2. Entry into areas under the jurisdiction of the Federal Government shall be effected only with the concurrence of the Federal Government or its duly designated representative.

3. Any report of investigation or inspection, or any information concerning trade secrets or secret industrial processes obtained under [NRS 459.010](#) to [459.290](#), inclusive, shall not be disclosed or opened to public inspection except as otherwise provided in [NRS 239.0115](#) or as may be necessary for the performance of the functions of the State Board of Health.

(Added to NRS by 1963, 579; A 1975, 1330; [2007, 2112](#))

NRS 459.060 Records.

1. The Health Division shall require each person who acquires, possesses or uses a source of ionizing radiation to maintain:

(a) Records relating to the receipt, storage, transfer or disposal of such source.

(b) Appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by the rules and regulations of the State Board of Health.

(c) Such other records as the Health Division may require, subject to such exemptions as may be provided by any rule or regulation promulgated by the State Board of Health.

2. Copies of any record enumerated in subsection 1 shall be submitted to the Health Division upon request by the Division.

(Added to NRS by 1963, 579; A 1975, 1330)

NRS 459.070 Report of exposure of personnel; regulations.

1. The State Board of Health shall adopt reasonable regulations, compatible with those of the Nuclear Regulatory Commission or any successor to it, pertaining to reports of exposure of personnel.

2. Such regulations must require that reports of excessive exposure be made to the person exposed and to the State Board of Health, and must make provision for periodic and terminal reports to persons for whom personnel monitoring is required.

3. The provisions of [NRS 459.010](#) to [459.290](#), inclusive, with respect to the limits of the exposure of personnel established in regulations for radiation control do not limit the kind or amount of radiation which may be intentionally applied to a person for diagnostic or therapeutic purposes by or under the direction of a licensed practitioner of the healing arts.

(Added to NRS by 1963, 579; A 1975, 1330; 1983, 140)

NRS 459.080 Agreements between State and Federal Government.

1. The Governor, on behalf of this State, may enter into agreements with the Federal Government providing for discontinuance of certain responsibilities of the Federal Government relating to sources of ionizing radiation and the assumption of such responsibilities by this State.

2. Any person who, on the effective date of any such agreement, possesses a license issued by the Federal Government shall be deemed to possess such license pursuant to the provisions of [NRS 459.010](#) to [459.290](#), inclusive.

3. Such license shall expire either 90 days after receipt from the State Board of Health of a notice of expiration of such license, or on the date of expiration specified in such license, whichever is the earlier.

(Added to NRS by 1963, 580)

NRS 459.090 Agreements concerning inspection; program for training.

1. The Health Division, on behalf of the State, may enter into one or more agreements with the Federal Government, any interstate agency or any other state committing this State to perform on a cooperative basis with the Federal Government, any interstate agency or any other state inspections or other functions relating to the control of sources of ionizing radiation.

2. The Health Division may institute training programs for the purpose of qualifying personnel to carry out the provisions of subsection 1, and may make such personnel available for participation in any program or programs of the Federal Government, any interstate agency or any other state in furtherance of the purposes of [NRS 459.010](#) to [459.290](#), inclusive.

(Added to NRS by 1963, 580; A 1975, 1330)

NRS 459.100 Hearings; written decisions.

1. In any proceeding under [NRS 459.010](#) to [459.290](#), inclusive, for the granting, amending, suspension or revocation of any license, or for determining compliance with, or granting exceptions to, regulations adopted in accordance with [NRS 459.010](#) to [459.290](#), inclusive, the State Board of Health shall afford an opportunity for a hearing on the record upon the request of any person whose interest may be affected by such proceeding, and shall admit any such person as a party to such proceeding.

2. The Board shall render a written decision at the conclusion of every hearing, and the record and decision in every hearing shall be available for inspection by any interested person.

(Added to NRS by 1963, 580; A 1977, 74)

NRS 459.105 Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; judicial review.

1. Any disciplinary action taken by a hearing officer or panel pursuant to [NRS 459.235](#) is subject to the same procedural requirements which apply to disciplinary actions taken by the State Board of Health pursuant to [NRS 459.100](#), and the officer or panel has those powers and duties given to the Board in relation thereto.

2. A decision of the hearing officer or panel imposing an administrative penalty is a final decision for the purposes of judicial review.

(Added to NRS by 1983, 1531; A 1995, 1587)

NRS 459.120 Issuance of emergency regulation or order by Health Division.

1. If the Health Division finds that an emergency exists requiring immediate action to protect the public health and safety, the Division may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is considered necessary to meet the emergency.

2. Any person to whom such an order is directed shall comply immediately with the order, but on application to the Health Division he must be afforded a hearing.

3. The emergency order specified in subsection 1 must be continued, modified or revoked within 30 days after the hearing.

(Added to NRS by 1963, 581; A 1975, 1331; 1977, 75; 1995, 1588)

NRS 459.125 Department of Transportation to develop plan for routing shipments of controlled quantities of radioactive materials and high-level radioactive waste; cooperation with Federal Government, regional organizations and other states; regulations.

1. The Department of Transportation shall:

(a) Conduct an analysis of the risks involved in the transportation of controlled quantities of radioactive materials and high-level radioactive waste within this State;

(b) Consult with each regional transportation commission and the governing body of the largest city in each county which does not have a regional transportation commission to determine the safest routes for the transportation of controlled quantities of radioactive materials and high-level radioactive waste; and

(c) Develop and enforce a plan for the routing of shipments of controlled quantities of radioactive materials and high-level radioactive waste in this State.

2. The Department of Transportation shall cooperate with the United States Department of Transportation, interstate regional transportation commissions and states contiguous to Nevada to develop plans for the interstate routing of shipments of controlled quantities of radioactive materials and high-level radioactive waste.

3. The Department of Transportation may:

(a) Adopt regulations necessary to carry out the provisions of this section.

(b) Cooperate with federal, state and local governmental agencies that regulate other hazardous materials.

4. As used in this section, unless the context otherwise requires:

(a) "Controlled quantity" has the meaning ascribed to "highway route controlled quantity" in 49 C.F.R. § 173.403 (l);

(b) "High-level radioactive waste" has the meaning ascribed to that term in 10 C.F.R. § 60.2; and

(c) "Radioactive material" has the meaning ascribed to that term in 49 C.F.R. § 173.403(y),

as those sections existed on January 1, 1987.

(Added to NRS by 1987, 1521)

Possession, Transfer and Disposal of Radioactive Material

NRS 459.201 Licensing and registration of sources of ionizing radiation.

1. The State Board of Health shall, with due regard for compatibility with federal programs, adopt regulations for:

(a) General or specific licensing of persons to receive, possess or transfer radioactive materials, or devices or equipment utilizing such materials. Every such regulation shall provide for amendment, suspension or revocation of licenses.

(b) Licensing and regulation of by-product materials, source materials, special nuclear materials and other radioactive materials, including radioactive waste.

(c) Control of other sources of ionizing radiation.

2. The Health Division may require:

(a) Registration and inspection of sources of ionizing radiation which do not require specific licensing.

(b) Compliance with specific standards to be promulgated by the State Board of Health.

3. The State Board of Health may exempt certain sources of ionizing radiation, or kinds of uses or users of such sources, from the licensing or registration requirements set forth in this section if the Board makes a finding that the exemption of such sources of ionizing radiation, or kinds of uses or users of such sources, will not constitute a significant risk to the health and safety of the public.

4. Regulations promulgated pursuant to [NRS 459.010](#) to [459.290](#), inclusive, may provide for recognition of such other state or federal licenses as the State Board of Health may consider desirable, subject to such registration

requirements as the State Board of Health may prescribe.

(Added to NRS by 1963, 579; A 1967, 1175; 1973, 1406; 1975, 1329; 1981, 232)—(Substituted in revision for NRS 459.040)

NRS 459.211 Fees for operation or use of areas for storage and disposal owned by State; fee for revenue.

The State Board of Health shall establish by regulation:

1. License fees and any other fees for the operation of state-owned areas in an amount sufficient to defray all costs of monitoring, securing or otherwise regulating the storage or disposal of radioactive materials. The person who contracts with the State for the operation of such an area is responsible for the payment of these fees.

2. Procedures for the collection of interest on delinquent fees and other accounts for the operation of disposal areas.

3. Penalties of no more than \$3,000 per day for each separate failure to comply with an agreement, license, regulation or statute governing the operation of a disposal area.

4. License fees and other fees for the use of such an area to store or dispose of radioactive materials, which are chargeable against shippers or brokers in amounts sufficient to defray the costs to the State of inspecting, monitoring, securing or otherwise regulating their use of the area. In addition, the Board may establish by regulation a fee chargeable against shippers and brokers for revenue for the State of Nevada. Before establishing a fee for revenue, the Board must consider the amounts of the fees for licensing and disposal which are chargeable against the users of such areas in other states, in order that a shipper or broker be neither encouraged nor discouraged from disposing of such waste in this State, and that he base his decision about where to dispose of the waste primarily on the cost of transportation to the areas which are available for disposal. The regulations adopted pursuant to this subsection may include a method for the collection of fees from the users of an area, and each of the fees may be a percentage of the fee paid by a user to the operator of the area. The Board shall report to the Legislature at the end of January of odd-numbered years the amounts of revenue paid to the State for the use of such areas in the preceding biennium.

(Added to NRS by 1977, 112; A 1981, 233, 888)—(Substituted in revision for NRS 459.045)

NRS 459.221 License to use area for disposal required; violations concerning shipping; penalties; suspension, revocation or reinstatement of license.

1. A shipper or producer of radioactive waste, or a broker who receives such waste from another person for the purpose of disposal, shall not dispose of the waste in this State until he obtains a license from the Health Division to use the disposal area. The Health Division shall order a shipment of such waste from an unlicensed shipper or broker to be returned to him, except for a package which has leaked or spilled its contents, unless the package has been securely repackaged for return.

2. The Health Division shall issue a license to use a disposal area to a shipper or broker who demonstrates to the satisfaction of the Division that he will package and label the waste he transports or causes to be transported to the disposal area in conformity with the regulations of the State Board of Health. The Director of the Department of Health and Human Services may designate third parties to inspect and make recommendations concerning such shippers and brokers and their shipments.

3. A shipper or broker violates this section if he transports or causes to be transported to a disposal area any such waste:

(a) Which is not packaged or labeled in conformity with regulations of the State Board of Health;

(b) Which is not accompanied by a bill of lading or other shipping document prescribed by that Board; or

(c) Which leaks or spills from its package, unless, by way of affirmative defense, the shipper or broker proves that the carrier of the waste was responsible for the leak or spill,

and if licensed by the Health Division, he may be assessed an administrative penalty by the Health Division of not more than \$5,000, or if not licensed, he is guilty of a misdemeanor.

4. Each container of such waste which is not properly packaged or labeled, or leaks or spills its contents, constitutes a separate violation, but the total amount of the penalty or fine for any one shipment must not exceed \$20,000. The Health Division in assessing an administrative penalty, or the court in imposing a fine for a misdemeanor, shall consider the substantiality of the violation and the injury or risk of injury to persons or property in this State.

5. The Health Division, or the Board pursuant to [NRS 459.100](#), may suspend or revoke a license to use a disposal area if it finds that the licensee has violated any provision of this chapter. If a license has been revoked or suspended, it may be reinstated only if the licensee demonstrates to the Health Division that he will comply with the provisions of this chapter in all future shipments of waste.

(Added to NRS by 1981, 230; 1983, 504)

NRS 459.231 Fund for Care of Sites for Disposal of Radioactive Waste: Creation; administration;

deposits; investment; interest; income.

1. There is hereby created as a special revenue fund in the State Treasury a Fund for the Care of Sites for the Disposal of Radioactive Waste. The Director of the Department of Health and Human Services is responsible for the administration of the Fund. All money held by the State Treasurer or received by the Director for that purpose must be deposited in the Fund.

2. The money in the Fund must be invested as other state funds are invested. All interest earned on the deposit or investment of the money in the Fund must be credited to the Fund, except that all interest earned on the money in the Account created pursuant to section 5 of chapter 374, Statutes of Nevada 1961, must be credited to that Account.

3. The Director may expend the annual income from the Fund for the purpose for which the Fund is created, and any income of the Fund which is unexpended at the end of any year must be added to the principal of the Fund. Except as otherwise provided in section 5 of chapter 374, Statutes of Nevada 1961, the principal of the Fund may be expended if approved by the Legislature when in regular session or by the Interim Finance Committee when the Legislature is not in session. Claims against the Fund must be paid as other claims against the State are paid.

(Added to NRS by 1981, 231; A 1983, 310; 1997, 126)

NRS 459.235 Deposit of penal fines; delegation of authority to take disciplinary action; deposit of fines imposed by State Board of Health; claims for attorney's fees and costs of investigation.

1. All penal fines imposed in the name of a county for violations of the provisions of [NRS 459.010](#) to [459.290](#), inclusive, or any regulation or order adopted or issued pursuant to those provisions, must be deposited in the Fund for the Care of Sites for the Disposal of Radioactive Waste.

2. The State Board of Health may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to [NRS 459.010](#) to [459.290](#), inclusive, impose and collect administrative penalties therefor and deposit the money therefrom in the Fund for the Care of Sites for the Disposal of Radioactive Waste.

3. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2 and the State Board of Health deposits the money collected from the imposition of administrative fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

(Added to NRS by 1981, 231; A 1983, 1532; 1997, 126)

Enforcement, Violations and Penalties**NRS 459.250 Enforcement of certain provisions by peace officers of Nevada Highway Patrol; impounding or detaining of vehicles.**

1. Peace officers of the Nevada Highway Patrol shall enforce those provisions of [NRS 459.221](#) and [459.7052](#) to [459.728](#), inclusive, which govern the transport and handling of radioactive waste as they affect the safety of drivers or vehicles, the leakage or spill of radioactive waste from its package or the emission of ionizing radiation in an unsafe amount as established by the regulations of the State Board of Health.

2. The peace officer may:

(a) Impound a vehicle with unsafe equipment; or

(b) Detain a vehicle, if any waste has leaked or spilled from its package or if he has detected the emission of ionizing radiation in an unsafe amount, and order the driver of the vehicle to park it in a safe place, as determined by an officer designated by the Health Division, pending remedial action by that Division.

3. After a vehicle has been so detained, an officer designated by the Health Division may order:

(a) The vehicle to be impounded;

(b) The leaked or spilled waste to be cleaned up;

(c) The contents of any unsafe or leaking package to be repackaged; or

(d) Any other appropriate precaution or remedy,

at the expense of the shipper or broker, carrier or other person who is responsible as determined by the Health Division.

(Added to NRS by 1981, 231; A 1985, 1996; 1993, 846; 1997, 2002; [1999, 3349](#))

NRS 459.260 Impounding of sources of ionizing radiation by Health Division. In the event of an emergency, the Health Division may impound, or order the impounding of, sources of ionizing radiation in the possession of any person who is not equipped to observe, or who fails to observe, any provision of [NRS 459.010](#) to [459.290](#), inclusive, or any rules or regulations issued under [NRS 459.010](#) to [459.290](#), inclusive.

(Added to NRS by 1963, 581; A 1975, 1331)—(Substituted in revision for NRS 459.150)

NRS 459.270 Injunctive and other relief.

1. If, in the judgment of the Health Division, any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of [NRS 459.010](#) to [459.290](#), inclusive, or any rule, regulation or order issued under [NRS 459.010](#) to [459.290](#), inclusive, the Division may request the Attorney General to apply to the district court for an order enjoining such act or practice, or for an order directing compliance with any provision of [NRS 459.010](#) to [459.290](#), inclusive, or any rule, regulation or order issued under [NRS 459.010](#) to [459.290](#), inclusive.

2. Upon a showing by the Health Division that such person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order may be granted by the court.

(Added to NRS by 1963, 581; A 1975, 1331)—(Substituted in revision for NRS 459.140)

NRS 459.280 Removal of radioactive waste, machinery or equipment by employee from area for disposal prohibited; penalties.

1. A person who is employed at an area used for the disposal of radioactive waste and removes from the disposal area any of that waste, or without prior written authorization from the State Health Officer removes from the disposal area for his own personal use any machinery or equipment belonging to the operator of the area and used within the area where the waste is buried, shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. If a person who violates this section is employed by the operator of the disposal area, the operator may be assessed an administrative penalty of not more than \$10,000, in addition to any other penalty provided by law.

(Added to NRS by 1981, 231)

NRS 459.290 Penalties. Every person is guilty of a misdemeanor who:

1. Uses, manufactures, produces, or knowingly transports, transfers, receives, acquires, owns or possesses any source of ionizing radiation which has not been licensed or registered in accordance with the provisions of [NRS 459.010](#) to [459.290](#), inclusive, and the regulations adopted under them.

2. Violates any of the provisions of [NRS 459.010](#) to [459.290](#), inclusive, or any regulation or order adopted or issued under them.

(Added to NRS by 1963, 581; A 1979, 971)—(Substituted in revision for NRS 459.160)

REGULATION OF MILLS AND BY-PRODUCTS

NRS 459.300 Legislative findings. The Legislature finds that tailings from active and inactive uranium and thorium mills pose a potential hazard from radiation to the health of persons in this State. It is essential for this State to regulate the activities of such mills to:

1. Assure that every reasonable effort is made to provide for the stabilization, disposal and control of such tailings in a safe and environmentally sound manner.
2. Minimize or prevent the diffusion of radon and other environmental hazards from such tailings.
3. Reduce to the greatest extent practicable the need for long-term treatment and surveillance of such tailings.

(Added to NRS by 1981, 901)

NRS 459.310 Fees for regulating operations concerning uranium and care and maintenance of radioactive tailings and residues; posting of security; Fund for Licensing Uranium Mills; Fund for Care of Uranium Tailings.

1. The State Board of Health may establish by regulation:

(a) Fees for licensing, monitoring, inspecting or otherwise regulating mills or other operations for the concentration, recovery or refining of uranium, which must be in amounts which are reasonably related to the cost of licensing, monitoring, inspecting and regulating. Payment of the fees is the responsibility of the person applying for a license or licenses to engage in uranium concentration, recovery or refining.

(b) Fees for the care and maintenance of radioactive tailings and residues at inactive uranium concentration, recovery or refining sites. The fees must be based on a unit fee for each pound of uranium oxide produced in the process which also produced the tailings or residue. Payment of the fees is the responsibility of the person licensed to engage in uranium concentration, recovery or refining. The regulations must provide for a maximum amount to be paid for each operation.

(c) A requirement for persons licensed by the State to engage in uranium concentration, recovery or refining to post adequate bonds or other security to cover costs of decontaminating, decommissioning and reclaiming the sites

used for concentrating, recovering or refining uranium if the licensee abandons the site or neglects or refuses to satisfy the requirements of the State. The State Board of Health shall determine the amount of the security. The amount of the security may be reviewed by the Board from time to time and may be increased or decreased as the board deems appropriate. The security must be administered by the Administrator of the Health Division, who shall use the security as required to protect the public health, safety and property.

2. The money received pursuant to paragraph (a) of subsection 1 must be deposited in the State Treasury for credit to the Fund for Licensing of Uranium Mills, which is hereby created as a special revenue fund, for the purpose of defraying the cost of licensing, monitoring, inspecting or otherwise regulating mills or other operations for the concentration, recovery or refining of uranium. The money received pursuant to paragraph (b) of subsection 1 must be deposited in the State Treasury for credit to the Fund for Care of Uranium Tailings, which is hereby created as a special revenue fund, for the purpose of the care and maintenance of radioactive tailings and residues accumulated at inactive uranium concentration, recovery or refining sites to protect the public health, safety and property. All interest earned on the deposit or investment of the money in the Fund for Care of Uranium Tailings must be credited to that Fund. The Administrator of the Health Division shall administer both Funds. Claims against either Fund, approved by the State Health Officer, must be paid as other claims against the State are paid.

(Added to NRS by 1979, 969; A 1983, 837)

NRS 459.320 Prerequisites to issuance of license. Before a license for the processing or extraction of ores primarily for obtaining their content of source material and disposing of by-product material is issued, the Health Division of the Department of Health and Human Services shall:

1. Hold a hearing.
2. Provide a written analysis of the effect of the activity on the environment which must include:
 - (a) An assessment of the radiological and nonradiological effects on the public health;
 - (b) An assessment of any effect on any waterway and groundwater;
 - (c) A summary of any alternatives to the activity being considered; and
 - (d) A summary of the long-term effect of the activity.

(Added to NRS by 1981, 901; A 1995, 1588)

NRS 459.330 Terms and conditions to be contained in license. Any specific license issued or renewed after July 1, 1981, for any activity which results in the production of by-product material must contain the terms and conditions determined by the State Board of Health to be necessary to assure that before the termination of the activity:

1. The licensee will comply with the standards for decontamination, decommission and reclamation prescribed by the State Board of Health, which must be as stringent as those standards set by the U.S. Nuclear Regulatory Commission, or its successor agency, for sites:

- (a) At which ores were processed primarily for their content of uranium or thorium; and
- (b) At which by-product material is deposited.

2. Ownership of any disposal site and the by-product material which resulted from the licensed activity will, upon termination of the license and subject to the provisions of [NRS 459.340](#), be transferred to the United States or to the State of Nevada if the State of Nevada exercises the option to acquire them.

3. If ownership of the disposal site and the by-product material which resulted from the licensed activity is transferred to the United States upon termination of the state license, the money collected by the State from the licensee for long-term surveillance and maintenance of the site must be paid to the United States.

(Added to NRS by 1981, 901)

NRS 459.340 Title to site for disposal and by-products to be transferred to United States or this State before termination of production.

1. Before the termination of activity licensed under [NRS 459.330](#), title to any disposal site and to the by-product material which resulted from the activity, including any interests therein other than land:

- (a) Held in trust by the United States for any Indian tribe;
- (b) Owned by an Indian tribe subject to a restriction against alienation imposed by the United States; or
- (c) Owned by the United States or by the State of Nevada which is used for the disposal of by-product material,

must be transferred to the United States or to the State of Nevada unless the Nuclear Regulatory Commission or its successor agency determines, before the termination of the activity, that transfer of title is not necessary to protect the public health, safety or welfare of the persons of the State or to minimize any danger to life or property.

2. If title is transferred to the State of Nevada, the State Land Registrar shall assign the land for administration to the State Board of Health, which shall maintain the by-product material and land in such a manner as will protect the public health and safety, and the environment.

3. The State Board of Health may periodically examine, treat and rehabilitate the land containing by-product material which has been placed in its custody.

4. The transfer of title does not relieve any licensee of liability for any fraudulent or negligent acts done before the transfer.

5. Except for costs of administration and the legal fees of the transferee, the by-product material and land transferred to the United States or to the State of Nevada must be transferred without cost to the transferee.

(Added to NRS by 1981, 902)

NRS 459.350 Person exempt from licensing may be required to observe or perform remedial work. The State Board of Health may require persons who are exempt from licensing to monitor or perform remedial work with respect to by-product material or uranium or thorium on their property and to obey such other regulations as the Board deems necessary to protect health or minimize danger to life or property.

(Added to NRS by 1981, 902)

NRS 459.360 Standards of management of by-products. Management of by-product material must conform to the applicable standards of the Nuclear Regulatory Commission which are in effect on July 1, 1981.

(Added to NRS by 1981, 903)

NRS 459.370 Construction of facility or disposal of by-products without license unlawful. It is unlawful for any person to construct a facility for the processing of ore for uranium or thorium or to dispose of by-product material without a license.

(Added to NRS by 1981, 902)

REGULATION OF HIGHLY HAZARDOUS SUBSTANCES AND EXPLOSIVES

General Provisions

NRS 459.380 Legislative declaration. The Legislature hereby declares that the purposes of [NRS 459.380](#) to [459.3874](#), inclusive, are to:

1. Protect the health, safety and general welfare of the residents of this State from the effects of the improper handling of hazardous chemicals or explosives at the point where:
 - (a) The chemicals are produced, used or stored in this State; or
 - (b) The explosives are manufactured for sale in this State;
2. Ensure that the employees of this State who are required to work with hazardous chemicals or explosives are guaranteed a safe and healthful working environment;
3. Protect the natural resources of this State by preventing and mitigating accidental or unexpected releases of hazardous chemicals into the environment; and
4. Ensure the safe and adequate handling of:
 - (a) Hazardous chemicals that are produced, used, stored or handled in this State; and
 - (b) Explosives that are manufactured for sale in this State.

(Added to NRS by 1991, 1994; A [1999, 1125](#))

NRS 459.3802 Definitions. As used in [NRS 459.380](#) to [459.3874](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 459.3806](#) to [459.38125](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1991, 1994; A [1999, 1125](#), [1919](#), [2007](#); [2003, 1595](#))

NRS 459.3806 “Division” defined. “Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NRS by 1991, 1994)

NRS 459.38075 “Facility” defined. “Facility” means a building, equipment and contiguous area where:

1. Highly hazardous substances are produced, used, stored or handled; or
2. Explosives are manufactured for sale.

(Added to NRS by 1991, 1994; A [1999, 1125](#); [2003, 1595](#))—(Substituted in revision for NRS 459.381)

NRS 459.3809 “Process” defined. “Process” means:

1. Any activity that involves a highly hazardous substance or explosive, including, without limitation, the use, storage, manufacture, handling or on-site movement, or any combination thereof of the substance or explosive.
2. A group of vessels that are used in connection with such an activity, including vessels that are:
 - (a) Interconnected; or
 - (b) Separate, but located in such a manner that a highly hazardous substance or explosive could potentially be released, including, without limitation, the release, fire or explosion in one vessel that could cause a release, fire or explosion in another vessel.
3. As used in this section:
 - (a) "Explosive" means any material designated as subject to regulation as an explosive pursuant to [NRS 459.3816](#); and
 - (b) "Highly hazardous substance" means a substance designated as highly hazardous pursuant to [NRS 459.3816](#). (Added to NRS by [1999, 2006](#); A [2003, 1595](#))

NRS 459.38125 "Vessel" defined. "Vessel" means a reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose or other container. (Added to NRS by [1999, 2007](#))

NRS 459.3813 Applicability of statutory provisions and regulations to certain facilities; exemptions.

1. Except as otherwise provided in this section and [NRS 459.3814](#), the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto, apply to a facility:
 - (a) That is constructing or operating a process which involves a highly hazardous substance in a quantity:
 - (1) Equal to or greater than the amount designated pursuant to [NRS 459.3816](#); or
 - (2) Less than the amount designated pursuant to [NRS 459.3816](#) if there are two or more releases from the facility of the same or different highly hazardous substances during any 12-month period and:
 - (I) The release of the highly hazardous substances is reportable pursuant to 40 C.F.R. Part 302; or
 - (II) Each quantity released is equal to or greater than a maximum quantity allowable as established by regulation of the State Environmental Commission; or
 - (b) Where explosives are manufactured for sale.
2. The owner or operator of a facility that is constructing or operating a process described in subsection 1 shall ensure that each process constructed or operated by the facility complies with the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.
3. A facility described in subparagraph (2) of paragraph (a) of subsection 1 is exempt from the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto if:
 - (a) The Division determines that the owner or operator of the facility has complied with such provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and the regulations adopted pursuant thereto, as the Division requires; and
 - (b) The owner or operator of the facility obtains an exemption from the State Environmental Commission. The State Environmental Commission shall adopt by regulation the procedures for obtaining such an exemption.
4. As used in this section:
 - (a) "Explosive" means any material designated as subject to regulation as an explosive pursuant to [NRS 459.3816](#).
 - (b) "Highly hazardous substance" means a substance designated as highly hazardous pursuant to [NRS 459.3816](#). (Added to NRS by 1997, 1396; A [1999, 1126](#); [2003, 1596](#))

NRS 459.3814 Applicability of statutory provisions: Excluded activities. The provisions of [NRS 459.380](#) to [459.3874](#), inclusive, do not apply to:

1. The transportation of any hazardous substances within or through this State which is regulated by the State or the United States Department of Transportation.
2. Any final use of anhydrous ammonia for an agricultural purpose, including storage of the substance on the premises of a farm.
3. Activities which are regulated pursuant to both 30 U.S.C. §§ 801 et seq. and 42 U.S.C. § 7412(r). (Added to NRS by 1991, 1994; A 1993, 149, 837; 1997, 1398; [2003, 1596](#))

Administration

NRS 459.3816 Designation of highly hazardous substances and explosives: Regulations; amendment.

1. The State Environmental Commission shall adopt regulations:

(a) Designating a list of highly hazardous substances, including, without limitation, any chemical, the release of which into the environment or the involvement of which in a fire or explosion would produce a significant likelihood that persons exposed would suffer death or substantial bodily harm as a consequence of the exposure; and

(b) Designating for each such substance a quantity which requires the regulation of that substance pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

2. The Division shall regularly examine sources of information available to it, including, without limitation, studies, guidelines and regulations of the Federal Government and the provisions set forth in 29 U.S.C. § 655 and 42 U.S.C. § 7412(r), and may propose that the State Environmental Commission add or delete a substance or otherwise amend the list of substances and quantities adopted pursuant to subsection 1.

3. The State Environmental Commission shall adopt regulations designating specific materials that are subject to regulation as explosives pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

4. The Division shall regularly examine sources of information available to it, including, without limitation, studies, guidelines and regulations of the Federal Government and the provisions set forth in 18 U.S.C. §§ 841, et seq., and shall consult with the Division of Industrial Relations of the Department of Business and Industry to determine materials that should be regulated as explosives. The Division may propose that the State Environmental Commission add or delete a material or otherwise amend the list of materials adopted pursuant to subsection 3.

(Added to NRS by 1991, 1995; A 1993, 590, 1630; 1997, 1398; [1999, 1116](#), [1212](#); [2001, 79](#); [2003, 1597](#))

NRS 459.3818 State Environmental Commission to adopt regulations; Division to administer and enforce statutory provisions and regulations; involvement of interested persons; applicability of statutory provisions to dealers of liquefied petroleum gas.

1. In addition to the regulations required to be adopted pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, the State Environmental Commission shall adopt such other regulations as are necessary to carry out the purposes and enforce the provisions of [NRS 459.380](#) to [459.3874](#), inclusive. The regulations must include, without limitation:

(a) Specifications for the applicability of the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto;

(b) The establishment of a program for the prevention of accidental releases of chemicals that satisfies the provisions of the chemical process safety standard set forth pursuant to 29 U.S.C. § 655;

(c) Provisions to protect the health, safety and welfare of the residents of this State from the effects of the handling and storage of mercury when present in a quantity of 200,000 pounds or more;

(d) Provisions necessary to enable the Division to administer and enforce the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto;

(e) Requirements for the registration of a facility with the Division; and

(f) Provisions to ensure that the public is involved in the process of evaluating proposed regulatory actions that may affect the public.

2. The Division shall:

(a) Administer and enforce the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto; and

(b) Make every effort to involve advisory councils on hazardous materials, where they exist, the governing bodies of local governments and other interested persons in explaining actions taken pursuant to those sections and the regulations adopted pursuant thereto.

3. The State Environmental Commission must apply the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, to dealers of liquefied petroleum gas who sell, fill, refill, deliver or are permitted to deliver any liquefied petroleum gas in a manner that is consistent with 42 U.S.C. § 7412(r)(4)(B).

4. As used in this section, "liquefied petroleum gas" has the meaning ascribed to it in [NRS 590.475](#).

(Added to NRS by 1991, 1998; A [2003, 1601](#); [2007, 590](#))

NRS 459.3819 Inspections by state and local agencies of facilities where explosives are manufactured, used, processed, handled, moved on-site or stored.

1. The Division shall enter into cooperative agreements with state and local agencies to provide inspections of facilities where explosives are manufactured, or where an explosive is used, processed, handled, moved on-site or stored in relation to its manufacture. The Division shall schedule the inspections in such a manner as to provide an opportunity for participation by:

(a) A representative of the fire-fighting agency that exercises jurisdiction over the facility;

(b) A representative of the law enforcement agency that exercises jurisdiction over the facility; and

(c) Representatives of the Division and any other state agency responsible for minimizing risks to persons and property posed by such facilities.

2. The owner or operator of such a facility shall make the facility available for the inspections required by this section at such times as are designated by the Division.

3. Any inspection of a facility conducted pursuant to this section is in addition to, and not in lieu of, any other inspection of the facility required or authorized by state statute or regulation, or local ordinance.

4. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.

(Added to NRS by [1999, 1918](#); A [2003, 1601](#))

NRS 459.38195 Investigation of certain accidents: Powers and duties of Division; duty of owner or operator of facility to cooperate.

1. The Division may investigate an accident occurring in connection with a process that involves one or more highly hazardous substances or explosives at a facility which results in an uncontrolled emission, fire or explosion and which presented an imminent and substantial danger to the health of the employees of the facility, the public health or the environment, to determine the cause of the accident if the owner or operator of the facility:

(a) Is unwilling to commence and has not commenced an investigation in a timely manner; or

(b) Is not capable of and has not retained expertise capable of conducting an investigation.

2. If the Division chooses to conduct such an investigation, the owner or operator of the facility shall, in a manner consistent with the safety of the employees of the Division and the facility, and without placing an undue burden on the operation of the facility, cooperate with the Division by:

(a) Allowing the Division:

(1) To investigate the accident site and directly related facilities, including, without limitation, control rooms;

(2) To examine physical evidence; and

(3) If practicable, to inspect equipment both externally and internally;

(b) Providing the Division with pertinent documents; and

(c) Allowing the Division to conduct independent interviews of the employees of the facility, subject to all rights of the facility and the employees to be represented by legal counsel, management representatives and union representatives during the interviews.

3. To the maximum extent feasible, the Division shall coordinate any investigation it conducts pursuant to this section with investigations conducted by other agencies with jurisdiction over the facility to minimize any adverse impact on the facility and its employees.

4. The Division may contract for the services of a technical expert in conducting an investigation pursuant to this section and may recover its costs for such services from the owner or operator of the facility.

5. If an investigation is conducted by the Division pursuant to this section, all costs incurred by the Division in conducting the investigation, including, without limitation, the costs of services provided pursuant to subsection 4, may be recovered by the Division from the owner or operator of the facility at which the accident occurred.

6. The State Environmental Commission may adopt regulations setting forth the procedures governing an investigation conducted by the Division pursuant to this section and the procedures for the recovery by the Division of all costs incurred by the Division in conducting the investigation.

(Added to NRS by [2003, 1594](#))

NRS 459.382 Reports of regulatory agencies; review of requirements of regulatory agencies; final authority of Division.

1. The Health Division of the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry and any other governmental entity or agency of the State responsible for minimizing risks to persons and property posed by facilities and hazardous substances shall submit to the Division of Environmental Protection such reports as the Division deems necessary to carry out the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto. The reports must be submitted at such times and contain such information as required by the Division.

2. The State Environmental Commission shall adopt by regulation common reporting forms to be used by such governmental entities and agencies when reporting information related to hazardous substances and facilities.

3. The Division shall review the rules, regulations, standards, codes and safety orders of other governmental entities and agencies of the State responsible for minimizing risks to persons and property posed by facilities and hazardous substances to ensure that they are sufficient to carry out the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

4. If the Division and any other governmental entity or agency of the State have coexisting jurisdiction over the

regulation of facilities or hazardous substances located at such facilities, the Division has the final authority to take such actions as are necessary to carry out the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

(Added to NRS by 1991, 1998; A 1993, 594, 1634; [2003, 1602](#))

NRS 459.3822 Records, reports and other information of facility: Submission by owner or operator of facility; availability for public inspection; confidentiality of information protected as trade secret; regulations.

1. The owner or operator of a facility shall, upon request, submit any records, reports or other information to the Division that the Division deems necessary to administer and enforce the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

2. Except as otherwise provided in this section, any records, reports or other information obtained pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto must be made available to the public for inspection and copying.

3. The Division shall protect the confidentiality of any information obtained by the Division, including, without limitation, any information obtained through an observation made by the Division during a visit to a facility if:

(a) The owner or operator of the facility from which the information was obtained or which was visited requests such protection; and

(b) The information satisfies the conditions for protection as a trade secret pursuant to subsection 4.

4. Information is entitled to protection as a trade secret under this section only if:

(a) The information has not been disclosed to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a state or local government, an employee of such a person, or a person who is bound by an agreement of confidentiality, and the owner or operator of the facility has taken reasonable measures to protect the confidentiality of the information and intends to continue to take such measures;

(b) The information is not required to be disclosed, or otherwise made available, to the public under any other federal or state law;

(c) Disclosure of the information is likely to cause substantial harm to the competitive position of the owner or operator of the facility; and

(d) The chemical identity of a substance, if that is the information, is not readily discoverable through analysis of the product containing it or scientific knowledge of how such a product must be made.

5. The State Environmental Commission shall adopt regulations for the protection of the confidentiality of information entitled to protection as a trade secret pursuant to this section.

6. The person requesting the copy or copies of the public records, shall tender or pay to the Division such fee as may be prescribed for the service of copying.

(Added to NRS by 1991, 2008; A [2003, 1603](#))

NRS 459.3824 Annual fees; Fund for Precaution Against Chemical Accidents.

1. The owner or operator of a facility shall pay to the Division an annual fee based on the fiscal year. The annual fee for each facility is the sum of a base fee set by the State Environmental Commission and any additional fee imposed by the Commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The State Environmental Commission may impose an additional fee upon the owner or operator of a facility in an amount determined by the Commission to be necessary to enable the Division to carry out its duties pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto. The additional fee must be based on a graduated schedule adopted by the Commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the Division shall send the owner or operator of a facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The State Environmental Commission may modify the amount of the annual fee required pursuant to this section and the timing for payment of the annual fee:

(a) To include consideration of any fee paid to the Division for a permit to construct a new process or commence operation of a new process pursuant to [NRS 459.3829](#); and

(b) If any regulations adopted pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, require such a modification.

5. The owner or operator of a facility shall submit, with any payment required by this section, the business license number assigned by the Department of Taxation upon compliance by the owner with [NRS 360.780](#).

6. All fees fines, penalties and other money collected pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, and any

regulations adopted pursuant thereto, other than a fine collected pursuant to subsection 3 of [NRS 459.3834](#), must be deposited with the State Treasurer for credit to the Fund for Precaution Against Chemical Accidents, which is hereby created as a special revenue fund. All interest earned on the money in the Fund must be credited to the Fund.

(Added to NRS by 1991, 1999; A 1993, 907; [1999, 1126](#), [2007](#); [2003, 346](#), [1604](#); [2003, 20th Special Session, 207](#))

NRS 459.3829 Permits to construct or commence operation of new process: Requirements; application; regulations; fee.

1. No owner or operator of a facility may commence construction or operation of any new process that will be subject to regulation pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto, unless he first obtains all appropriate permits from the Division to construct the new process and commence operation of the new process. Before issuing any such permits, the Division of Environmental Protection shall consult with the Division of Industrial Relations of the Department of Business and Industry.

2. An application for such a permit must be submitted on a form prescribed by the Division of Environmental Protection.

3. The State Environmental Commission shall adopt regulations establishing the requirements for the issuance of a permit pursuant to this section. An applicant shall comply with requirements that the State Environmental Commission establishes by regulation for the issuance of a permit before the applicant may receive a permit from the Division for the construction and operation of the process.

4. The Division may charge and collect a fee for the issuance of such a permit.

(Added to NRS by [1999, 2007](#); A [2003, 346, 1605](#))

NRS 459.3832 Regulations concerning certification of records, reports and information submitted to Division; requirements for signature on certification.

1. The State Environmental Commission shall adopt regulations setting forth:

- (a) The records, reports and information submitted to the Division which must contain a certification; and
- (b) The requirements of such certifications.

2. Each certification must be signed by the sole proprietor of the facility, the highest ranking corporate officer or partner at the facility, the manager of the facility, or a person designated by any one of those persons to sign the certification.

(Added to NRS by 1991, 2001; A [2003, 1605](#))

NRS 459.3833 Program to prevent and minimize consequences of accidental release of hazardous substance: Delegation of authority and grant of money from Federal Government; regulations.

1. The State Department of Conservation and Natural Resources may, in accordance with the authority granted to it pursuant to [NRS 445B.205](#), apply for and accept any delegation of authority and any grant of money from the Federal Government for the purpose of establishing and carrying out a program to prevent and minimize the consequences of the accidental release of hazardous substances in accordance with the provisions of 42 U.S.C. § 7412 (r).

2. The State Environmental Commission may adopt regulations necessary to establish and carry out such a program.

(Added to NRS by 1997, 1397; A [2003, 1605](#))

NRS 459.3834 Unlawful acts; penalties.

1. A person shall not knowingly:

- (a) Violate any provision of [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto;
- (b) Make any false material statement, representation or certification in any required form, notice or report; or
- (c) Render inaccurate any required monitoring device or method.

2. Except as otherwise provided in subsection 3, a person who violates subsection 1 shall be punished by a fine of not more than \$25,000 per day of the violation, and each day on which the violation continues constitutes a separate and distinct violation.

3. A person who violates subsection 1 in a manner that contributes to the substantial bodily harm or death of any person is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), or by a fine of not more than \$50,000 for each day of the violation, or by both fine and the punishment provided in [NRS 193.130](#).

(Added to NRS by 1997, 1398; A [2003, 1606](#))

Committee to Oversee the Management of Risks

NRS 459.3862 “Committee” defined. As used in [NRS 459.3862](#) to [459.3868](#), inclusive, unless the context otherwise requires, “Committee” means a Committee to Oversee the Management of Risks, created pursuant to [NRS 459.3864](#).

(Added to NRS by 1991, 2006)

NRS 459.3864 Creation; appointment of members; appointment of chairman and cochairman; resources.

1. When there is an accident which poses a significant danger to public health and safety, or a near accident of this nature, in a facility or a group of facilities, or when the Governor declares that a committee to oversee the management of risks in a facility, or group of facilities, would be in the best interests of the public health and safety, the Governor shall create such a committee for the facility or group of facilities which may represent a catastrophic threat to public health and safety.

2. To the extent practicable, the Governor shall appoint the members of the committee from the membership of the State Emergency Response Commission.

3. The Governor shall appoint to the committee at least three persons who represent the facility or group of facilities which may represent a catastrophic threat to public health and safety.

4. The Governor shall appoint the chairman and may appoint a cochairman of the committee from among the members.

5. The Division shall provide to the committee necessary resources such as clerical assistance and funding sufficient for the committee to perform its duties.

(Added to NRS by 1991, 2006)

NRS 459.3866 Receipt of records and documents; subpoena; informal inquiries; confidentiality of trade secret or information; inspection of facility; Attorney General is counsel for committee; authorization to make recommendations to reviewing authority.

1. After giving reasonable notice to the facility it oversees and after making arrangements to ensure that the normal operations of the facility will not be disrupted, a committee is entitled to receive from the facility such records and documents as the committee demonstrates are required to carry out its duties. The committee is entitled to receive only those records and documents which cannot be obtained from the Division.

2. A committee is entitled to receive from any governmental entity or agency records, documents and other materials relevant to the committee’s review and evaluation of the facility to carry out its duties.

3. In carrying out its duties, a committee and the Attorney General may, by subpoena, require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary. Before obtaining such a subpoena, the committee or the Attorney General shall request the attendance of the witness or the production of the reports, papers, documents or other evidence. If the person to whom the request is made fails or refuses to attend or produce the reports, documents or other evidence, the committee and the Attorney General may obtain the subpoena requiring him to do so.

4. In carrying out its duties, a committee may make informal inquiry of persons or entities with knowledge relevant to the committee’s review and evaluation of the facility it oversees. Any committee which makes such informal inquiries shall advise the facility of those inquiries and of the results of the inquiries.

5. If the owner or operator of a facility claims that the disclosure of information to a committee will reveal a trade secret or confidential information, the owner or operator must specifically identify such information as confidential. When such an identification has been made, the committee shall protect the confidentiality of the trade secret or information if the trade secret or information would be entitled to protection pursuant to [NRS 459.3822](#).

6. A committee or its authorized representative may, to carry out its duties, enter and inspect the facility overseen, its records and other relevant materials. Before such an inspection is made, the committee shall provide reasonable notice to the facility. The inspection must be conducted in such a manner as to ensure that the operations of the facility will not be disrupted.

7. The Attorney General is counsel and attorney to each committee for the purposes of carrying out its duties and powers.

8. The members of a committee may make public comment with regard to their review and evaluation of the facility it oversees. At least 24 hours before making any formal comment, the committee shall advise the facility of its intention to do so and provide the facility with a summary of the comments that will be made.

9. A committee may review and make recommendations to the reviewing authority as to any applications for permits to construct, substantially alter or operate submitted by a facility which has been the subject of the committee’s review and evaluation.

(Added to NRS by 1991, 2007; A [2003, 1607](#))

NRS 459.3868 Duties.

1. A committee shall conduct a comprehensive review and evaluation of the following with respect to each facility within its jurisdiction:

(a) The degree of compliance with [NRS 459.380](#) to [459.3874](#), inclusive, the applicable fire codes, the regulations, standards and safety orders of the Division of Industrial Relations of the Department of Business and Industry, the rules, regulations and standards of the State Environmental Commission and any other standards adopted by the Federal Government, State of Nevada or local governments and their respective agencies for the health and safety of persons and property which may be at risk if those rules, regulations, standards, codes and safety orders are not complied with;

(b) The effectiveness of the respective governmental entities and their agencies' enforcement of their respective rules, regulations, standards, codes and safety orders; and

(c) The adequacy and effectiveness of the plans for response to emergencies adopted for the area in which the facility is located in responding to risks posed to the persons and property located within the zone of risk.

2. A committee shall exercise its best efforts to facilitate cooperation among the various governmental entities and agencies responsible for minimizing risks to persons and property posed by the facility within its jurisdiction and the effective enforcement of the various governmental entities' and agencies' rules, regulations, standards, codes and safety orders. A committee shall cooperate to the extent necessary with other committees and governmental agencies to minimize the duplication of records, reports or other information.

3. A committee shall issue a final report of its comprehensive review and evaluation together with any recommendations. A committee shall make such interim reports as it or the Governor may deem in the public interest. The Division shall distribute the reports to the Governor, members of the committee, local governments within the zone of risk, the various governmental agencies whose rules, regulations, standards, codes or safety orders were the subject of the committee's review and evaluation, and the local media. Copies of the final written report must be made available to the public for purchase at cost of reproduction. All interim reports must be distributed forthwith in the same manner as annual written reports.

(Added to NRS by 1991, 2007; A 1993, 595, 1634)

Enforcement and Penalties

NRS 459.387 Entry into facility to verify compliance with statutory requirements and regulations; issuance of order.

1. The Division may enter any facility:

(a) During normal business hours; and

(b) At any other time if there is probable cause to believe that a violation of any of the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto, has occurred,

to verify compliance with the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, any regulation adopted pursuant thereto and the quality of all work performed pursuant to those sections, except that the owner or operator of a facility need not employ any personnel solely to assure access to the facility by the Division when this access would otherwise be impossible.

2. The State Environmental Commission shall adopt regulations establishing requirements for:

(a) The inspection of a facility; and

(b) The report of a record of inspection.

3. If the Administrator of the Division finds that any person is engaging, is about to engage or has engaged in an act or practice that violates any provision of [NRS 459.380](#) to [459.3874](#), inclusive, any regulation adopted pursuant thereto, or any term or condition of a permit issued by the Division pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, the Administrator may issue an order:

(a) Specifying the provision, regulation, term or condition that is alleged to have been violated or which is about to be violated;

(b) Setting forth the facts alleged to constitute the violation;

(c) Prescribing any corrective action that must be taken and a reasonable time within which that action must be taken; and

(d) Requiring the person to whom the order is directed to appear before the Administrator or a hearing officer to show cause why the Division should not commence an action for appropriate relief.

4. If the Administrator finds that the handling of a highly hazardous substance or explosive at a facility presents an imminent and substantial threat to human health or the environment, the Administrator may, after the Division has

inspected the site and after the Administrator has had a consultation with the owner or operator of the facility and the owner or operator fails to correct the threat, issue an order requiring the owner or operator of the facility to take necessary steps to prevent the act or eliminate the practice that constitutes the threat.

(Added to NRS by 1991, 1998; A [2003, 1607](#))

NRS 459.3872 Injunctive relief; levy of civil administrative penalty; notice of levy of penalty; request for hearing; payment of penalty.

1. If any person violates any of the provisions of [NRS 459.380](#) to [459.3834](#), inclusive, or [459.387](#), or any regulation or order adopted or issued pursuant thereto, the Division may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent the violation and the court may proceed in the action in a summary manner.

2. Except as otherwise provided in [NRS 445C.010](#) to [445C.120](#), inclusive, a person who violates a provision of [NRS 459.380](#) to [459.3834](#), inclusive, or [459.387](#), or any regulation or order adopted pursuant thereto, is liable to a civil administrative penalty as set forth in [NRS 459.3874](#). If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense. No civil administrative penalty may be levied until after notification to the violator by certified mail or personal service. The notice must include a reference to the section of the statute, regulation, order or condition of a permit violated, a concise statement of the facts alleged to constitute the violation, a statement of the amount of the civil penalties to be imposed and a statement of the violator's right to a hearing. The violator has 20 days after receipt of the notice within which to deliver to the Division a written request for a hearing. After the hearing if requested, and upon a finding that a violation has occurred, the Administrator of the Division may issue a final order and assess the amount of the fine. If no hearing is requested, the notice becomes a final order upon the expiration of the 20-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other provisions for enforcement of [NRS 459.380](#) to [459.387](#), inclusive, and the payment of a civil administrative penalty does not affect the availability of any other provision for enforcement in connection with the violation for which the penalty is levied.

(Added to NRS by 1991, 2008; A 1997, 1081; [1999, 1131](#), [2008](#); [2003, 1609](#))

NRS 459.3874 Amount of civil administrative penalties; settlement of claim; imposition of civil penalty.

1. The civil administrative penalties are:

<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
A. Failure to register a new or existing facility:..... per day from the due date	\$25,000 plus \$2,000
B. Failure to pay the fee required pursuant to NRS 459.3824 :... the fee	75 percent of
C. Failure to provide information requested by the Division:..... \$25,000	
D. Failure to grant access to employees or agents of the Division for inspections: \$25,000	
E. Failure to provide information or grant access to employees or agents of the Division during an emergency:.....	\$50,000
F. Falsification of information submitted to the Division: up to \$10,000 per incident	
G. Failure to obtain a permit for the construction of a new facility:..... \$25,000	
H. Failure to comply with a regulation adopted pursuant to NRS 459.380 to 459.3874 , inclusive, other than a regulation for which a civil administrative penalty is set forth in category A to G, inclusive: \$10,000 per incident	

The civil administrative penalty prescribed in category H may be assessed for each regulatory provision that is violated. The civil administrative penalty prescribed in category G may be assessed against a contractor who is constructing the facility only if the contractor is contractually responsible for obtaining all appropriate permits for the construction of the facility and the contractor knows or has reason to know the planned use of the facility.

2. The Division may compromise and settle any claim for any penalty as set forth in this section in such amount in the discretion of the Division as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator. If a violator is subject to the imposition of more than one civil administrative penalty for the same violation, the Division shall compromise and settle the claim for the penalty as set forth in this section in such amount as to avoid the duplication of penalties.

3. No penalty may be imposed pursuant to this section for the failure to perform a required act within the time required if the delay was caused by a natural disaster or other circumstances which are beyond the control of the violator.

4. Any person who violates any of the provisions of [NRS 459.380](#) to [459.3834](#), inclusive, or [459.387](#), or any regulation or order adopted or issued pursuant thereto, or an administrative order issued pursuant to subsection 2 of [NRS 459.3872](#) or a court order issued pursuant to subsection 1 of [NRS 459.3872](#), or who fails to pay a civil administrative penalty in full is subject, upon order of the court, to a civil penalty not to exceed \$10,000 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed pursuant to this subsection may be recovered with costs in a summary proceeding by the Attorney General.

(Added to NRS by 1991, 2009; A [1999, 1131](#), [2009](#); [2003, 1609](#))

DISPOSAL OF HAZARDOUS WASTE

NRS 459.400 Purpose. The purposes of [NRS 459.400](#) to [459.600](#), inclusive, are to:

1. Protect human health, public safety and the environment from the effects of improper, inadequate or unsound management of hazardous waste;
2. Establish a program for regulation of the storage, generation, transportation, treatment and disposal of hazardous waste; and
3. Ensure safe and adequate management of hazardous waste.

(Added to NRS by 1981, 880)—(Substituted in revision for NRS 444.700)

NRS 459.405 Definitions. As used in [NRS 459.400](#) to [459.600](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 459.410](#) to [459.455](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1981, 880; A 1989, 1489; 1991, 842, 857, 1936; [1999, 1120](#); [2003, 2114](#))

NRS 459.410 "Commission" defined. "Commission" means the State Environmental Commission.

(Added to NRS by 1981, 880)—(Substituted in revision for NRS 444.704)

NRS 459.415 "Department" defined. "Department" means the State Department of Conservation and Natural Resources.

(Added to NRS by 1981, 880)—(Substituted in revision for NRS 444.706)

NRS 459.420 "Director" defined. "Director" means the Director of the Department.

(Added to NRS by 1981, 880)—(Substituted in revision for NRS 444.708)

NRS 459.425 "Disposal" defined. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water in a manner which might allow the hazardous waste or any part of it to enter the environment, be emitted into the air or be discharged into any water, including any groundwater.

(Added to NRS by 1981, 880)—(Substituted in revision for NRS 444.710)

NRS 459.428 "Hazardous material" defined. "Hazardous material" has the meaning ascribed to it in [NRS 459.7024](#).

(Added to NRS by 1989, 1488; A 1993, 847; [1999, 3349](#))

NRS 459.429 “Hazardous substance” defined. “Hazardous substance” includes, without limitation, hazardous material, a regulated substance, a pollutant and a contaminant.

(Added to NRS by 1991, 857)

NRS 459.430 “Hazardous waste” defined. “Hazardous waste” means any waste or combination of wastes, including, without limitation, solids, semisolids, liquids or contained gases, except household waste, which:

1. Because of its quantity or concentration or its physical, chemical or infectious characteristics may:

(a) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or
(b) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is

given improper treatment, storage, transportation, disposal or other management.

2. Is identified as hazardous by the Department as a result of studies undertaken for the purpose of identifying hazardous wastes.

Ē The term includes, among other wastes, toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

(Added to NRS by 1981, 880; A [1999, 1121](#))

NRS 459.432 “Household waste” defined. “Household waste” means waste material, including, without limitation, garbage, trash and sanitary wastes in septic tanks that is generated by a household, including, without limitation, a single-family or multiple-unit residence, hotel, motel, bunkhouse, ranger station, crew quarters, campground, picnic ground and day-use recreational area. The term does not include nickel, cadmium, mercuric oxide, manganese, zinc-carbon or lead batteries, toxic art supplies, used motor oil, kerosene, solvent-based paint, paint thinner, paint solvents, fluorescent or high-intensity light bulbs, ammunition, fireworks, pesticides the use of which has been prohibited or restricted, or any other waste generated by a household that would otherwise be defined as hazardous waste pursuant to subsection 2 of [NRS 459.430](#).

(Added to NRS by [1999, 1116](#))

NRS 459.435 “Management of hazardous waste” defined. “Management of hazardous waste” means the systematic control of the generation, collection, storage, transportation, processing, treatment, recovery and disposal of hazardous waste.

(Added to NRS by 1981, 881)—(Substituted in revision for NRS 444.714)

NRS 459.440 “Manifest” defined. “Manifest” means a document used to identify hazardous waste during its transportation from between any two of the points of generation, storage, treatment and disposal, and specifying the quantity, composition, origin, route and destination of the waste.

(Added to NRS by 1981, 881)—(Substituted in revision for NRS 444.716)

NRS 459.445 “Person” defined. “Person” includes an agency of the Federal Government, any state and its local governments.

(Added to NRS by 1981, 881; A 1985, 516)—(Substituted in revision for NRS 444.718)

NRS 459.448 “Regulated substance” defined. “Regulated substance” means:

1. Any petroleum substance or chemical regulated by the federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq., that is contained in a storage tank, except that the term does not include any substance subject to regulation under Subtitle C of that act as hazardous waste; and

2. Any petroleum, including crude oil or any fraction thereof that is liquid at standard condition of temperature and pressure, 60 degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes, but is not limited to, petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, solvents and used oils.

(Added to NRS by 1989, 1489)

NRS 459.450 “Storage” defined. “Storage” means the containment of hazardous waste, temporarily or for a period of years, in a manner which does not constitute disposal.

(Added to NRS by 1981, 881)—(Substituted in revision for NRS 444.720)

NRS 459.455 “Treatment” defined. “Treatment” means a process, including neutralization, which is designed to change the physical, chemical or biological character or composition of hazardous waste so as to neutralize it or

render it less hazardous, nonhazardous, safer for transportation, storage and disposal, amenable to recovery of resources from it, or reduce its volume.

(Added to NRS by 1981, 881)—(Substituted in revision for NRS 444.722)

NRS 459.460 Applicability and administration of [NRS 459.400](#) to [459.600](#), inclusive.

1. [NRS 459.400](#) to [459.600](#), inclusive, do not apply to any activity or substance which is subject to control pursuant to [NRS 445A.300](#) to [445A.955](#), inclusive, and [459.010](#) to [459.290](#), inclusive, except to the extent that they can be applied in a manner which is not inconsistent with those sections.
2. The Director shall administer [NRS 459.400](#) to [459.600](#), inclusive, in a manner which avoids duplication of the provisions of [NRS 445A.300](#) to [445A.955](#), inclusive, and [445B.100](#) to [445B.640](#), inclusive, and the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.

(Added to NRS by 1981, 881; A [2003, 2115](#); [2007, 1910](#))

NRS 459.465 Types of waste subject to [NRS 459.400](#) to [459.600](#), inclusive. The following types of waste are subject to the provisions of [NRS 459.400](#) to [459.600](#), inclusive, only if they are regulated pursuant to the federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq.:

1. Fly ash, bottom ash, slag and waste removed from flue gas from the combustion of coal or other fossil fuels;
2. Solid waste from extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore;
3. Dust from cement kilns; and
4. Drilling fluids and other wastes produced by exploration, development or production of oil, gas or geothermal energy.

(Added to NRS by 1981, 882; A [2003, 2115](#))

NRS 459.470 Department designated as state agency for regulation of hazardous waste.

1. The Department is hereby designated to act as the state agency for the purposes of federal laws and regulations on hazardous waste, except that the Commission has the exclusive power to adopt regulations pursuant to [NRS 459.400](#) to [459.600](#), inclusive.
2. The Department may take any action necessary and appropriate to secure the benefits of any federal law relating to hazardous waste.

(Added to NRS by 1981, 883)—(Substituted in revision for NRS 444.728)

NRS 459.475 Duties of Department. The Department shall:

1. Except as otherwise provided in [NRS 459.480](#), enforce the Commission's regulations on hazardous waste;
2. Develop and publish a plan of management of hazardous waste in this State, including among other things, descriptions of:
 - (a) Sources of hazardous waste, including information on the types and quantities of the waste;
 - (b) Current practices and costs in the management of hazardous waste, including treatment, storage and disposal; and
 - (c) The hazards associated with the use by a consumer of a commercial product in a manner contrary to the directions for use, cautions or warnings appearing on the label of the product, if the Department determines that such a description is necessary; and
3. Cooperate with other states to bring about improved management of hazardous waste, encourage the enactment of uniform state laws relating to hazardous waste, and develop compacts between this and other states which are designed to provide for improved management of hazardous waste.

(Added to NRS by 1981, 883; A [1999, 1121](#))

NRS 459.480 Delegation of responsibility for enforcement of [NRS 459.400](#) to [459.600](#), inclusive. The Department may delegate responsibility for the enforcement of [NRS 459.400](#) to [459.600](#), inclusive, or any regulations adopted pursuant to those sections to suitably qualified agencies of the political subdivisions of this State.

(Added to NRS by 1981, 883)—(Substituted in revision for NRS 444.732)

NRS 459.485 Duties of Commission. The Commission shall:

1. Adopt regulations governing systems of hazardous waste management, including the plan for management of hazardous waste in the entire State; and
2. Through the Department:

(a) Advise, consult and cooperate with other agencies of the State, other states, the Federal Government, municipalities and other persons on matters relating to formulation of plans for managing hazardous waste.

(b) Develop a plan for management of hazardous waste in the entire State.

(c) Develop a program to encourage the minimization of hazardous waste and the recycling or reuse of hazardous waste by persons who generate hazardous waste within Nevada. The program may include grants or other financial incentives.

(Added to NRS by 1981, 881; A 1991, 842)

NRS 459.490 General requirements for regulations. Regulations adopted by the Commission pursuant to [NRS 459.485](#) must be based upon studies, guidelines and regulations of the Federal Government and must:

1. Set out mechanisms for determining whether any waste is hazardous;
2. Govern combinations of wastes which are not compatible and may not be stored, treated or disposed of together;
3. Govern generation, storage, treatment and disposal of hazardous waste;
4. Govern operation and maintenance of facilities for the treatment, storage and disposal of hazardous waste, including the qualifications and requirements for ownership, continuity of operation, closure and care after closing;
5. Provide standards for location, design and construction of facilities for treatment, storage and disposal of hazardous waste;
6. Except as otherwise provided in [NRS 459.700](#) to [459.780](#), inclusive, govern the transportation, packing and labeling of hazardous waste in a manner consistent with regulations issued by the United States Department of Transportation relating to hazardous waste;
7. Provide procedures and requirements for the use of a manifest for each shipment of hazardous waste. The procedures and requirements must be applied equally to those persons who transport hazardous waste generated by others and those who transport hazardous waste which they have generated themselves; and
8. Take into account climatic and geologic variations and other factors relevant to the management of hazardous waste.

(Added to NRS by 1981, 882; A 1987, 1755; 1993, 847)

NRS 459.500 Contents of regulations; enforcement of regulations relating to transportation and handling of hazardous waste.

1. Except as otherwise provided in [NRS 459.700](#) to [459.780](#), inclusive, or [459.800](#) to [459.856](#), inclusive:

(a) Regulations of the Commission must provide:

- (1) For safety in the packaging, handling, transportation and disposal of hazardous waste;
- (2) For the certification of consultants involved in consultation regarding the response to and the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance, or the management of hazardous waste;

(3) That a person employed full-time by a business to act as such a consultant is exempt from the requirements of certification if the person:

(I) Meets the applicable requirements of 29 C.F.R. § 1910.120 to manage such waste, materials or substances; and

(II) Is acting in the course of that full-time employment; and

(4) For the certification of laboratories that perform analyses for the purposes of [NRS 459.400](#) to [459.600](#), inclusive, [459.610](#) to [459.658](#), inclusive, and [459.800](#) to [459.856](#), inclusive, to identify whether waste is hazardous waste or to detect the presence of hazardous waste or a regulated substance in soil or water.

(b) Regulations of the Commission may:

(1) Provide for the licensing and other necessary regulation of generators, including shippers and brokers, who cause that waste to be transported into or through Nevada or for disposal in Nevada;

(2) Require that the person responsible for a spill, leak or accident involving hazardous waste, hazardous material or a regulated substance, obtain advice on the proper handling of the spill, leak or accident from a consultant certified under the regulations adopted pursuant to paragraph (a); and

(3) Establish standards relating to the education, experience, performance and financial responsibility required for the certification of consultants.

2. The regulations may include provisions for:

(a) Fees to pay the cost of inspection, certification and other regulation, excluding any activities conducted pursuant to [NRS 459.7052](#) to [459.728](#), inclusive; and

(b) Administrative penalties of not more than \$2,500 per violation or \$10,000 per shipment for violations by

persons licensed by the Department, and the criminal prosecution of violations of its regulations by persons who are not licensed by the Department.

3. Designated employees of the Department and the Nevada Highway Patrol Division shall enforce the regulations of the Commission relating to the transport and handling of hazardous waste and the leakage or spill of that waste from packages.

(Added to NRS by 1981, 882; A 1985, 1990; 1987, 1755; 1989, 1489; 1993, 847; 1997, 2002; [1999, 3349](#); [2001, 899](#); [2003, 2115](#))

NRS 459.501 Certification of laboratory required for performance of analysis to detect presence of hazardous waste or regulated substance in soil or water for certain purposes; exception.

1. Except as otherwise provided in subsection 2, any analysis performed to detect the presence of hazardous waste or a regulated substance in soil or water as required for the purposes of [NRS 459.400](#) to [459.600](#), inclusive, [459.610](#) to [459.658](#), inclusive, or [459.800](#) to [459.856](#), inclusive, must be performed by a laboratory certified pursuant to the regulations adopted pursuant to [NRS 459.500](#).

2. The provisions of subsection 1 do not apply to an analysis of waste that is managed by a facility for the management of hazardous waste.

(Added to NRS by [2003, 2114](#))

NRS 459.502 Certification of laboratory required for performance of analysis for person who generates waste to determine whether waste is hazardous. Any analysis performed for a person who generates waste to identify whether that waste is hazardous as required for the purposes of [NRS 459.400](#) to [459.600](#), inclusive, must be performed by a laboratory certified pursuant to the regulations adopted pursuant to [NRS 459.500](#).

(Added to NRS by [2003, 2114](#))

NRS 459.505 Agreements to provide state land for areas for disposal of hazardous waste.

1. The Director may enter into agreements relating to state land for the purpose of providing areas to dispose of hazardous waste and for related purposes.

2. No agreement may extend for more than 99 years.

3. All land used as provided in subsection 1 must be closed to the public, in a manner which the Director shall prescribe, during the term of the lease or agreement and thereafter until all danger to public health arising from that use no longer exists.

4. Regulations adopted by the Commission for the control of disposal sites immediately become part of each agreement entered into pursuant to subsection 1.

(Added to NRS by 1981, 887)—(Substituted in revision for NRS 444.742)

NRS 459.510 Fees for use of areas for disposal owned by State: Amount; payment; waiver; collection of interest; penalties. The Commission may establish by regulation:

1. License fees and any other fees for the use of state-owned disposal areas for hazardous wastes, in an amount sufficient to defray all costs of monitoring, securing or otherwise regulating the storage or disposal of hazardous wastes. The fee for use of a disposal area must not be less than 25 cents per cubic foot of material placed in the area. The person who contracts with the State for the use of a disposal area is responsible for the payment of these fees. The Commission may authorize the Department to waive all or part of the fees collected pursuant to this section for wastes generated:

(a) By agencies of the State of Nevada.

(b) In compliance with an order by the Department to clean up a spill or deposit.

2. Procedures for the collection of interest on delinquent fees and other accounts for the use of disposal areas.

3. Penalties of no more than \$3,000 per day for each separate failure to comply with a license or agreement or \$25,000 for any 30-day period for all failures to comply.

(Added to NRS by 1981, 887; A 1991, 843)

NRS 459.512 Payment of additional fees by facility for management of hazardous waste for training emergency personnel and ensuring safety of shipment of hazardous materials; penalty for late payment.

1. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay to the Department to offset partially the cost incurred by the State Fire Marshal for training emergency personnel who respond to the scene of accidents involving hazardous materials a fee of \$4.50 per ton of the volume received for the disposal of hazardous waste by the facility.

2. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay to the Department to offset partially the cost incurred by the Public Utilities Commission of Nevada for inspecting and otherwise ensuring the safety of any shipment of hazardous materials transported by rail car through or within this State a fee of \$1.50 per ton of the volume received for the disposal of hazardous waste by the facility.

3. The operator of such a facility shall pay the fees provided in this section, based upon the volume of hazardous waste received by the facility during each quarter of the calendar year, within 30 days after the end of each quarter. The Department may assess and collect a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that the fee remains due.

(Added to NRS by 1991, 842; A 1997, 2003)

NRS 459.515 Construction, alteration or operation of facility without permit unlawful; exception.

1. It is unlawful for any person to:

(a) Construct, substantially alter or operate any facility for the treatment, storage or disposal of hazardous waste;

or

(b) Treat, store or dispose of any hazardous waste,

unless he has first obtained a permit from the Department to do so.

2. A person who:

(a) Conducts an activity for which a permit is required pursuant to this section, and is doing so on the effective date of the regulations establishing procedures for the system of permits; and

(b) Has made an application for a permit,

shall be deemed to have been issued a permit until his application has been acted upon, unless a delay in that action was caused by his failure to furnish information which was reasonably requested or required for the processing of the application.

3. The Commission may require a person who is conducting an activity pursuant to subsection 2 to comply with requirements which it has specified by regulation before a permit is issued.

(Added to NRS by 1981, 883)—(Substituted in revision for NRS 444.746)

NRS 459.520 Regulations governing permits.

1. The Commission shall adopt regulations for the granting, renewal, modification, suspension, revocation and denial of permits.

2. If the local government within whose territory a facility for the treatment, storage or disposal of hazardous waste is to be located requires that a special use permit or other authorization be obtained for such a facility or activity, the application to the Department for a permit to operate such a facility must show that local authorization has been obtained. This requirement does not apply to an application for a permit to construct a utility facility that is subject to the provisions of [NRS 704.820](#) to [704.900](#), inclusive.

3. Permits may contain terms and conditions which the Department considers necessary and which conform to the provisions of regulations adopted by the Commission.

4. Permits may be issued for any period of not more than 5 years.

5. A permit may not be granted or renewed if the Director determines that granting or renewing the permit is inconsistent with any regulation of the Commission relating to hazardous waste or with the plan for management of hazardous waste developed pursuant to [NRS 459.485](#). The provisions of this subsection do not apply to a permit granted or under review before July 1, 1987.

6. The Department may suspend or revoke a permit pursuant to the Commission's regulations if the holder of the permit fails or refuses to comply with the terms of the permit or a regulation of the Commission relating to hazardous waste.

7. A permit may not be granted, renewed or modified for a facility for the disposal of hazardous waste that proposes to construct or operate a landfill unless the Director determines that the landfill is or will be constructed to include at least one liner and a leachate collection and removal system designed to prevent the migration of waste or leachate to the adjacent subsurface soils, groundwater and surface water.

8. As used in this section:

(a) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land-treatment facility, a surface impoundment, an underground-injection well, a salt-dome formation, a salt-bed formation, an underground mine or a cave.

(b) "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from a landfill.

(c) "Leachate collection and removal system" means a layer of granular or synthetic materials installed above a

liner and operated in conjunction with drains, pipes, sumps and pumps or other means designed to collect and remove leachate from a landfill.

(d) "Liner" means a continuous layer of man-made material installed beneath and on the sides of a landfill which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents or leachate, and prevents the migration of waste to the adjacent subsurface soils, groundwater and surface water.

(Added to NRS by 1981, 884; A 1985, 903; 1987, 1482; [2001, 2990](#); [2005, 1504](#))

NRS 459.525 Financial responsibility of owner or operator of facility; claim against insurer, guarantor, surety or other person providing evidence of financial responsibility.

1. The Commission shall adopt regulations requiring that the owner or operator of any facility for the treatment, storage or disposal of hazardous waste show his financial responsibility for the undertaking by providing:

(a) Evidence that he has a policy of liability insurance in an amount which the Department has determined is necessary for the protection of human health, public safety and the environment;

(b) Evidence of security, in a form and amount which the Department deems necessary, to ensure that at the time of any abandonment, cessation or interruption of the service provided by the facility, and thereafter, all appropriate measures will be taken to prevent damage to human health, public safety and the environment; and

(c) Any other evidence of financial responsibility which the Commission finds necessary for those purposes.

2. Requirements established pursuant to this section may not exceed those requirements for financial responsibility established pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq.

3. Any claim arising from conduct for which evidence of financial responsibility is required may be asserted directly against the insurer, guarantor, surety or other person providing such evidence if the owner or operator:

(a) Has filed a petition in bankruptcy, or is the object of an involuntary petition;

(b) Cannot respond in damages in the event a judgment is entered against him; or

(c) Is not subject to the personal jurisdiction of any court of this or any other state, or of the United States, or cannot, with due diligence, be served with process.

4. If a claim is asserted directly against a person providing evidence of financial responsibility, that person may assert any right or defense which:

(a) He might have asserted in any action against him by the owner or operator; or

(b) The owner or operator might have asserted, had the claim been made against him.

(Added to NRS by 1981, 884; A 1987, 1482)

NRS 459.530 Account for Management of Hazardous Waste: Creation; source; separate accounting for certain fees collected.

1. All proceeds from agreements entered into pursuant to [NRS 459.505](#), all application fees collected pursuant to [NRS 459.634](#), all reimbursements and penalties recovered pursuant to [NRS 459.537](#), and all fees collected and all civil penalties imposed pursuant to [NRS 459.400](#) to [459.658](#), inclusive, must be deposited with the State Treasurer for credit to the Account for the Management of Hazardous Waste, which is hereby created in the State General Fund. All interest earned on the money in the Account must be credited to the Account. The money in the Account must be paid as other claims against the State are paid.

2. The State Treasurer shall account separately for each of the fees collected pursuant to [NRS 459.512](#).

(Added to NRS by 1981, 884; A 1985, 904; 1991, 843, 1771; 1993, 839; [1999, 2695](#); [2003, 346](#))

NRS 459.535 Account for Management of Hazardous Waste: Use.

1. Except as otherwise provided in [NRS 459.537](#) and subsection 2 of this section, the money in the Account for the Management of Hazardous Waste may be expended only to pay the costs of:

(a) The continuing observation or other management of hazardous waste;

(b) Establishing and maintaining a program of certification of consultants involved in the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks or the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance;

(c) Training persons to respond to accidents or other emergencies related to hazardous materials, including any basic training by the State Fire Marshal which is necessary to prepare personnel for advanced training related to hazardous materials;

(d) Establishing and maintaining a program by the Public Utilities Commission of Nevada to inspect and otherwise ensure the safety of any shipment of hazardous materials transported by rail car through or within the State; and

(e) Financial incentives and grants made in furtherance of the program developed pursuant to paragraph (c) of

subsection 2 of [NRS 459.485](#) for the minimization, recycling and reuse of hazardous waste.

2. Money in the Account for the Management of Hazardous Waste may be expended to provide matching money required as a condition of any federal grant for the purposes of [NRS 459.800](#) to [459.856](#), inclusive.

(Added to NRS by 1985, 903; A 1989, 775, 1490, 1491; 1991, 843, 1772; 1993, 839; 1997, 2003)

NRS 459.537 Account for Management of Hazardous Waste: Payment of costs of responding to leak, spill or accident; reimbursement; action by Attorney General.

1. If the person responsible for a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance does not act promptly and appropriately to clean and decontaminate the affected area properly, and if his inaction presents an imminent and substantial hazard to human health, public safety or the environment, money from the Account for the Management of Hazardous Waste may be expended to pay the costs of:

(a) Responding to the leak, spill or accident;

(b) Coordinating the efforts of state, local and federal agencies responding to the leak, spill or accident;

(c) Managing the cleaning and decontamination of an area for the disposal of hazardous waste or the site of the leak, spill or accident;

(d) Removing or contracting for the removal of hazardous waste, hazardous material or a regulated substance which presents an imminent danger to human health, public safety or the environment; or

(e) Services rendered in responding to the leak, spill or accident, by consultants certified pursuant to regulations adopted by the Commission.

2. Except as otherwise provided in this subsection or [NRS 459.610](#) to [459.658](#), inclusive, the Director shall demand reimbursement of the Account for money expended pursuant to subsection 1 from any person who is responsible for the accident, leak or spill, or who owns or controls the hazardous waste, hazardous material or a regulated substance, or the area used for the disposal of the waste, material or substance. Payment of the reimbursement is due within 60 days after the person receives notice from the Director of the amount due. The provisions of this section do not apply to a spill or leak of or an accident involving natural gas or liquefied petroleum gas while it is under the responsibility of a public utility.

3. At the request of the Director, the Attorney General shall initiate recovery by legal action of the amount of any unpaid reimbursement plus interest at a rate determined pursuant to [NRS 17.130](#) computed from the date of the incident.

4. As used in this section:

(a) "Does not act promptly and appropriately" means that the person:

(1) Cannot be notified of the incident within 2 hours after the initial attempt to contact him;

(2) Does not, within 2 hours after receiving notification of the incident, make an oral or written commitment to clean and decontaminate the affected area properly;

(3) Does not act upon the commitment within 24 hours after making it;

(4) Does not clean and decontaminate the affected area properly; or

(5) Does not act immediately to clean and decontaminate the affected area properly, if his inaction presents an imminent and substantial hazard to human health, public safety or the environment.

(b) "Responding" means any efforts to mitigate, attempt to mitigate or assist in the mitigation of the effects of a leak or spill of or an accident involving hazardous waste, hazardous material or a regulated substance, including, without limitation, efforts to:

(1) Contain and dispose of the hazardous waste, hazardous material or regulated substance.

(2) Clean and decontaminate the area affected by the leak, spill or accident.

(3) Investigate the occurrence of the leak, spill or accident.

(Added to NRS by 1993, 837; A [1999, 2695](#))

NRS 459.540 Condition in permit specifying time allowed for completion of modification. When the Department receives an application for a permit to carry out modifications to an existing facility or finds that modifications are necessary to enable the owner or operator of a new facility to comply with the requirements of [NRS 459.400](#) to [459.600](#), inclusive, it may include a condition in the permit specifying the time which will be allowed to complete the modifications.

(Added to NRS by 1981, 885)—(Substituted in revision for NRS 444.756)

NRS 459.545 Substitution of equivalent standards of protection.

1. Except as otherwise provided in subsection 3, the Commission may by regulation adopt a procedure under which an applicant or holder of a permit may demonstrate that a standard he proposes would offer protection of human health, public safety and the environment which is equivalent to a standard of the Commission.

2. Except as otherwise provided in subsection 3, the Commission may specify certain standards which may be considered for substitution pursuant to this section.

3. The Commission may not by regulation adopt a procedure or specify a standard which would allow a facility for the disposal of hazardous waste to construct or operate a landfill in a manner that fails to comply with the requirements of subsection 7 of [NRS 459.520](#).

(Added to NRS by 1981, 885; A [2005, 1505](#))

NRS 459.546 Variances: Conditions and criteria for granting; revocation.

1. Except as otherwise provided in subsection 4, the owner or operator of a facility for the treatment, storage or disposal of hazardous waste or a person who wishes to construct such a facility may apply to the Commission for a variance from its applicable regulations. The Commission may grant a variance only if, after a public hearing on due notice, it finds from a preponderance of the evidence that:

(a) The facility or proposed facility, under the worst adverse conditions, does not or will not endanger or tend to endanger the environment and human health or safety; and

(b) Compliance with the regulations would produce serious hardship without equal or greater benefits to the environment or public.

2. The Commission shall not grant a variance unless it has considered in the following order of priority the interests of:

(a) The public;

(b) Other owners of property likely to be affected by the emissions or discharge; and

(c) The applicant.

3. The Commission may:

(a) Upon granting a variance, impose certain conditions upon the applicant; or

(b) Revoke the variance if the applicant fails to comply with those conditions.

4. The Commission shall not grant a variance from its applicable regulations that would allow a facility for the disposal of hazardous waste to construct or operate a landfill in a manner that fails to comply with the requirements of subsection 7 of [NRS 459.520](#).

(Added to NRS by 1989, 1455; A [2005, 1505](#))

NRS 459.547 Variances: Renewal; protest and hearing on application for renewal.

1. A variance may be renewed only under circumstances and upon conditions which would justify its original granting.

2. An application for a renewal of a variance must be made at least 60 days before the expiration of the variance. The Commission shall give public notice of the application.

3. If a protest is filed with the Commission against the renewal, the Commission shall hold a public hearing and shall not renew the variance unless it makes specific, written findings of fact which justify the renewal.

(Added to NRS by 1989, 1456)

NRS 459.548 Variances: Regulations governing applications; fees.

1. The Commission may adopt regulations governing applications for variances.

2. The regulations may include, but are not limited to:

(a) The contents of the application; and

(b) The period for which a variance may be granted.

3. The Commission may establish such fees as are necessary to cover the costs of reviewing and processing an application.

(Added to NRS by 1989, 1456)

NRS 459.549 Variances: Granting and renewal discretionary. No applicant is entitled to the granting or renewal of a variance as of right.

(Added to NRS by 1989, 1456)

NRS 459.550 Records and reports.

1. The Commission shall adopt regulations which require licensees to keep records and submit reports on hazardous waste and which prescribe procedures for:

(a) Installing, calibrating, using and maintaining monitoring equipment or other methods for obtaining data on hazardous wastes;

(b) Taking samples and performing tests and analyses;

- (c) Establishing and maintaining suitable records; and
- (d) Making reports to the Department.

2. It is unlawful for any person to generate, store, transport, treat or dispose of hazardous waste without reporting each activity to the Department in accordance with regulations adopted by the Commission.

(Added to NRS by 1981, 885)—(Substituted in revision for NRS 444.760)

NRS 459.555 Disclosure of public and confidential information.

1. Except as otherwise provided in this section, information which the Department obtains in the course of the performance of its duties relating to hazardous waste is public information.

2. Except as otherwise provided in [NRS 239.0115](#), any information which specifically relates to the trade secrets of any person, including any processes, operations, style of work or apparatus, is confidential whenever it is established to the satisfaction of the Director that the information is entitled to protection as a trade secret. In determining whether the information is entitled to protection, the Director shall consider, among other things, whether the disclosure of that information would tend to affect adversely the competitive position of the information's owner.

3. Any information which is confidential under subsection 2 may be disclosed to any officer, employee or authorized representative of this State or the United States if:

(a) He is engaged in carrying out the provisions of [NRS 459.400](#) to [459.600](#), inclusive, or the provisions of federal law relating to hazardous waste; or

(b) The information is relevant in any judicial proceeding or adversary administrative proceeding under [NRS 459.400](#) to [459.600](#), inclusive, or under the provisions of federal law relating to hazardous waste, and is admissible under the rules of evidence.

4. The Commission shall adopt regulations concerning the availability of information which satisfy the criteria established by the Federal Government for delegation to the state of federal programs concerning the management of, and the enforcement of laws relating to, hazardous waste.

(Added to NRS by 1981, 885; A 1983, 1121; 1985, 904; 1991, 908; [2007, 2113](#))

NRS 459.558 Applicability of [NRS 459.560](#) and [459.565](#).

1. The provisions of [NRS 459.560](#) and [459.565](#) that concern hazardous substances do not apply:

(a) In a county whose population is less than 50,000;

(b) To mining or agricultural activities; or

(c) To other facilities or locations where the quantity of any one hazardous substance at any one facility or location does not exceed 1,000 kilograms at any time.

2. All other provisions of [NRS 459.560](#) and [459.565](#), including the provisions concerning hazardous waste, apply to all counties and all industries without regard to volume.

(Added to NRS by 1991, 857; A [2001, 1992](#))

NRS 459.560 Inspections. Any authorized representative or employee of the Commission or the Department may, for the purpose of carrying out his duties pursuant to [NRS 459.400](#) to [459.600](#), inclusive, or to enforce a regulation adopted pursuant to those sections:

1. Enter any place where waste or a substance which the Department has reason to believe may be hazardous waste or a hazardous substance is or may have been generated, stored, transported, treated, disposed of or otherwise handled;

2. Inspect and obtain samples of any waste or substance which the Department has reason to believe may be hazardous waste or a hazardous substance, including samples from any vehicle in which waste or substance is being transported, and samples of containers and labels; and

3. Inspect and copy any records, reports, information or test results relating to the management of hazardous wastes or hazardous substances.

(Added to NRS by 1981, 885; A 1991, 858)

NRS 459.565 Action to prevent practice or act which constitutes hazard to human health, public safety or environment.

1. If the Department receives information that the handling, storage, transportation, treatment or disposal of any waste or hazardous substance may present an imminent and substantial hazard to human health, public safety or the environment, it may:

(a) Issue an order directing the owner or operator of the facility for treatment, storage or disposal of the waste or

the owner or operator of any site where the treatment, storage or disposal of a hazardous substance has occurred or may occur or any other person who has custody of the waste or hazardous substance to take necessary steps to prevent the act or eliminate the practice which constitutes the hazard.

(b) Order a site assessment to be conducted and a remediation plan to be developed pursuant to regulations adopted by the Commission.

(c) Assess costs and expenses incurred by the Department in carrying out the provisions of this section or in removing, correcting or terminating any hazard to human health, public safety or the environment pursuant to regulations adopted by the Commission.

(d) Request that the Attorney General commence an action to enjoin the practices or acts which constitute the hazard.

(e) Take any other action designed to reduce or eliminate the hazard.

2. The Department may perform inspections pursuant to [NRS 459.560](#) and issue an order directing the owner or operator of the facility for treatment, storage or disposal of waste or the owner or operator of any site where the treatment, storage or disposal of a hazardous substance has occurred or may occur or any other person who has custody of the waste or hazardous substance to take any necessary steps to prevent any act or eliminate any practice or effect which could constitute a hazard to human health, public safety or the environment.

(Added to NRS by 1981, 885; A 1991, 858)

NRS 459.570 Order to prevent act or practice which violates [NRS 459.400](#) to [459.560](#), inclusive. Whenever the Director finds that any person is engaging or has engaged in any act or practice which violates any provision of [NRS 459.400](#) to [459.560](#), inclusive, or a regulation adopted pursuant to those sections or any term or condition of a permit issued by the Department, he may issue an order:

1. Specifying the provision which is alleged to have been violated or which is about to be violated;
2. Setting forth the facts alleged to constitute the violation;
3. Prescribing any corrective action which must be taken and a reasonable time within which it must be taken;

and

4. Requiring the person to whom the order is directed to appear before the Director or a hearing officer appointed by him to show cause why the Department should not commence an action against him in district court for appropriate relief.

(Added to NRS by 1981, 886)—(Substituted in revision for NRS 444.768)

NRS 459.575 Subpoenas. In carrying out the provisions of [NRS 459.400](#) to [459.560](#), inclusive, the Commission, the Department and the Attorney General may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary.

(Added to NRS by 1981, 886; A 1993, 840)

NRS 459.580 Injunctive relief.

1. The Director may seek an injunction in district court to prevent the occurrence or continuance of any act or practice which violates any provision of [NRS 459.400](#) to [459.560](#), inclusive, or any regulation adopted or permit or order issued pursuant to those sections.

2. If the Director shows that a person is or has engaged in any act or practice which violates [NRS 459.400](#) to [459.560](#), inclusive, or any regulation adopted or permit or order issued pursuant to those sections, the court may issue, without bond any prohibitory or mandatory injunction which the facts warrant, including a temporary restraining order or a preliminary or permanent injunction. A temporary restraining order may be granted only if the Director has attempted to notify the defendant of his intention to seek it before the beginning of the hearing.

3. The court may not deny a temporary restraining order or an injunction because the Director has failed to show that there is no adequate remedy at law or because he has not shown that irreparable harm will result from the act or practice which is the subject of the action.

4. The court may require a performance bond or other security by the respondent to ensure his compliance with the order.

(Added to NRS by 1981, 886)—(Substituted in revision for NRS 444.772)

NRS 459.585 Civil penalties; damages.

1. Any person who violates or contributes to a violation of any provision of [NRS 459.400](#) to [459.560](#), inclusive, [459.590](#) or of any regulation adopted or permit or order issued pursuant to those sections, or who does not take action to correct a violation within the time specified in an order, is liable to the Department for a civil penalty of not more

than \$25,000 for each day on which the violation occurs. This penalty is in addition to any other penalty provided by [NRS 459.400](#) to [459.600](#), inclusive.

2. The Department may recover, in the name of the State of Nevada, actual damages which result from a violation, in addition to the civil penalty provided in this section. The damages may include expenses incurred by the Department in removing, correcting or terminating any adverse effects which resulted from the violation and compensation for any fish, aquatic life or other wildlife destroyed as a result of the violation.

(Added to NRS by 1981, 886; A 1989, 1482; 1991, 829)

NRS 459.590 Unlawful transportation of hazardous waste. It is unlawful for any person to transport hazardous waste:

1. Without a manifest that complies with regulations adopted by the Commission;
2. That does not conform to the description of the waste specified in the manifest;
3. In a manner that does not conform to the manner of shipment described in the manifest; or
4. To a facility that has not been issued a permit to treat, store or dispose of the hazardous waste described in the manifest.

(Added to NRS by 1985, 903)

NRS 459.595 False statement, representation or certification; tampering with device. Any person who:

1. Knowingly makes any false statement, representation or certification on any application, record, report, manifest, plan or other document filed or required to be maintained by any provision of [NRS 459.400](#) to [459.560](#), inclusive, [NRS 459.590](#) or by any regulation adopted or permit or order issued pursuant to those sections; or
 2. Falsifies, tampers with or knowingly renders inaccurate any device or method for continuing observation required by a provision of [NRS 459.400](#) to [459.560](#), inclusive, or by any regulation adopted or permit or order issued pursuant to those sections,
- È shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$25,000, or by both fine and imprisonment. Each day the false document remains uncorrected or a device or method described in subsection 2 remains inaccurate constitutes a separate violation of this section for purposes of determining the maximum fine.

(Added to NRS by 1981, 887; A 1985, 904; 1991, 830)

NRS 459.600 Operation without permit or in violation of condition of permit or order; disposal or discharge of hazardous waste in unauthorized manner; penalty. A person who, intentionally or with criminal negligence:

1. Violates [NRS 459.590](#), subsection 1 of [NRS 459.515](#) or any term or condition of a permit issued pursuant to [NRS 459.520](#);
2. Violates an order issued by the Department relating to hazardous waste, if:
 - (a) The violation threatens or harms the environment or the personal safety of other persons; and
 - (b) The person has not made a good faith effort to comply with the order; or
3. Disposes of or discharges hazardous waste in any manner not authorized by the provisions of this chapter or regulations adopted thereunder,

È is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), or by a fine of not more than \$50,000 for each day of the violation, or by both fine and the punishment provided in [NRS 193.130](#).

(Added to NRS by 1981, 887; A 1983, 1122; 1985, 905; 1991, 830; 1995, 1294)

PROGRAM FOR VOLUNTARY CLEANUP OF HAZARDOUS SUBSTANCES AND RELIEF FROM LIABILITY

NRS 459.610 Definitions. As used in [NRS 459.610](#) to [459.658](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 459.612](#) to [459.630](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [1999, 2689](#))

NRS 459.612 “Administrator” defined. “Administrator” means the Administrator of the Division.

(Added to NRS by [1999, 2689](#))

NRS 459.614 “Commission” defined. “Commission” means the State Environmental Commission.

(Added to NRS by [1999, 2689](#))

NRS 459.616 “Division” defined. “Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NRS by [1999, 2689](#))

NRS 459.618 “Eligible property” defined. “Eligible property” means real property located in this State that:

1. Except as otherwise provided in [NRS 459.632](#), is not:

(a) Listed, proposed for listing or eligible for listing on the National Priorities List contained in Appendix B of Part 300 of Title 40 of the Code of Federal Regulations; and

(b) Owned, managed or controlled by a person or governmental entity subject to a pending investigation or ongoing enforcement action of the Federal Government pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq.;

2. Is not owned, managed or controlled by a person or governmental entity subject to a pending investigation or ongoing enforcement action of the Division with respect to that real property; and

3. Contains the site or probable site of a release of a hazardous substance.

(Added to NRS by [1999, 2689](#))

NRS 459.620 “Hazardous substance” defined. “Hazardous substance” means a substance or combination of substances whose presence gives rise to liability or potential liability on the part of an owner or operator pursuant to [NRS 459.537](#) or 42 U.S.C. § 9607(a).

(Added to NRS by [1999, 2689](#))

NRS 459.622 “Participant” defined. “Participant” means a person whose application to participate in the program has been approved by the Administrator.

(Added to NRS by [1999, 2689](#))

NRS 459.624 “Program” defined. “Program” means voluntary cleanup and relief from liability pursuant to [NRS 459.610](#) to [459.658](#), inclusive.

(Added to NRS by [1999, 2689](#))

NRS 459.626 “Prospective purchaser” defined. “Prospective purchaser” means a person who is not a responsible party and who has entered into a contract, or holds an option, to purchase an eligible property for its fair market value in a transaction at arm’s length.

(Added to NRS by [1999, 2689](#))

NRS 459.628 “Remedial agreement” defined. “Remedial agreement” means an agreement between a participant and the Division specifying the action to be taken to remove or remedy hazardous substances present on an eligible property.

(Added to NRS by [1999, 2690](#))

NRS 459.630 “Responsible party” defined. “Responsible party” means:

1. A current or former owner or operator of a site or facility who caused or contributed to the release of a hazardous substance at the site or facility; and

2. A generator or transporter of a hazardous substance who caused or contributed to the release of the hazardous substance at a site or facility.

(Added to NRS by [1999, 2690](#))

NRS 459.632 Certain real property deemed to be eligible property. Real property located in this State that is listed, proposed for listing or eligible for listing on the National Priorities List contained in Appendix B of Part 300 of Title 40 of the Code of Federal Regulations or that is owned, managed or controlled by a person or governmental entity subject to a pending investigation or ongoing enforcement action by the Federal Government pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq., shall be deemed to be eligible property if:

1. The property satisfies the elements of the definition of eligible property set forth in subsections 2 and 3 of

[NRS 459.618](#); and

2. The reason for which the property was listed or is proposed or eligible for listing on the National Priorities List or for the investigation or enforcement action by the Federal Government is unrelated to the hazardous substance that a participant intends to remove from or remediate on the property pursuant to a remedial agreement submitted pursuant to [NRS 459.636](#).

(Added to NRS by [1999, 2690](#))

NRS 459.634 Application for participation in program; action by Administrator on application.

1. A responsible party with respect to an eligible property, or a prospective purchaser of an eligible property may apply to participate in the program. The application must be made to the Administrator in writing and must include:

- (a) An environmental assessment of the property, including the source, nature and location of all hazardous substances known to, or reasonably believed by, the applicant to be located on the property;
- (b) A proposed general plan for removal or remediation on the property; and
- (c) The application fee and any other information required pursuant to the regulations adopted by the Commission pursuant to [NRS 459.656](#).

2. The Administrator shall approve or deny an application made pursuant to subsection 1 within 60 days after its submission, unless for good cause he extends the period for not more than an additional 30 days. Notice of an extension must be delivered to the applicant before the expiration of the original period for processing the application.

3. If the Administrator denies an application, he shall deliver to the applicant, within 30 days after the denial, a written explanation of the reasons for denial.

(Added to NRS by [1999, 2690](#))

NRS 459.636 Submission of remedial agreement for approval; prerequisites to approval; explanation of disapproval.

1. After an application is approved, the participant shall submit a remedial agreement to the Administrator for his approval.

2. The Administrator shall approve a remedial agreement only if:

(a) The agreement:

- (1) Provides for the recovery by the Division of all direct and indirect costs, in excess of the application fee, of overseeing and supervising the removal or remediation of the hazardous substance or substances on the property;
- (2) Specifies the substance to be removed or remediated on the property, the actions to be taken and the standards to be met with respect to removal or remediation, and the uses for which the property will not be suitable after the removal or remediation is carried out; and
- (3) Includes a grant to the Administrator of an irrevocable easement or right of entry onto the property to oversee and observe the work during and after the removal or remediation;

(b) The removal or remediation of the hazardous substance or substances will:

(1) Restore the property to the condition to which it would be restored if the Division caused action to be taken pursuant to [NRS 459.537](#);

(2) Not cause, contribute to or worsen any release or threatened release of a hazardous substance on the property;

(3) Adequately protect human health and the environment; and

(4) Comply with any applicable regulations adopted by the Commission pursuant to [NRS 459.656](#); and

(c) The participant is financially capable of undertaking the removal or remediation of the hazardous substance or substances.

3. If the participant is not the owner of the property, the Administrator shall not approve a remedial agreement unless the owner first agrees to the terms of the agreement.

4. Before approving a remedial agreement, the Administrator shall:

(a) Publish a notice and brief summary of the agreement in a newspaper of general circulation in the county where the property is located;

(b) Make reasonable efforts to provide personal notice to all responsible parties known to him and to all owners and residents of property within 500 yards of the outer boundary of the property on which the work is to be performed;

(c) Provide 30 days for the submission of written comments; and

(d) Hold a public hearing in the county where the property is located.

5. If the Administrator disapproves a proposed remedial agreement, he shall deliver to the participant, within 30 days after the disapproval, a written explanation of the reasons for the disapproval.

(Added to NRS by [1999, 2690](#))

NRS 459.638 Certification of completion of remedial agreement; issuance, contents and recordation of certificate of completion; explanation of failure to issue certificate.

1. After a participant has completed the action specified in his remedial agreement for the removal or remediation of hazardous substances, the participant shall certify to the Administrator that the action has been completed according to the agreement. After the Administrator has verified the certification, he shall issue the participant a certificate of completion.

2. A certificate of completion must:

(a) Contain the name of the participant and of any other person relieved from liability by the certificate and the legal description of the property to which it relates;

(b) Summarize the nature of the removal or remediation performed on the property, and the nature of the relief provided by [NRS 459.610](#) to [459.658](#), inclusive; and

(c) Be recorded by the Administrator in the office of the county recorder of the county where the real property is located, and indexed to show its relation to that real property.

3. If the Administrator does not issue a certificate of completion after receiving the participant's certification that the work has been completed, he shall deliver to the participant, within 30 days after his receipt of the certificate, a written explanation of the reasons why the certificate was not issued.

(Added to NRS by [1999, 2691](#))

NRS 459.640 Effect of certificate of completion: Relief from liability.

1. Except as otherwise provided in [NRS 459.642](#), the holder of a certificate of completion issued by the Administrator is not a responsible party with respect to a release of a hazardous substance occurring on the property to which the certificate relates before the certificate was issued. The State may not maintain an action pursuant to federal law or [NRS 459.537](#) to recover costs from the holder with respect to such a release.

2. The relief from liability provided by a certificate of completion remains effective despite a subsequent change in state or federal law.

(Added to NRS by [1999, 2692](#))

NRS 459.642 Effect of certificate of completion: Limitations on relief from liability. The holder of a certificate of completion is not released from liability:

1. If he obtained approval of his application, approval of his remedial agreement or issuance of the certificate by means of fraud, misrepresentation or a knowing failure to disclose material information;

2. If the existence of the hazardous substance on the property was not disclosed in his remedial agreement, whether or not he knew or should have known of its existence;

3. With respect to a release of a hazardous substance caused by him or his agent, unless the release is remedied before the certificate of completion is issued and is included in the certificate of completion;

4. In a criminal prosecution or an action for damage to a natural resource;

5. In an action for nuisance at common law, for trespass or for the conduct of an abnormally dangerous activity;

6. With respect to a use of the property for which the property is no longer suitable after the removal or remediation has been carried out, as identified pursuant to subparagraph (2) of paragraph (a) of subsection 2 of [NRS 459.636](#); or

7. For a release of any hazardous substance not specified in the remedial agreement.

(Added to NRS by [1999, 2692](#))

NRS 459.644 Effect of certificate of completion: Applicability to persons other than original holder.

1. The relief from liability provided by [NRS 459.640](#) extends to another person who:

(a) Purchases or leases the property to which the certificate of completion relates; or

(b) Acquires, merges with or purchases substantially all of the assets of the holder of the certificate, after the certificate is issued, if the other person is not otherwise a responsible party. The other person is subject to any duties of the original holder of the certificate under the remedial agreement or the certificate.

2. The relief provided to a subsequent owner or lessee continues even if it is determined that the original holder of the certificate is not released from liability because of a provision of [NRS 459.642](#) if:

(a) The subsequent owner or lessee purchased or leased the property in good faith for its fair market value; and

(b) The actions of the original holder of the certificate cannot be attributed to the subsequent owner or lessee under a provision of law other than this chapter.

3. If the original holder of a certificate of completion is a prospective purchaser, the relief from liability provided

by [NRS 459.640](#) extends to the person from whom he purchases the property if:

- (a) The seller and purchaser so agree;
 - (b) The seller bears the expense of removal or remediation performed on the property, directly or indirectly;
 - (c) The seller is a responsible party only because of his ownership of the property; and
 - (d) The Administrator approves the extension of relief and incorporates it into the certificate of completion.
- (Added to NRS by [1999, 2692](#))

NRS 459.646 Limitations on liability of lenders and persons with security interest in property.

1. A person who, without participating in the management of a parcel of real property, holds or is the beneficiary of evidence of title to the property primarily to protect a security interest in the property is not a responsible party with respect to a release of a hazardous substance on the property if:

- (a) The owner of the property is relieved from liability under [NRS 459.610](#) to [459.658](#), inclusive, with respect to the release;
- (b) The owner or holder of evidence of title did not cause the release; and
- (c) The owner or holder of evidence of title does not participate actively in decisions concerning hazardous substances on the property.

2. A lender to a prospective purchaser who has filed an application to participate in the program pursuant to [NRS 459.634](#) or a lender who forecloses his security interest in property pursuant to [NRS 40.430](#) to [40.450](#), inclusive, or [107.080](#) to [107.100](#), inclusive, and within a reasonable period after the foreclosure, not to exceed 2 years, sells, transfers or conveys the property to a prospective purchaser who has filed an application to participate in the program pursuant to [NRS 459.634](#) is not a responsible party solely as a result of:

- (a) Foreclosing a security interest in the property; or
- (b) Making a loan to the prospective purchaser if the loan:
 - (1) Is to be used for acquiring property or removing or remediating hazardous substances on property; and
 - (2) Is secured by the property that is to be acquired or on which is located the hazardous substances that are to be removed or remediated.

(Added to NRS by [1999, 2693](#))

NRS 459.648 Limitations on liability of prospective purchasers. A prospective purchaser is not a responsible party solely as the result of:

1. Conducting an environmental assessment of real property;
2. Contracting to purchase, or acquiring an option to purchase, real property;
3. Applying to participate in a program; or
4. Conducting or supervising removal or remediation of a hazardous substance or substances, while exercising reasonable care, pursuant to an approved remedial agreement.

(Added to NRS by [1999, 2694](#))

NRS 459.650 Action against responsible party by holder of certificate of completion or seller of property.

1. The holder of a certificate of completion may maintain an action against a responsible party to recover the holder's costs of performing removal or remediation of a hazardous substance or substances pursuant to a program.

2. If the holder is a prospective purchaser and his seller qualifies for relief from liability pursuant to [NRS 459.644](#), the seller may maintain an action against a responsible party to recover the seller's costs of performing removal or remediation of a hazardous substance or substances pursuant to a program.

(Added to NRS by [1999, 2694](#))

NRS 459.652 Termination of participation in program.

1. A participant may terminate his participation in a program upon 30 days' written notice to the Administrator.

2. The Administrator may terminate the participation of a participant in a program only if:

- (a) The participant, after a reasonable period, has not proposed and is unlikely to be able to propose a remedial agreement that meets the requirements of [NRS 459.636](#);
- (b) The participant fails materially to comply with the requirements of the remedial agreement or [NRS 459.610](#) to [459.658](#), inclusive; or

(c) From information not known to the Administrator when the remedial agreement was approved, he determines that the removal or remediation in progress or to be performed on the property poses an imminent and substantial threat of harm to human health or the environment.

3. An application, remedial agreement or certificate of completion is not an admission of liability on the part of the applicant or participant, but a termination of participation does not otherwise affect the rights of the Division.
(Added to NRS by [1999, 2694](#))

NRS 459.654 Review of decisions of Administrator.

1. A decision of the Administrator to approve an application or a remedial agreement or to issue a certificate of completion is final and may not be reviewed.
2. If the Administrator denies an application for any reason other than incompleteness, disapproves a proposed remedial agreement, does not issue a certificate of completion within the time allowed or terminates the participation of a participant in a program, the applicant or participant may apply to the Commission to review the decision pursuant to [chapter 233B](#) of NRS.
(Added to NRS by [1999, 2694](#))

NRS 459.656 Adoption of regulations by Commission. The Commission shall adopt such regulations as the Commission determines are necessary to carry out the provisions of [NRS 459.610](#) to [459.658](#), inclusive. Regulations adopted pursuant to this section:

1. Must include, without limitation, provisions relating to the:
(a) Duties and functions of consultants who are certified, or exempt from the requirement of certification, as provided by [NRS 459.500](#);
(b) Financial capability and responsibility required of a participant; and
(c) Required form and content of and any fee required to be submitted with an application, certificate or remedial agreement.
2. May include, without limitation, provisions relating to the issuance of a temporary, interim or partial certificate of completion or progress with respect to a remedial agreement.
(Added to NRS by [1999, 2694](#))

NRS 459.658 Negotiation with Environmental Protection Agency regarding effect of certificate of completion. The Administrator shall make a good faith effort to negotiate with the Environmental Protection Agency to ensure that a certificate of completion issued pursuant to [NRS 459.610](#) to [459.658](#), inclusive, will relieve a participant from liability to the United States to the same extent as those sections provide relief from liability to this State.
(Added to NRS by [1999, 2695](#))

HANDLING OF HAZARDOUS MATERIALS

General Provisions

NRS 459.700 Definitions. As used in [NRS 459.700](#) to [459.780](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 459.7005](#) to [459.7032](#), inclusive, have the meanings ascribed to them in those sections.
(Added to NRS by 1987, 1750; A 1989, 278; 1991, 1109; 1993, 139, 264, 840, 842, 848, 851; 1995, 546; [1999, 3350](#))

NRS 459.7005 “Base state” defined. “Base state” means a participating state designated by a motor carrier pursuant to the uniform program as the base state of the motor carrier.
(Added to NRS by [1999, 3344](#))

NRS 459.701 “Commission” defined. “Commission” means the State Emergency Response Commission.
(Added to NRS by 1993, 845)

NRS 459.7016 “Department” defined. “Department” means the Department of Public Safety.
(Added to NRS by 1993, 845; A [2001, 2626](#))

NRS 459.7018 “Director” defined. “Director” means the Director of the Department of Public Safety.
(Added to NRS by 1993, 845; A [2001, 2627](#))

NRS 459.702 “Division” defined. “Division” means the Nevada Highway Patrol Division of the Department of Public Safety.

(Added to NRS by 1993, 845; A [2001, 2627](#))

NRS 459.7022 “Extremely hazardous material” defined. “Extremely hazardous material” means any material or combination of materials listed in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations.

(Added to NRS by 1993, 845)

NRS 459.7024 “Hazardous material” defined. “Hazardous material” means any substance or combination of substances, including any hazardous material, hazardous waste, hazardous substance or marine pollutant:

1. Of a type and amount for which a vehicle transporting the substance must be placarded pursuant to 49 C.F.R. Part 172;

2. Of a type and amount for which a uniform hazardous waste manifest is required pursuant to 40 C.F.R. Part 262; or

3. Which is transported in bulk packaging, as defined in 49 C.F.R. § 171.8.

(Added to NRS by 1993, 845; A [1999, 3350](#))

NRS 459.7025 “Motor carrier” defined. “Motor carrier” means a person who owns or operates one or more motor vehicles used to transport a hazardous material.

(Added to NRS by [1999, 3344](#))

NRS 459.70255 “Participating state” defined. “Participating state” means a state that has entered into a reciprocal agreement with this State to participate in the uniform program.

(Added to NRS by [1999, 3344](#))

NRS 459.7026 “Person” defined. “Person” includes any agency or political subdivision of this State.

(Added to NRS by 1993, 845)

NRS 459.703 “Uniform application” defined. “Uniform application” means an application to register and obtain a permit for the transportation of hazardous materials pursuant to the uniform program.

(Added to NRS by [1999, 3344](#))

NRS 459.7032 “Uniform program” defined. “Uniform program” means the program established pursuant to 49 U.S.C. § 5119 to regulate the transportation of hazardous materials.

(Added to NRS by [1999, 3344](#))

NRS 459.704 Coordination of fees, forms and regulations; duties of regulatory agencies.

1. The Commission is the state agency responsible for coordinating:

(a) The collection of fees relating to hazardous materials;

(b) The standardization of forms for reporting information relating to hazardous materials; and

(c) The adoption of regulations necessary to carry out the provisions of paragraphs (a) and (b),

by state agencies and local governmental agencies responsible for the regulation of hazardous materials.

2. Each state agency or local governmental agency which is responsible for the regulation of hazardous materials shall, in consultation with the Commission:

(a) Cooperate to eliminate any duplications, conflicts or inconsistencies in regulations relating to hazardous materials;

(b) Review periodically the forms for reporting information relating to hazardous materials to determine whether the forms are easy to understand and complete and, if appropriate, revise the forms accordingly;

(c) Cooperate, if possible, to develop a uniform format for reporting information relating to hazardous materials;

(d) Cooperate to ensure that local governmental agencies which respond to emergencies involving hazardous materials receive reports in a timely manner; and

(e) Consolidate, if possible, the collection of fees relating to hazardous materials.

(Added to NRS by 1993, 264)

Transportation; Reporting and Collection of Information

NRS 459.7052 Registration and permit required for transportation by motor carrier. Except as otherwise

required by federal law, before transporting a hazardous material upon a public highway of this State, a motor carrier shall register with and obtain a permit for the transportation of hazardous materials:

1. From the Department; or
2. If the motor carrier has designated another participating state as its base state pursuant to the uniform program, from the base state.

(Added to NRS by [1999, 3344](#))

NRS 459.7054 Uniform application: Information required. Except as otherwise required by federal law, a motor carrier who is required to register with and obtain a permit from the Department pursuant to [NRS 459.7052](#):

1. Except as otherwise provided in subsection 2, is not required to provide on a uniform application any information required solely from a motor carrier who transports hazardous waste.
2. For the transportation of any radioactive waste must provide all the information required on a uniform application, including any information required solely from a motor carrier who transports hazardous waste.

(Added to NRS by [1999, 3345](#))

NRS 459.7056 Uniform application: Confidentiality and disclosure of information provided.

1. Except as otherwise provided in subsection 2 or [NRS 239.0115](#) or required by federal law, the following information is confidential when provided to the Department on a uniform application:

- (a) Any information regarding the ownership of a motor carrier.
- (b) Any information regarding a parent company, affiliate or subsidiary of a motor carrier.
- (c) Any information regarding the financial balance sheet and statement of income of a motor carrier.
- (d) Any information regarding the liability of a motor carrier for any debts.
- (e) Any information regarding the customers of a motor carrier, including the services provided to specific customers.

2. The Department may, to the extent required for the administration of the uniform program, disclose any information described in subsection 1 to:

- (a) An appropriate agency of the Federal Government or a participating state; or
- (b) A national repository established to assist in the administration of the uniform program.

(Added to NRS by [1999, 3345](#); A [2007, 2113](#))

NRS 459.7058 Denial, suspension or revocation of registration and permit: Grounds; procedure.

1. Except as otherwise required by federal law, the Department shall immediately suspend or revoke the registration and permit for the transportation of hazardous materials, or deny the approval of an application for such a registration and permit, by a motor carrier who:

- (a) Knowingly makes a materially false or misleading statement on the application for the registration and permit;
- (b) Is assigned an unsatisfactory safety rating pursuant to 49 C.F.R. Part 385;
- (c) Is subject to an order entered pursuant to 49 C.F.R. § 386.72;
- (d) Does not maintain the financial responsibility for liability required pursuant to 49 C.F.R. Part 387 and the laws of this State;

(e) Knowingly uses a forged certificate of registration or permit for the transportation of hazardous materials;

(f) Knowingly allows the use of his registration or permit for the transportation of hazardous materials by any person other than an agent or employee of the motor carrier; or

(g) Is convicted of a serious violation or repeated violations of the laws of this State for the regulation of motor carriers.

2. Upon taking any action pursuant to subsection 1, the Department shall:

- (a) Notify the motor carrier, by certified mail, of the reasons for its action and of any action the motor carrier may take to obtain the reinstatement of his registration and permit or the approval of his application; and
- (b) Provide the motor carrier with an opportunity for a fair and impartial hearing on the matter.

(Added to NRS by [1999, 3345](#); A [2001, 900](#))

NRS 459.706 Motor carriers: Prerequisites to issuance of permit to transport radioactive waste; assessment for investigation, inspection or audit outside of State.

1. The Department shall not issue a permit required pursuant to [NRS 459.7052](#) to a motor carrier who is seeking to transport radioactive waste upon a public highway of this State without first determining that the carrier transporting the waste is in compliance and will continue to comply with all laws and regulations of this State and the Federal Government respecting the handling and transportation of radioactive waste and the safety of drivers and vehicles.

2. Any motor carrier who maintains his books and records outside of this State must, in addition to any other assessments and fees provided by law, be assessed by the Department for an amount equal to the per diem allowance and travel expenses of employees of the Department for investigations, inspections and audits which may be required to be performed outside of this State in carrying out the provisions of subsection 1. The per diem allowance and travel expenses of the employees of the Department must be assessed at the rate established by the State Board of Examiners for state officers and employees generally.

3. The assessment provided for in subsection 2 must be determined by the Department upon the completion of each such investigation, inspection or audit and is due within 30 days after the date on which the affected motor carrier receives the assessment. The records of the Department relating to the additional costs incurred by reason of necessary travel must be open for inspection by the affected carrier at any time within the 30-day period.

(Added to NRS by [1999, 3346](#); A [2001, 901](#); [2007, 604](#))

NRS 459.708 Motor carriers: Rejection of and liability for certain packages of radioactive waste.

1. A motor carrier who is transporting radioactive waste shall reject any package containing the waste which is tendered to him for transport in this State if the package:

- (a) Is leaking or spilling its contents;
- (b) Does not bear a:
 - (1) Marking required pursuant to 49 C.F.R. Part 172, Subpart D;
 - (2) Label required pursuant to 49 C.F.R. Part 172, Subpart E; or
 - (3) Placard required pursuant to 49 C.F.R. Part 172, Subpart F; or
- (c) Is not accompanied by a:
 - (1) Shipping paper required pursuant to 49 C.F.R. Part 172, Subpart C; or
 - (2) Manifest required pursuant to 10 C.F.R. Part 20, Appendix G.

2. A carrier who accepts radioactive waste for transport in this State is liable for any package in his custody which leaks or spills its contents, does not bear the required marking, label or placard, or is not accompanied by the required shipping paper or manifest, unless, in the case of a leak or spill of the waste and by way of affirmative defense, the carrier proves that he did not and could not know of the leak when he accepted the package for transport.

(Added to NRS by 1993, 846; A [1999, 3351](#); [2001, 901](#))

NRS 459.709 Motor carriers: Prerequisites to transportation of high-level radioactive waste or spent nuclear fuel.

1. A motor carrier shall not transport any high-level radioactive waste or spent nuclear fuel upon a public highway of this State unless:

- (a) The high-level radioactive waste or spent nuclear fuel is contained in a package that has been approved for that purpose pursuant to 10 C.F.R. Part 71; and
- (b) The carrier has complied with the provisions of 10 C.F.R. Part 71 and 10 C.F.R. Part 73 requiring the advance notification of the Governor of this State or his designee.

2. As used in this section:

- (a) "High-level radioactive waste" has the meaning ascribed to it in 10 C.F.R. § 72.3.
- (b) "Spent nuclear fuel" has the meaning ascribed to it in 10 C.F.R. § 72.3.

(Added to NRS by [1999, 3346](#); A [2001, 901](#))

NRS 459.712 Inspections, investigations and reproduction of records: Authority of Department; regulations.

1. Except as otherwise required by federal law, an authorized agent of the Department may:

- (a) Conduct any examination or inspection of a motor vehicle or facility;
- (b) Conduct any investigation, audit or other review; and
- (c) Inspect and electronically reproduce any record, document or other evidentiary material,

as is necessary to determine the applicability of the provisions of [NRS 459.7052](#) to [459.728](#), inclusive, and any regulations adopted pursuant thereto, to any person or motor vehicle, and to determine whether the person or motor vehicle is in compliance therewith.

2. The Director shall adopt regulations governing the inspection of vehicles pursuant to subsection 1 based on standards adopted by a nonprofit organization comprised of representatives from private industry, state agencies, agencies of the Federal Government and other governmental agencies, which is dedicated to improving the safety of commercial vehicles.

(Added to NRS by [1999, 3347](#))

NRS 459.715 Repository for Information Concerning Hazardous Materials in Nevada.

1. The Repository for Information Concerning Hazardous Materials in Nevada is hereby created within the Division.
 2. The Commission shall coordinate the collection of information for the Repository and may adopt regulations for that purpose which are consistent with all applicable laws and with any regulations adopted by the Director regarding the management and operation of the Repository.
 3. Every state and local governmental agency concerned with the generation, transportation, shipment, storage or disposal of hazardous materials shall submit to the Division pursuant to the regulations of the Department and the Commission such information it collects regarding hazardous materials as required by the Commission.
 4. The Division shall collect, maintain and arrange all information submitted to it concerning hazardous materials.
 5. The Division may, in a manner consistent with applicable laws and regulations:
 - (a) Disseminate any information which is contained in the Repository to any other governmental agency concerned with the storage, packaging, disposal or transportation of hazardous materials; and
 - (b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of such information.
- (Added to NRS by 1987, 1751; A 1991, 1110)

NRS 459.718 Notification of Division regarding certain accidents or incidents.

1. A person responsible for the care, custody or control of a hazardous material which is involved in an accident or incident occurring during the transportation of the hazardous material by a motor carrier, including any accident or incident occurring during any loading, unloading or temporary storage of the hazardous material while it is subject to active shipping papers and before it has reached its ultimate consignee, shall notify the Division, consistent with the requirements of 49 C.F.R. § 171.15, as soon as practicable if, as a result of the hazardous material:
 - (a) A person is killed;
 - (b) A person receives injuries that require hospitalization;
 - (c) Any damage to property exceeds \$50,000;
 - (d) There is an evacuation of the general public for 1 hour or more;
 - (e) One or more major transportation routes or facilities are closed or shut down for 1 hour or more;
 - (f) There is an alteration in the operational flight pattern or routine of any aircraft;
 - (g) Any radioactive contamination is suspected;
 - (h) Any contamination by an infectious substance is suspected;
 - (i) There is a release of a liquid marine pollutant in excess of 450 liters or a solid marine pollutant in excess of 400 kilograms; or
 - (j) Any situation exists at the site of the accident or incident which, in the judgment of the person responsible for the care, custody or control of the hazardous material, should be reported to the Division.
2. The notification required pursuant to this section must include:
 - (a) The name of the person providing the notification;
 - (b) The name and address of the motor carrier represented by that person;
 - (c) The telephone number where that person can be contacted;
 - (d) The date, time and location of the accident or incident;
 - (e) The extent of any injuries;
 - (f) The classification, name and quantity of the hazardous material involved, if that information is available; and
 - (g) The type of accident or incident, the nature of the hazardous material involved and whether there is a continuing danger to life at the scene of the accident or incident.
3. A person may satisfy the requirements of this section by providing the information specified in subsection 2 to the person who responds to a telephone call placed to:
 - (a) The number 911 in an area where that number is used for emergencies; or
 - (b) The number zero in an area where the number 911 is not used for emergencies.

(Added to NRS by [1999, 3347](#); A [2001, 902](#))

NRS 459.721 Duties of Director: Regulations for participation in uniform program. The Director shall adopt regulations for the participation of this State in the uniform program. The regulations adopted pursuant to this section must be consistent with, and equivalent in scope, coverage and content to:

1. Except as otherwise provided in subsection 2, the recommendations contained in the final report of the working group established pursuant to 49 U.S.C. § 5119; or
2. If the Secretary of Transportation prescribes regulations pursuant to 49 U.S.C. § 5119, the regulations of the Secretary of Transportation.

(Added to NRS by [1999, 3344](#))

NRS 459.725 Powers and duties of Director: Administration of provisions; regulations; agreements.

1. The Director is responsible for administering the provisions of [NRS 459.7052](#) to [459.728](#), inclusive, and, subject to the limitations contained in those provisions, may adopt such regulations as he deems necessary for that purpose. The regulations adopted pursuant to this section must be consistent with any applicable statutes and regulations of the Federal Government.
 2. The Director shall adopt regulations:
 - (a) For the security of the Repository for Information Concerning Hazardous Materials in Nevada so that it is adequately protected from fire, theft, loss, destruction, other hazards and unauthorized access.
 - (b) Prescribing the manner in which information concerning hazardous materials is submitted to the Division by state and local governmental agencies.
 - (c) Providing for the imposition of fees to pay the cost of:
 - (1) Any registration and permitting required to carry out the uniform program; and
 - (2) Any other regulation pursuant to the provisions of [NRS 459.7052](#) to [459.728](#), inclusive.
- Ê Money received by the Department from the fees imposed pursuant to this paragraph must be deposited with the State Treasurer for credit to the State Highway Fund and used only to carry out the provisions of [NRS 459.7052](#) to [459.728](#), inclusive.
3. The Director, on behalf of this State, may enter into any agreements with:
 - (a) The Federal Government;
 - (b) Other states; and
 - (c) A national repository established to assist in the administration of the uniform program,
- Ê as are appropriate for the administration of the uniform program.
- (Added to NRS by 1987, 1752; A 1993, 850; [1999, 3351](#))

NRS 459.727 Provisions inapplicable to transportation by governmental vehicle. Except as otherwise required by federal law, the provisions of [NRS 459.7052](#) to [459.728](#), inclusive, and the regulations adopted pursuant thereto do not apply to the transportation of a hazardous material by any vehicle which is owned and operated by the Federal Government, this State or any political subdivision of this State.

(Added to NRS by [1999, 3348](#))

NRS 459.728 Provisions supersede and preempt local regulation of transportation; exceptions.

1. Except as otherwise provided in subsection 2, the provisions of [NRS 459.7052](#) to [459.728](#), inclusive, and the regulations adopted pursuant thereto supersede and preempt any ordinance or regulation adopted by the governing body of a political subdivision of this State governing the transportation of a hazardous material upon a public highway of this State.
 2. The provisions of subsection 1 do not apply to any ordinance or regulation:
 - (a) For the control of traffic generally; or
 - (b) Which is approved by the Board of Directors of the Department of Transportation pursuant to paragraph (b) of subsection 3 of [NRS 484.779](#).
- (Added to NRS by [1999, 3348](#))

State Emergency Response Commission

NRS 459.735 Contingency Account for Hazardous Materials.

1. The Contingency Account for Hazardous Materials is hereby created in the State General Fund.
2. The Commission shall administer the Contingency Account for Hazardous Materials and, except as otherwise provided in subsection 4, the money in the Account may be expended only for:
 - (a) Carrying out the provisions of [NRS 459.735](#) to [459.773](#), inclusive;
 - (b) Carrying out the provisions of 42 U.S.C. §§ 11001 et seq. and 49 U.S.C. §§ 5101 et seq.;
 - (c) Maintaining and supporting the operations of the Commission and local emergency planning committees;
 - (d) Training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials; and
 - (e) The operation of training programs and a training center for handling emergencies relating to hazardous materials and related fires pursuant to [NRS 477.045](#).
3. All money received by this State pursuant to 42 U.S.C. §§ 11001 et seq. or 49 U.S.C. §§ 5101 et seq. must be

deposited with the State Treasurer to the credit of the Contingency Account for Hazardous Materials. In addition, all money received by the Commission from any source must be deposited with the State Treasurer to the credit of the Contingency Account for Hazardous Materials. The State Controller shall transfer from the Contingency Account to the Operating Account of the State Fire Marshal such money collected pursuant to [chapter 477](#) of NRS as is authorized for expenditure in the budget of the State Fire Marshal for use pursuant to paragraph (e) of subsection 2.

4. Any fees deposited with the State Treasurer for credit to the Contingency Account for Hazardous Materials pursuant to subsection 5 of [NRS 482.379365](#) must be accounted for separately and must be expended solely to provide financial assistance to this State or to local governments in this State to support preparedness to combat terrorism, including, without limitation, planning, training and purchasing supplies and equipment.

5. Upon the presentation of budgets in the manner required by law, money to support the operation of the Commission pursuant to this chapter, other than its provision of grants, must be provided by direct legislative appropriation from the State Highway Fund or other legislative authorization to the Contingency Account for Hazardous Materials.

6. The interest and income earned on the money in the Contingency Account for Hazardous Materials, after deducting any applicable charges, must be credited to the Account.

7. All claims against the Contingency Account for Hazardous Materials must be paid as other claims against the State are paid.

(Added to NRS by 1987, 1752; A 1989, 747; 1991, 1110, 1773, 1828; 1993, 140, 1317, 1318; [1999, 3352](#); [2001, 1833](#); [2001 Special Session, 143](#); [2003, 274, 362](#))

NRS 459.738 Creation of Commission; appointment and terms of members; appointment of Chairman or Cochairmen; employment of staff.

1. The State Emergency Response Commission is hereby created for the purpose of carrying out the provisions of 42 U.S.C. §§ 11001 et seq. and other matters relating thereto.

2. The Commission consists of not more than 25 members appointed by the Governor. The Governor shall, to the extent practicable, appoint persons to the Commission who have technical expertise in responding to emergencies.

3. The term of each member of the Commission is 4 years. A member may be reappointed, and there is no limit on the number of terms that a member may serve.

4. The Governor shall appoint one or more of the members of the Commission to serve as Chairman or Cochairmen.

5. The Commission may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of its duties.

(Added to NRS by 1991, 1108; A 1997, 2544; [2001, 903](#))

NRS 459.740 Adoption of regulations; acceptance of gifts and grants of money and other revenues. The Commission may:

1. Adopt regulations for the purpose of enforcing its responsibilities pursuant to 42 U.S.C. §§ 11001 et seq.

2. Accept gifts and grants of money and other revenues for the purpose of enforcing its responsibilities pursuant to 42 U.S.C. §§ 11001 et seq.

(Added to NRS by 1987, 1753; A 1991, 1111; [2001, 904](#))

NRS 459.742 Powers of Commission. The Commission, in carrying out its duties and within the limits of legislative appropriations and other available money, may:

1. Enter into contracts, leases or other agreements or transactions;

2. Provide grants of money to local emergency planning committees to improve their ability to respond to emergencies involving hazardous materials;

3. Assist with the development of comprehensive plans for responding to such emergencies in this State;

4. Provide technical assistance and administrative support to the Telecommunications Unit of the Communication and Computing Division of the Department of Information Technology for the development of systems for communication during such emergencies;

5. Provide technical and administrative support and assistance for training programs;

6. Develop a system to provide public access to data relating to hazardous materials;

7. Support any activity or program eligible to receive money from the Contingency Account for Hazardous Materials;

8. Adopt regulations setting forth the manner in which the Division of Emergency Management of the Department shall:

(a) Allocate money received by the Division which relates to hazardous materials or is received pursuant to 42 U.

S.C. §§ 11001 et seq. or 49 U.S.C. §§ 5101 et seq.; and

(b) Approve programs developed to address planning for and responding to emergencies involving hazardous materials; and

9. Coordinate the activities administered by state agencies to carry out the provisions of this chapter, 42 U.S.C. §§ 11001 et seq. and 49 U.S.C. §§ 5101 et seq.

(Added to NRS by 1991, 1108; A 1993, 1318, 1635; 1995, 579; 1997, 3090; [2001, 904](#), [2627](#); [2003, 17](#))

NRS 459.744 Establishment and payment of fees. The Commission shall establish by regulation:

1. A schedule of fees for its services and regulatory activities. The fees must be set at an amount which approximates the cost to the Commission of performing those services and activities.

2. A fee, not to exceed \$15,000 per year, to be paid, except as otherwise provided in subsection 5, by each person who stores an extremely hazardous material in an amount greater than the threshold planning quantity established for such material in 40 C.F.R. Part 355, Appendix A or B. The fee must include:

(a) A filing fee for each facility in which such material is stored; and

(b) A surcharge for each ton of such material stored in excess of 1 ton,

and must be paid on or before March 1 of each year for the preceding calendar year.

3. A fee, not to exceed \$2,000 per year, to be paid by each person who manufactures for transport an extremely hazardous material in an amount greater than the threshold planning quantity established for such material in 40 C.F.R. Part 355, Appendix A or B. The fee must include:

(a) A filing fee for each facility in which such material is manufactured; and

(b) A surcharge for each ton of such material which is manufactured for transport in this State,

and must be paid on or before January 31 of each year for the preceding calendar year.

4. A reporting fee, not to exceed \$15,000 per year, to be paid, except as otherwise provided in subsection 5, by each person who is required to submit a toxic chemical release form pursuant to 42 U.S.C. §§ 11001 et seq., which becomes due upon the filing of the form.

5. A method for limiting the amount of fees established pursuant to subsections 2 and 4 so that the aggregate amount of the fees imposed on a person during any calendar year does not exceed \$15,000.

(Added to NRS by 1991, 1109; A 1995, 454; [1999, 254](#); [2001, 904](#); [2003, 826](#); [2005, 54](#))

Responding to Spills, Accidents and Incidents

NRS 459.748 Definitions. As used in [NRS 459.750](#) to [459.770](#), inclusive:

1. “Does not act promptly and appropriately” means that the person:

(a) Cannot be notified of the incident within 2 hours after the initial attempt to contact him;

(b) Does not, within 2 hours after receiving notification of the incident, make an oral or written commitment to clean and decontaminate the affected area properly;

(c) Does not act upon the commitment within 24 hours after making it;

(d) Does not clean and decontaminate the affected area properly; or

(e) Does not act immediately to clean and decontaminate the affected area properly, if his inaction presents an imminent and substantial hazard to human health, public safety or the environment.

2. “Responding” means any efforts to mitigate, attempt to mitigate or assist in the mitigation of the effects of a spill of or accident involving hazardous material, including, without limitation, efforts to:

(a) Contain and dispose of the hazardous material.

(b) Clean and decontaminate the area affected by the spill or accident.

(c) Investigate the occurrence of the spill or accident.

(Added to NRS by 1993, 838)

NRS 459.750 Responsibility for cleaning and decontamination of area affected by spill or accident. Any person who possessed or had in his care any hazardous material involved in a spill or accident requiring the cleaning and decontamination of the affected area is responsible for that cleaning and decontamination.

(Added to NRS by 1987, 1753)

NRS 459.755 Use of Contingency Account for Hazardous Materials to pay for costs of cleaning and decontamination of area affected by spill or accident. If the person responsible for hazardous material involved in a spill or accident does not act promptly and appropriately to clean and decontaminate the affected area, and if his inaction presents an imminent and substantial hazard to human health, public safety, any property or the environment, money from the Contingency Account for Hazardous Materials may be expended to pay the costs of:

1. Responding to a spill of or an accident involving hazardous material;
2. Coordinating the efforts of state, local and federal agencies responding to a spill of or an accident involving hazardous material;
3. Managing the cleaning and decontamination of an area for the disposal of hazardous material or the site of a spill of or an accident involving hazardous material; or
4. Removing or contracting for the removal of hazardous material which presents an imminent danger to human health, public safety or the environment.

(Added to NRS by 1987, 1753; A 1991, 1774)

NRS 459.760 Reimbursement of expenses of responding state agency; reporting of need for additional funding; action by Attorney General.

1. Except as otherwise provided in this subsection, any state agency accruing expenses in responding to a spill of or an accident involving hazardous material may present an itemized accounting of those expenses with a demand for reimbursement of those expenses to the person responsible for the hazardous material. Payment of the reimbursement must be made within 60 days after the person receives notice from the agency of the amount due. The provisions of this section do not apply to a spill of or an accident involving natural gas or liquefied petroleum gas while it is under the responsibility of a public utility.

2. If the state agency cannot recover the full amount of reimbursement from the person responsible, it may report to the Commission its need for additional funding. The Commission shall notify the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means during a regular or special session of the Legislature, or the Interim Finance Committee if the Legislature is not in session, of the state agency's need for additional funding.

3. At the request of the state agency, and at any time after the payment for reimbursement is due, the Attorney General shall initiate recovery by legal action of the amount of any unpaid reimbursement plus interest at a rate determined pursuant to [NRS 17.130](#) computed from the date of the incident.

(Added to NRS by 1987, 1754; A 1993, 841)

NRS 459.765 Deposit of reimbursement and penalty for credit to Contingency Account for Hazardous Materials. Any reimbursement and penalty recovered by the Attorney General from a person responsible for hazardous material involved in a spill or accident must be deposited with the State Treasurer for credit to the Contingency Account for Hazardous Materials.

(Added to NRS by 1987, 1754; A 1991, 1774)

NRS 459.770 Recovery of costs incurred by responding county or city. Any county or city in this State may adopt an ordinance authorizing its legal representative to initiate recovery by legal action from the person responsible for any hazardous material involved in a spill or accident of the amount of any costs incurred by the county or city in responding to the spill of or accident involving hazardous material.

(Added to NRS by 1987, 1754; A 1993, 841)

NRS 459.773 Development and dissemination of reference guide regarding response to accidents and incidents.

1. The State Fire Marshal shall, in cooperation with local fire departments, develop a reference guide for use by state and local personnel who respond to accidents and incidents involving hazardous materials. The reference guide must provide information which is readily accessible regarding procedures for responding to the first critical moments of an accident or incident involving hazardous materials.

2. The State Fire Marshal shall make available, upon request, the reference guide developed pursuant to subsection 1 to local governments, state and local personnel who respond to accidents and incidents involving hazardous materials and students enrolled in training programs for responding to accidents and incidents involving hazardous materials.

(Added to NRS by 1993, 139)

Penalties

NRS 459.774 Civil penalties for certain violations.

1. In addition to any applicable criminal penalties, the Department may, after providing written notice and an opportunity for a fair and impartial hearing, impose a civil penalty, in an amount determined pursuant to the schedule adopted by the Director pursuant to this section, upon a person who violates a provision of [NRS 459.7052](#) to

[459.728](#), inclusive, or the regulations adopted pursuant thereto. The notice required by this section must include the amount of the penalty and a description of the violation.

2. The Director shall adopt a schedule of civil penalties for the purposes of this section based on a schedule of recommended fines adopted by a nonprofit organization comprised of representatives from private industry, state agencies, agencies of the Federal Government and other governmental agencies, which is dedicated to improving the safety of commercial vehicles.

3. The Department may bring an action to recover a civil penalty imposed pursuant to this section and shall deposit any money collected with the State Treasurer for credit to the State Highway Fund.

(Added to NRS by [1999, 3348](#))

NRS 459.775 Unlawful acts: Misdemeanors. Any person who:

1. Transports a hazardous material in a motor vehicle without the permit required pursuant to [NRS 459.7052](#);

2. Transports a hazardous material in a motor vehicle that has not been inspected pursuant to any regulations of the Department requiring an inspection;

3. Fails to carry the permit required pursuant to [NRS 459.7052](#) or a copy of the permit in the driver's compartment of the motor vehicle if required to do so by a regulation of the Department;

4. Transports a hazardous material in a motor vehicle under a permit required pursuant to [NRS 459.7052](#) which has expired;

5. Violates any of the terms or conditions of a permit required pursuant to [NRS 459.7052](#); or

6. Fails to pay when due any fee established pursuant to [NRS 459.744](#),

is guilty of a misdemeanor.

(Added to NRS by 1987, 1754; A 1991, 1111; 1993, 2799; 1995, 454; [1999, 3352](#))

NRS 459.780 Unlawful acts: Gross misdemeanors. Any person who:

1. Allows the use of a permit required pursuant to [NRS 459.7052](#) by a person not entitled thereto;

2. Uses a permit required pursuant to [NRS 459.7052](#) to which he is not entitled;

3. Alters, forges or counterfeits a permit required pursuant to [NRS 459.7052](#);

4. Uses a permit required pursuant to [NRS 459.7052](#) which has been altered, forged or counterfeited;

5. Submits false information on an application or other form used to obtain a permit required pursuant to [NRS 459.7052](#);

6. Transports a hazardous material in a motor vehicle under a permit required pursuant to [NRS 459.7052](#) which has been suspended or revoked; or

7. Transports a hazardous material in a motor vehicle which failed to pass any inspection for safety required by a regulation of the Department,

is guilty of a gross misdemeanor.

(Added to NRS by 1987, 1754; A [1999, 3353](#))

IMMUNITY FROM LIABILITY REGARDING PLANNING FOR AND RESPONDING TO DISCHARGE OF HAZARDOUS MATERIAL

NRS 459.790 "Hazardous material" defined. As used in [NRS 459.790](#) to [459.796](#), inclusive, unless the context otherwise requires, "hazardous material" has the meaning ascribed to it in [NRS 459.7024](#), and includes any other substance which is regulated pursuant to this chapter.

(Added to NRS by 1993, 823; A [1999, 3353](#))

NRS 459.792 Scope of immunity: State Emergency Response Commission; local emergency planning committees; persons providing equipment, advice or other assistance.

1. The State Emergency Response Commission, each local emergency planning committee appointed by the Commission, and their respective members are immune from liability for the death of or injury to persons, and for injury to property, resulting from the performance of their functions under this chapter and under 42 U.S.C. §§ 11001 et seq.

2. Except as limited by [NRS 459.794](#) and [459.796](#), a person who provides equipment, advice or other assistance in mitigating or attempting to mitigate the effects of a discharge of hazardous material, or in preventing, cleaning up or disposing of such a discharge, or in attempting to prevent, clean up or dispose of such a discharge, is immune from liability for the death of or injury to persons, and for injury to property, resulting from those activities.

(Added to NRS by 1993, 823; A [2001, 905](#))

NRS 459.794 Exclusions from immunity: Damages from gross negligence or misconduct; persons causing discharge; persons receiving compensation for assistance. The immunity provided by subsection 2 of [NRS 459.792](#) does not apply to:

1. Damages resulting from the person's gross negligence or his intentional, reckless or wanton misconduct;
 2. A person:
 - (a) Whose act or failure to act was a cause of the discharge; or
 - (b) Who receives compensation other than:
 - (1) Reimbursement for his actual expenses in voluntarily providing the equipment, advice or other assistance;
- or
- (2) Compensation from his regular employer for the time during which he is engaged in rendering the assistance or advice.

(Added to NRS by 1993, 823)

NRS 459.796 Prerequisites for immunity: Persons providing equipment, advice or other assistance. A person is entitled to immunity under subsection 2 of [NRS 459.792](#) only if:

1. In the case of one furnishing advice or assistance, he is qualified by training, education or experience in the handling of hazardous materials and provides advice or assistance within the area of his qualifications; and
2. He was requested to provide the equipment, advice or other assistance by:
 - (a) The person responsible for the discharge;
 - (b) The Division of Emergency Management of the Department of Public Safety;
 - (c) The Division of Industrial Relations of the Department of Business and Industry;
 - (d) The Division of Environmental Protection of the State Department of Conservation and Natural Resources;
 - (e) The Nevada Highway Patrol Division of the Department of Public Safety;
 - (f) The State Fire Marshal Division of the Department of Public Safety;
 - (g) The State Emergency Response Commission or a local emergency planning committee appointed by the Commission;
 - (h) A local fire department; or
 - (i) A local agency for law enforcement.

(Added to NRS by 1993, 823; A 1995, 545; [2001, 2627](#))

STORAGE TANKS

NRS 459.800 Definitions. As used in [NRS 459.800](#) to [459.856](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 459.802](#) to [459.820](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1989, 769; A 1993, 208)

NRS 459.802 "Commission" defined. "Commission" means the State Environmental Commission.

(Added to NRS by 1989, 770)

NRS 459.804 "Department" defined. "Department" means the State Department of Conservation and Natural Resources.

(Added to NRS by 1989, 770)

NRS 459.806 "Director" defined. "Director" means the Director of the Department.

(Added to NRS by 1989, 770)

NRS 459.808 "Division" defined. "Division" means the Division of Environmental Protection of the Department.

(Added to NRS by 1989, 770)

NRS 459.810 "Operator" defined. "Operator" means any person in control of, or having responsibility for, the daily operation of a storage tank.

(Added to NRS by 1989, 770)

NRS 459.812 “Owner” defined. “Owner” means any person who owns:

1. An underground storage tank used to store or dispense regulated substances after November 8, 1984, or if the use of the tank was discontinued before that date, the last person to own such a tank before its use was discontinued; or
 2. An aboveground storage tank used to store or dispense regulated substances after October 1, 2003, or, if the use of the tank was discontinued before that date, the last person to own such a tank before its use was discontinued.
- (Added to NRS by 1989, 770; A [2003, 2116](#))

NRS 459.814 “Person” defined. “Person” includes an agency of the Federal Government, any state and its local governments.

(Added to NRS by 1989, 770)

NRS 459.816 “Regulated substance” defined. “Regulated substance” means:

1. Any petroleum substance or chemical regulated by the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.), that is contained in a storage tank, except that the term does not include any substance subject to regulation under Subtitle C of that act as hazardous waste; and
2. Any petroleum, including crude oil or any fraction thereof that is liquid at standard condition of temperature and pressure, 60 degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes, but is not limited to, petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, solvents and used oils.

(Added to NRS by 1989, 770)

NRS 459.818 “Release” defined. “Release” means the spilling, leaking, emitting, discharging, escaping, leaching or disposing from a storage tank into groundwater, surface water or surface or subsurface soils.

(Added to NRS by 1989, 770)

NRS 459.820 “Storage tank” defined. “Storage tank” means any one or combination of stationary tanks, including pipes connected thereto, used to contain and accumulate regulated substances. The term includes only:

1. Underground storage tanks that are regulated pursuant to the federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq.; and
2. Aboveground storage tanks that have a storage capacity of at least 110 gallons but not more than 30,000 gallons, including, without limitation, aboveground storage tanks located over water and used to supply fuel at a marina or other facility.

(Added to NRS by 1989, 770; A [2003, 2116](#))

NRS 459.822 Department designated as state agency for regulation of storage tanks. The Department is hereby designated to act as the state agency for the purpose of federal laws and regulations governing storage tanks and it may take any action necessary to secure the benefits of any federal law relating to storage tanks.

(Added to NRS by 1989, 773)

NRS 459.824 Duties of Director. The Director shall:

1. Administer the provisions of [NRS 459.800](#) to [459.856](#), inclusive, in a manner that is consistent with, and not more stringent than, the applicable provisions of federal law;
2. Advise, consult and cooperate with other agencies of the State, the Federal Government, other states, interstate agencies and other persons in furthering the purposes of [NRS 459.800](#) to [459.856](#), inclusive;
3. Take steps necessary to qualify for, accept and administer loans and grants from the Federal Government and other sources, public or private, for carrying out the provisions of [NRS 459.800](#) to [459.856](#), inclusive;
4. Encourage, request, require the Department to participate in or conduct, studies, surveys, investigations, research, experiments, demonstrations and pilot programs by contract, grant or other means;
5. Collect and disseminate information to the public;
6. Hold hearings and issue subpoenas requiring the attendance of witnesses and the production of evidence, as he finds necessary to carry out the provisions of [NRS 459.800](#) to [459.856](#), inclusive;
7. Exercise all powers necessary to carry out the provisions of [NRS 459.800](#) to [459.856](#), inclusive; and
8. Delegate to the Division any of his powers or duties set forth in [NRS 459.800](#) to [459.856](#), inclusive.

(Added to NRS by 1989, 770)

NRS 459.825 Coordination of fees, regulations and forms; duties of regulatory agencies.

1. The Commission shall coordinate:

- (a) The collection of fees related to storage tanks;
- (b) The adoption of regulations governing storage tanks; and
- (c) The standardization of forms used by the agencies of the State and local governments that regulate storage tanks for reporting information relating to such storage tanks.

2. Each agency of this State and local government that regulates storage tanks shall, in consultation with the Commission:

- (a) Cooperate to eliminate any duplication, conflicts or inconsistencies in regulations adopted to govern storage tanks;
- (b) Review periodically the forms for reporting information related to storage tanks to determine whether they are complete and easy to understand and, if appropriate, revise the forms accordingly;
- (c) Cooperate to develop a uniform format for reporting information related to storage tanks;
- (d) Cooperate to ensure that agencies of local governments that respond to emergencies involving storage tanks receive reports of those emergencies in a timely manner; and
- (e) Consolidate the collection of fees related to storage tanks.

(Added to NRS by 1993, 207; A [2003, 2116](#))

NRS 459.826 Regulations of Commission: General requirements. The Commission shall adopt regulations to carry out the provisions of [NRS 459.800](#) to [459.856](#), inclusive. Those regulations must be based upon studies, guidelines and regulations of the Federal Government and must:

- 1. Set forth a means for an owner or operator of a storage tank to notify the Division of the existence, size and location of and the substances contained in the storage tank;
- 2. Issue standards of performance for the operation and construction of a storage tank;
- 3. Establish requirements for the reporting of a release from a storage tank and the reporting of corrective actions taken in response to such a release;
- 4. Establish standards of financial responsibility for owners and operators of storage tanks;
- 5. Require owners or operators of facilities having storage tanks to maintain records and devices for the continuing observation of storage tanks; and
- 6. Establish procedures for:
 - (a) Inspecting and testing storage tanks;
 - (b) Obtaining samples from storage tanks; and
 - (c) Reporting to the Department on such inspections, testing and samples.

(Added to NRS by 1989, 771)

NRS 459.828 Owner or operator of storage tank to provide Department with certain information. The owner or operator of a storage tank shall notify the Department as required by regulations of the Commission, of the existence, size, location, age, type, uses and name of the owner of a storage tank.

(Added to NRS by 1989, 771)

NRS 459.830 Regulations of Commission: Standards of performance. The Commission shall adopt regulations which set forth standards of performance for:

- 1. Storage tanks brought into use on or after the effective date of such standards. The standards must address the:
 - (a) Design;
 - (b) Construction;
 - (c) Installation; and
 - (d) Compatibility of components,

and systems for the detection of releases from storage tanks.

2. Maintenance and keeping records of:

- (a) Systems for the detection of releases from storage tanks;
- (b) Systems for the testing of storage tanks;
- (c) Systems for the monitoring of inventory of storage tanks; and
- (d) Other systems designed to identify releases from storage tanks.

(Added to NRS by 1989, 771)

NRS 459.832 Regulations of Commission: Closure, removal, disposal and management of storage tanks. The Commission shall adopt regulations:

- 1. Establishing requirements for the closure of a storage tank or the removal or disposal of a storage tank to

prevent future releases of regulated substances into the environment; and

2. Setting forth a plan for the management of storage tanks in the entire State.

(Added to NRS by 1989, 771)

NRS 459.834 Regulations of Commission regarding corrective action, evidence of financial responsibility; determination of whether corrective action is required.

1. The Commission shall by regulation establish requirements for:

(a) Corrective action to be taken in response to a release from a storage tank;

(b) Ensuring that the corrective action is cost-effective; and

(c) Maintaining evidence of the financial responsibility of owners and operators of storage tanks.

2. In determining whether corrective action is required by the presence of excessive petroleum in the soil, the Division shall consider, unless waived by the Administrator of the Division:

(a) Factors peculiar to the site and to the contaminant; and

(b) The use of methods developed by the American Society for Testing and Materials to assess health and environmental risks, or equivalent procedures, to establish the need for corrective action and the required level of corrective action.

(Added to NRS by 1989, 772; A 1995, 1891)

NRS 459.836 Permits to operate storage tanks: Regulations; terms and conditions; fee.

1. The Commission may by regulation set forth a procedure for the granting, renewal, modification, suspension, revocation and denial of permits to operate storage tanks.

2. Permits may contain terms and conditions which the Commission considers necessary and which conform to law and regulations adopted by the Commission.

3. The Commission may by regulation prescribe a reasonable fee to be charged for the issuance of a permit.

(Added to NRS by 1989, 772)

NRS 459.838 Account for Management of Storage Tanks: Creation; sources; claims. All fees collected for the issuance of permits to operate storage tanks, if such permits are required, and all reimbursements and penalties recovered pursuant to [NRS 459.840](#) to [459.856](#), inclusive, must be deposited with the State Treasurer for credit to the Account for the Management of Storage Tanks, which is hereby created in the State General Fund. The money in the Account must be paid as other claims against the State are paid.

(Added to NRS by 1989, 772; A 1993, 646)

NRS 459.840 Account for Management of Storage Tanks: Use; reimbursement; action by Attorney General.

1. Except as otherwise provided in subsections 2 and 3, money in the Account for the Management of Storage Tanks may only be expended for the continuing observation or other management of storage tanks.

2. If a person responsible for a release of a regulated substance from a storage tank does not act promptly to clean and decontaminate the affected area properly, and if that inaction presents an imminent and substantial hazard to human health, public safety or the environment, money from the Account may be expended to pay the costs of:

(a) Responding to a release of a regulated substance from a storage tank;

(b) Coordinating the efforts of state, local and federal agencies responding to a release from a storage tank;

(c) Managing the cleaning and decontamination of an area in which a release from a storage tank has occurred; or

(d) Removing or contracting for the removal of a regulated substance released from a storage tank which presents an imminent danger to human health, public safety or the environment.

3. The Director shall demand reimbursement of the Account for money expended pursuant to subsection 2 from any person who is responsible for the release, or who owns or controls the storage tank, or the area in which the release occurred. Payment of the reimbursement is due within 20 days after the person receives notice from the Director of the amount due. Reimbursement may include all costs actually incurred in the investigation and cleanup. The Director may impose an administrative penalty of not more than 5 percent of the amount of reimbursement for each day the amount remains unpaid after the date the payment for reimbursement is due.

4. At the request of the Director, the Attorney General shall seek recovery by legal action of the amount of any unpaid reimbursement and penalty.

(Added to NRS by 1989, 772; A 1993, 646)

NRS 459.842 Enforcement by Department; delegation of responsibility. The Department shall enforce the provisions of [NRS 459.800](#) to [459.856](#), inclusive, or any regulations adopted pursuant to those sections, but may delegate responsibility for enforcing those provisions to suitably qualified agencies of the political subdivisions of

this State.

(Added to NRS by 1989, 774)

NRS 459.844 Subpoenas. In carrying out the provisions of [NRS 459.800](#) to [459.856](#), inclusive, the Commission, the Department and the Attorney General may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary.

(Added to NRS by 1989, 774)

NRS 459.846 Disclosure of information obtained by Department.

1. Except as otherwise provided in this section, information which the Department obtains in the course of the performance of its duties relating to storage tanks is public information.

2. Except as otherwise provided in [NRS 239.0115](#), any information which specifically relates to the trade secrets of any person is confidential. The following information shall be deemed a trade secret:

(a) Information concerning fuel additives. For the purposes of this paragraph, "fuel additives" are ingredients which are present in fuel compositions in amounts of less than 1 percent by weight, including detergents, dispersants, demulsifiers and dyes.

(b) Any other information considered to be a trade secret by the Director. A trade secret may include a formula, composition, process, method of operation, compilation of information or apparatus which is used in a person's business and gives that person an opportunity to obtain an advantage over competitors. In determining whether information is a trade secret, the Director shall consider whether the information is publicly available in written form and, if not, whether its disclosure would tend to affect adversely the competitive position of the owner of the information.

3. Any information which is confidential under subsection 2 may be disclosed to any officer, employee or authorized representative of this State or the United States if:

(a) He is engaged in carrying out the provisions of [NRS 459.800](#) to [459.856](#), inclusive, or the provisions of federal law relating to storage tanks; or

(b) The information is relevant in any judicial proceeding or adversary administrative proceeding under [NRS 459.800](#) to [459.856](#), inclusive, or under the provisions of federal law relating to storage tanks, and is admissible under the rules of evidence.

È The disclosure must be made in a manner which preserves the status of the information as a trade secret.

(Added to NRS by 1989, 773; A [2007, 2113](#))

NRS 459.848 Authority to enter and inspect. Any authorized representative or employee of the Commission or the Department may, for the purpose of carrying out his duties pursuant to [NRS 459.800](#) to [459.856](#), inclusive, or to enforce a regulation adopted pursuant to those sections:

1. Enter any place where the Department has reason to believe there are storage tanks;

2. Inspect or obtain samples wherever the Department has reason to believe a release from a storage tank may have occurred;

3. Inspect and copy any records, reports, information or results of tests relating to the management of a storage tank; and

4. Inspect any system for the continuing observation of a storage tank.

(Added to NRS by 1989, 773)

NRS 459.850 Action to alleviate hazard to human health, public safety or environment. If the Department receives information that the operation of a storage tank presents an imminent and substantial hazard to human health, public safety or the environment, it may:

1. Issue an order directing the owner or operator of the storage tank to take necessary steps to prevent the act or eliminate the practice which constitutes the hazard.

2. Request that the Attorney General commence an action to enjoin the practices or acts which constitute the hazard.

3. Take any other action designed to reduce or eliminate the hazard.

(Added to NRS by 1989, 773)

NRS 459.852 Order for corrective action. Whenever the Director finds that any person is engaging or has engaged in any act or practice which violates any provision of [NRS 459.800](#) to [459.856](#), inclusive, or a regulation adopted pursuant to those sections or any term or condition of a permit issued for the operation of a storage tank, he may issue an order:

1. Specifying the provision which is alleged to have been violated or which is about to be violated;
 2. Setting forth the facts alleged to constitute the violation;
 3. Prescribing any corrective action which must be taken and a reasonable time within which it must be taken;
- and
4. Requiring the person to whom the order is directed to appear before the Director or a hearing officer appointed by him to show cause why the Department should not commence an action against him in district court for appropriate relief.

(Added to NRS by 1989, 774)

NRS 459.854 Injunctive relief.

1. The Director may seek an injunction in district court to prevent the occurrence or continuance of any act or practice which violates any provision of [NRS 459.800](#) to [459.856](#), inclusive, or any regulation adopted or permit or order issued pursuant to those sections.

2. If the Director shows that a person is or has engaged in any act or practice which violates a provision of [NRS 459.800](#) to [459.856](#), inclusive, or any regulation adopted or permit or order issued pursuant to those sections, the court may issue, without bond, any prohibitory or mandatory injunction which the facts warrant, including a temporary restraining order or a preliminary or permanent injunction. A temporary restraining order may be granted only if:

(a) The Director gives notice to the defendant in person, of his intention to seek such an order, or mails such notice to the defendant's last known address by registered or certified mail. The notice must be given at least 10 days before the commencement of the hearing.

(b) Before and during that 10-day period, the Director affords the defendant an opportunity to correct each violation which is the subject of the hearing and the defendant fails to correct the violation or violations before the commencement of the hearing.

3. The court may require a performance bond or other security by the respondent to ensure his compliance with the order.

(Added to NRS by 1989, 774)

NRS 459.856 Civil penalties; damages.

1. Any person who violates or contributes to a violation of any provision of [NRS 459.800](#) to [459.856](#), inclusive, or of any regulation adopted or permit or order issued pursuant to those sections, or who does not take action to correct a violation within the time specified in an order, is liable to the Department for a civil penalty of not more than \$5,000 for each day on which the violation occurs. This penalty is in addition to any other penalty provided by [NRS 459.800](#) to [459.856](#), inclusive.

2. The Department may recover, in the name of the State of Nevada, actual damages which result from a violation, in addition to the civil penalty provided in this section. The damages may include expenses incurred by the Department in removing, correcting or terminating any adverse effects which resulted from the violation and compensation for any damages incurred as a result of the violation.

(Added to NRS by 1989, 775)

FUND FOR BROWNFIELD PROJECTS

NRS 459.860 Definitions. As used in [NRS 459.860](#) to [459.892](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 459.862](#) to [459.876](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [2003, 397](#))

NRS 459.862 "Administrator" defined. "Administrator" means the Administrator of the Division.

(Added to NRS by [2003, 397](#))

NRS 459.864 "Brownfield project" defined. "Brownfield project" means a project for the remediation of a brownfield site for future or alternative use.

(Added to NRS by [2003, 397](#))

NRS 459.866 "Brownfield site" defined. "Brownfield site" has the meaning ascribed to it in 42 U.S.C. § 9601.

(Added to NRS by [2003, 397](#))

NRS 459.868 “Brownfields Restoration Act” defined. “Brownfields Restoration Act” means the Small Business Liability Relief and Brownfields Revitalization Act, Public Law 107-118.

(Added to NRS by [2003, 397](#))

NRS 459.870 “Commission” defined. “Commission” means the State Environmental Commission.

(Added to NRS by [2003, 397](#))

NRS 459.872 “Division” defined. “Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NRS by [2003, 397](#))

NRS 459.874 “Federal grant” defined. “Federal grant” means money authorized by 42 U.S.C. § 9604(k) to create a revolving fund to finance the costs of brownfield projects.

(Added to NRS by [2003, 397](#))

NRS 459.876 “Fund” defined. “Fund” means the Fund for Brownfield Projects created pursuant to [NRS 459.878](#).

(Added to NRS by [2003, 397](#))

NRS 459.878 Creation; use of money; payment of claims; acceptance of gifts, appropriations, contributions, grants and bequests.

1. The Fund for Brownfield Projects is hereby created in the State Treasury as a revolving fund, to be administered by the Division.

2. Money in the Fund may be used only to carry out brownfield projects authorized pursuant to the Brownfields Restoration Act. Interest and income earned on the money in the Fund must be credited to the Fund. Money remaining in the Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund for Brownfield Projects must be carried forward.

3. All payments reimbursing the cost of cleanups for brownfield projects, including interest, must be deposited in the State Treasury for credit to the Fund.

4. Claims against the Fund must be paid as other claims against the State are paid.

5. The Division may accept gifts, appropriations, contributions, grants and bequests of money from any public or private sources. Money so accepted must be deposited in the State Treasury for credit to the Fund and may be used to match the federal grant.

(Added to NRS by [2003, 397](#))

NRS 459.880 Limitations on use of money. Except as otherwise provided in [NRS 459.882](#), money in the Fund, including reimbursements, repayment of principal and interest on loans and other financial assistance, and interest earned on money in the Fund, may be used only to finance the cleanup of brownfield sites or provide other assistance to brownfield projects.

(Added to NRS by [2003, 398](#))

NRS 459.882 Limitations regarding expenditures from money from federal grant. With regard to the money from the federal grant in the Fund, the Administrator shall not spend more than the federally approved amounts for the administration and fiscal or financial oversight of the Fund.

(Added to NRS by [2003, 398](#))

NRS 459.884 Duties of Division. The Division shall:

1. Use the money in the Fund for the purposes set forth in the Brownfields Restoration Act.

2. Determine whether brownfield projects which receive money or other assistance from the Fund comply with the Brownfields Restoration Act.

(Added to NRS by [2003, 398](#))

NRS 459.886 Powers of Division. The Division may:

1. Prepare and enter into any agreements with the Federal Government for the acceptance of grants of money for the Fund.

2. Bind itself to terms of such an agreement.

3. Accept grants made pursuant to the Brownfields Restoration Act.
 4. Manage the Fund in accordance with requirements and objectives of the Brownfields Restoration Act.
 5. Provide services relating to the management and administration of the Fund, including the preparation of any agreement, plan or report.
- (Added to NRS by [2003, 398](#))

NRS 459.888 Administrator may collect fee to defray costs of administering Fund. The Administrator may impose and collect a fee, in an amount established by the Commission by regulation, from each recipient that receives financial assistance from the Fund. The fee must be used to defray the costs of administering the Fund.

(Added to NRS by [2003, 398](#))

NRS 459.890 Administrator may employ persons necessary to carry out duties. The Administrator may employ any legal, fiscal, engineering and other expert services necessary to carry out his duties pursuant to [NRS 459.860](#) to [459.892](#), inclusive.

(Added to NRS by [2003, 398](#))

NRS 459.892 Regulations. The Commission may adopt such regulations as are necessary to carry out the provisions of [NRS 459.860](#) to [459.892](#), inclusive.

(Added to NRS by [2003, 398](#))

MISCELLANEOUS PROVISIONS

NRS 459.900 Submission to governmental agencies of information regarding manufacture, processing, use and disposal of toxic chemicals. The forms required to be submitted pursuant to 42 U.S.C. § 11023 must be submitted to governmental agencies in Nevada designated by the Governor.

(Added to NRS by 1989, 335)

NRS 459.910 Unlawful to store high-level radioactive waste in State.

1. It is unlawful for any person or governmental entity to store high-level radioactive waste in Nevada.
2. As used in this section, unless the context otherwise requires, "high-level radioactive waste" has the meaning ascribed to that term in 10 C.F.R. § 60.2.

(Added to NRS by 1989, 2113)

NRS 459.920 Prerequisites for operation or display of radar gun or similar device.

1. A person or governmental entity shall not operate or display or cause to be operated or displayed a radar gun or similar device unless it is:
 - (a) Or was at the time of purchase, on the Conforming Product List of the International Association of Chiefs of Police; and
 - (b) Inspected at least every 3 years to determine whether its level of power and structural integrity comply with the minimum performance specifications for that model established by the United States Department of Transportation.
2. Any person or governmental entity that causes to be operated or displayed a radar gun or similar device that emits nonionizing radiation shall adopt procedures for its use that protect the health and safety of the operator of the radar gun or device.
3. A peace officer must successfully complete a course of training in the proper use of a radar gun or similar device approved by the Peace Officers' Standards and Training Commission before he may be authorized to operate a radar gun or similar device.

(Added to NRS by 1993, 1152; A [1999, 2430](#); [2007, 92](#))

NRS 459.930 Immunity from liability for certain persons for response actions and cleanup with respect to certain real property at which hazardous substance has been or may have been released.

1. Notwithstanding any other provision of law to the contrary and regardless of whether he is a participant in a program, a person who:
 - (a) Is a bona fide prospective purchaser is not liable for any response action or cleanup that may be required with respect to any real property pursuant to [NRS 445A.300](#) to [445A.730](#), inclusive, [445B.100](#) to [445B.640](#), inclusive, [459.400](#) to [459.600](#), inclusive, or any other applicable provision of law.

(b) Is an innocent purchaser is not liable for any response action or cleanup that may be required with respect to any real property pursuant to [NRS 445A.300](#) to [445A.730](#), inclusive, [445B.100](#) to [445B.640](#), inclusive, [459.400](#) to [459.600](#), inclusive, or any other applicable provision of law.

(c) Owns real property that:

(1) Is contiguous to or otherwise similarly situated with respect to; and

(2) Is or may be contaminated by a release or threatened release of a hazardous substance from,

or other real property that the person does not own, is not liable for any response action or cleanup that may be required with respect to the release or threatened release, provided that the person meets the requirements set forth in section 107(q)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(q)(1).

2. A person described in paragraph (a), (b) or (c) of subsection 1 shall report to the Division, in a manner prescribed by the Commission:

(a) Any of the following substances that are found on or at real property owned by the person:

(1) Hazardous substances at or above the required reporting levels designated pursuant to sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9602 and 9603; and

(2) Petroleum products of such type and in such amount as are required by the Division to be reported; and

(b) Any response action or cleanup that has been performed with respect to the real property described in paragraph (a).

3. The provisions of this section do not otherwise limit the authority of the Administrator, the Commission or the Division to require any person who is responsible for the contamination or pollution of real property, by improperly managing hazardous substances at or on that real property, to perform a response action or cleanup with respect to that real property.

4. If there are costs relating to a response action or cleanup that are incurred and unrecovered by the State of Nevada with respect to real property for which a bona fide prospective purchaser of the real property is not liable pursuant to the provisions of this section, the State of Nevada:

(a) Has a lien against that real property in an amount not to exceed the increase in the fair market value of the real property that is attributable to the response action or cleanup, which increase in fair market value must be measured at the time of the sale or other disposition of the real property; or

(b) May, with respect to those incurred and unrecovered costs and by agreement with the bona fide prospective purchaser of the real property, obtain from that bona fide prospective purchaser:

(1) A lien on any other real property owned by the bona fide prospective purchaser; or

(2) Another form of assurance or payment that is satisfactory to the Administrator.

5. The provisions of this section:

(a) Do not affect the liability in tort of any party; and

(b) Apply only to real property that is acquired on or after the date that is 60 days after May 26, 2003.

6. As used in this section:

(a) "Administrator" means the Administrator of the Division.

(b) "Bona fide prospective purchaser" has the meaning ascribed to it in section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(40).

(c) "Commission" means the State Environmental Commission.

(d) "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(e) "Hazardous substance" has the meaning ascribed to it in [NRS 459.620](#).

(f) "Innocent purchaser" means a person who qualifies for the exemption from liability set forth in section 107(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(b) (3).

(g) "Participant" has the meaning ascribed to it in [NRS 459.622](#).

(h) "Program" means a program of voluntary cleanup and relief from liability set forth in [NRS 459.610](#) to [459.658](#), inclusive.

(i) "Response action" means any action to mitigate, attempt to mitigate or assist in the mitigation of the effects of a leak or spill of or an accident involving a hazardous substance, including, without limitation, any action to:

(1) Contain and dispose of the hazardous substance;

(2) Clean and decontaminate the area affected by the leak, spill or accident; or

(3) Investigate the occurrence of the leak, spill or accident.

(Added to NRS by [2003, 978](#); A [2007, 1910](#))

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Assembly Bill No. 322—Assemblymen Perkins, Ohrenschall, Goldwater, Gibbons, Koivisto, Anderson, Andonov, Angle, Arberry, Atkinson, Beers, Buckley, Carpenter, Chowning, Christensen, Claborn, Collins, Conklin, Geddes, Giunchigliani, Goicoechea, Grady, Griffin, Gustavson, Hardy, Hettrick, Horne, Knecht, Leslie, Mabey, Manendo, Marvel, McClain, McCleary, Mortenson, Ocegüera, Parks, Pierce, Sherer, Weber and Williams

CHAPTER 41

AN ACT relating to public services for children; creating the Statewide Alert System for the Safe Return of Abducted Children; creating the Committee for the Statewide Alert System; prescribing the membership and duties of the Committee; prescribing the circumstances under which a law enforcement agency may activate the System; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 432 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Broadcaster” means a radio broadcasting station, cable operator or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.*

Sec. 4. *“Committee” means the Committee for the Statewide Alert System created by section 7 of this act.*

Sec. 5. *“System” means the Statewide Alert System for the Safe Return of Abducted Children created by section 6 of this act.*

Sec. 6. 1. *There is hereby created the Statewide Alert System for the Safe Return of Abducted Children, which is composed of a voluntary partnership among state law enforcement agencies, local law enforcement agencies and broadcasters to assist in the search for and safe return of abducted children. The Children’s Advocate appointed pursuant to NRS 432.157 shall administer the System.*

2. The agencies and broadcasters that choose to participate in the System must agree to comply with the provisions of sections 2 to 10, inclusive, of this act and any requirements prescribed by the Committee for participation in the System.

3. Each law enforcement agency that chooses to participate in the System shall:

(a) Adopt a written policy concerning activation of the System by the agency consistent with the provisions of sections 2 to 10, inclusive, of this act; and

(b) Submit a copy of the written policy to the Children’s Advocate appointed pursuant to NRS 432.157.

.....
 ê2003 Statutes of Nevada, Page 394 ([Chapter 41, AB 322](#))ê

Sec. 7. 1. *There is hereby created the Committee for the Statewide Alert System consisting of 12 members as follows:*

(a) Five members appointed by the Governor who represent local law enforcement agencies;

(b) Five members appointed by the Governor who represent state law enforcement agencies;

(c) One representative of this state's Emergency Alert System, appointed by the Nevada Broadcasters Association or its successor; and

(d) One representative of the Nevada Broadcasters Association or its successor, appointed by that Association.

2. The Governor shall select a Chairman and Vice Chairman of the Committee.

3. After the initial terms, each member of the Committee serves a term of 3 years, commencing on July 1 of each odd-numbered year. A vacancy on the Committee must be filled in the same manner as the original appointment.

4. Members of the Committee serve without salary or compensation for their travel or per diem expenses.

Sec. 8. 1. The Committee shall, in consultation with the Attorney General:

(a) Oversee the System;

(b) Set forth the components of the System;

(c) Supervise and evaluate any training associated with the System;

(d) Monitor, review and evaluate the activations of the System to determine whether such activations complied with sections 2 to 10, inclusive, of this act; and

(e) Conduct periodic tests of the System.

2. The Committee may:

(a) Dedicate the System to one or more persons;

(b) Establish a name for the System that is in addition to the definition set forth in section 5 of this act; and

(c) Accept gifts, grants and donations for use in carrying out the provisions of sections 2 to 10, inclusive, of this act.

Sec. 9. 1. A law enforcement agency which has jurisdiction over the investigation of an abducted child who is less than 18 years of age may activate the System to broadcast an emergency bulletin on behalf of the child if:

(a) The law enforcement agency confirmed that the child has been abducted;

(b) The child is in danger of serious physical harm or death; and

(c) The law enforcement agency has sufficient descriptive information about the child or the person who is suspected of abducting the child, or other pertinent information, to warrant immediate broadcast of the information.

2. Before activation of the System on behalf of a child, the law enforcement agency shall determine whether the broadcast of information will encompass:

(a) A particular county, region or state; or

(b) More than one state.

3. A law enforcement agency is not required to obtain the prior consent of the Committee before activating the System, but the Committee may review an activation of the System after the activation is complete.

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ê 2003 Statutes of Nevada, Page 395 ([Chapter 41, AB 322](#))ê

Sec. 10. 1. If a broadcaster that participates in the System receives a notification of activation of the System by a law enforcement agency concerning an abducted child and as a result of that notification broadcasts descriptive information concerning the abducted child and other information contained in the notification to assist with the safe return of the child, the broadcaster is immune from civil liability based upon the broadcast of that information.

2. If a person enters into an agreement with the Committee to establish or maintain a website for the System and the agreement provides that only the law enforcement agency activating the System has the authority or ability to place information on the website, the person is immune from civil liability based upon the information that is placed on the website by the law enforcement agency.

Sec. 11. NRS 432.200 is hereby amended to read as follows:

432.200 1. A law enforcement agency shall accept every report of a missing child which is submitted to the agency, including, but not limited to, a report made by telephone. Upon receipt of such a report, the agency shall immediately conduct a preliminary investigation and classify the cause of the disappearance of the child as "runaway," "abducted by his parent," "abducted by a stranger" or "cause of disappearance unknown," and shall:

(a) Transmit all available information about the child to the Clearinghouse and to the Central Repository for Nevada Records of Criminal History within 36 hours after the report is received;

(b) Immediately notify such persons and make such inquiries concerning the missing child as the agency deems necessary;

(c) Fully comply with the requirements of the National Child Search Assistance Act of 1990, Title XXXVII of Public Law 101-647, 104 Stat. 4966; and

(d) Enter into the National Crime Information Center’s Missing Person File and the Repository for Information Concerning Missing Persons within the Central Repository for Nevada Records of Criminal History, as miscellaneous information, any person reasonably believed to have unlawfully abducted or detained the missing child, or aided or abetted [such] the unlawful abduction or detention.

2. A law enforcement agency which has jurisdiction over the investigation of an abducted child and which has obtained a warrant for the arrest of a person suspected in the child’s disappearance or concealment shall immediately notify the National Crime Information Center for the entry into the Center’s Wanted Person File of identifying and descriptive information concerning:

- (a) The suspect; and
- (b) As miscellaneous information, the missing child.

The agency shall cross-reference information entered pursuant to this section with the National Crime Information Center’s Missing Person File and with the Repository for Information Concerning Missing Persons within the Central Repository for Nevada Records of Criminal History.

3. If a missing child is less than 16 years of age or has not been located within 30 days after a report is filed, the law enforcement agency that received the initial report shall, and the Division or the Central Repository for Nevada Records of Criminal History may:

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ê2003 Statutes of Nevada, Page 396 ([Chapter 41, AB 322](#))ê

(a) Send to the child’s parent or guardian a request for certain identifying information regarding the child that the National Crime Information Center recommends be provided; and

(b) Ask the child’s parent or guardian to provide such identifying information regarding the child.

If a law enforcement agency receives the identifying information, it shall transmit all information so released to it to the Division and to the Central Repository. The Division and the Central Repository shall, upon [its] receipt of the identifying information about the missing child, compare the information with the information that is on file concerning unidentified deceased children. This subsection does not preclude the voluntary release of identifying information about the missing child by his parent or guardian at any time.

4. The parent or guardian of a child reported as missing shall promptly notify the appropriate law enforcement agency if the child is found or returned. The law enforcement agency shall then transmit that fact to the National Crime Information Center, the Central Repository for Nevada Records of Criminal History and the Clearinghouse.

5. *Nothing in this section requires a law enforcement agency to activate the Statewide Alert System for the Safe Return of Abducted Children created by section 6 of this act.*

6. As used in this section, “Division” means the Investigation Division of the Department of Public Safety.

Sec. 12. 1. On or before July 1, 2003, the Governor shall:

(a) Appoint five members to the Committee for the Statewide Alert System pursuant to section 7 of this act to terms commencing on July 1, 2003, and expiring on June 30, 2005.

(b) Appoint five members to the Committee for the Statewide Alert System pursuant to section 7 of this act to terms commencing on July 1, 2003, and expiring on June 30, 2006.

2. On or before July 1, 2003, the Nevada Broadcasters Association shall appoint two members to the Committee for the Statewide Alert System pursuant to section 7 of this act to terms commencing on July 1, 2003, and expiring on June 30, 2006.

Sec. 13. 1. This section and sections 7 and 12 of this act become effective upon passage and approval.

2. Sections 1 to 6, inclusive, and 8 to 11, inclusive, of this act become effective on July 1, 2003.

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Assembly Bill No. 74—Committee on Natural Resources, Agriculture, and Mining

CHAPTER 42

AN ACT relating to brownfield sites; creating a revolving fund to finance the remediation of brownfield sites; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to administer the fund; providing for the uses of money in the fund; authorizing the Administrator of the Division to impose a fee; authorizing the State Environmental Commission to adopt regulations; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 459 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. *As used in sections 2 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Administrator” means the Administrator of the Division.*

Sec. 4. *“Brownfield project” means a project for the remediation of a brownfield site for future or alternative use.*

Sec. 5. *“Brownfield site” has the meaning ascribed to it in 42 U.S.C. § 9601.*

Sec. 6. *“Brownfields Restoration Act” means the Small Business Liability Relief and Brownfields Revitalization Act, Public Law 107-118.*

Sec. 7. *“Commission” means the State Environmental Commission.*

Sec. 8. *“Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

Sec. 9. *“Federal grant” means money authorized by 42 U.S.C. § 9604(k) to create a revolving fund to finance the costs of brownfield projects.*

Sec. 10. *“Fund” means the Fund for Brownfield Projects created pursuant to section 11 of this act.*

Sec. 11. 1. *The Fund for Brownfield Projects is hereby created in the State Treasury as a revolving fund, to be administered by the Division.*

2. Money in the Fund may be used only to carry out brownfield projects authorized pursuant to the Brownfields Restoration Act. Interest and income earned on the money in the Fund must be credited to the Fund. Money remaining in the Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund for Brownfield Projects must be carried forward.

3. All payments reimbursing the cost of cleanups for brownfield projects, including interest, must be deposited in the State Treasury for credit to the Fund.

4. Claims against the Fund must be paid as other claims against the State are paid.

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5. The Division may accept gifts, appropriations, contributions, grants and bequests of money from any public or private sources. Money so accepted must be deposited in the State Treasury for credit to the Fund and may be used to match the federal grant.

Sec. 12. *Except as otherwise provided in section 13 of this act, money in the Fund, including reimbursements, repayment of principal and interest on loans and other financial assistance, and interest earned on money in the Fund, may be used only to finance the cleanup of brownfield sites or provide other assistance to brownfield projects.*

Sec. 13. *With regard to the money from the federal grant in the Fund, the Administrator shall not spend more than the federally approved amounts for the administration and fiscal or financial oversight of the Fund.*

Sec. 14. *The Division shall:*

1. Use the money in the Fund for the purposes set forth in the Brownfields Restoration Act.

2. Determine whether brownfield projects which receive money or other assistance from the Fund comply with the Brownfields Restoration Act.

Sec. 15. *The Division may:*

1. Prepare and enter into any agreements with the Federal Government for the acceptance of grants of money for the Fund.

- 2. *Bind itself to terms of such an agreement.*
- 3. *Accept grants made pursuant to the Brownfields Restoration Act.*
- 4. *Manage the Fund in accordance with requirements and objectives of the Brownfields Restoration Act.*
- 5. *Provide services relating to the management and administration of the Fund, including the preparation of any agreement, plan or report.*

Sec. 16. *The Administrator may impose and collect a fee, in an amount established by the Commission by regulation, from each recipient that receives financial assistance from the Fund. The fee must be used to defray the costs of administering the Fund.*

Sec. 17. *The Administrator may employ any legal, fiscal, engineering and other expert services necessary to carry out his duties pursuant to sections 2 to 18, inclusive, of this act.*

Sec. 18. *The Commission may adopt such regulations as are necessary to carry out the provisions of sections 2 to 18, inclusive, of this act.*

Sec. 19. This act becomes effective upon passage and approval.

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Assembly Bill No. 75—Committee on Natural Resources, Agriculture, and Mining

CHAPTER 43

AN ACT relating to agriculture; revising the provisions governing the certification of organic agricultural products; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 587 of NRS is hereby amended by adding thereto a new section to read as follows:
“Agricultural product” has the meaning ascribed to it in 7 U.S.C. § 6502, as that section existed on July 1, 2003.

Sec. 2. NRS 587.700 is hereby amended to read as follows:

587.700 As used in NRS 587.700 to ~~587.850,~~ **587.830**, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS ~~587.720 to 587.790, inclusive,~~ **587.740, 587.750 and 587.780 and section 1 of this act** have the meanings ascribed to them in those sections.

Sec. 3. NRS 587.750 is hereby amended to read as follows:

587.750 “Handler” ~~[means a person who processes, packages, stores, transports or sells animal or vegetable products. The term does not include a final retailer who does not process animal or vegetable products.]~~ *has the meaning ascribed to it in 7 U.S.C. § 6502, as that section existed on July 1, 2003.*

Sec. 4. NRS 587.780 is hereby amended to read as follows:

587.780 “Producer” ~~[means a person who engages in the business of growing or producing an animal or vegetable product.]~~ *has the meaning ascribed to it in 7 U.S.C. § 6502, as that section existed on July 1, 2003.*

Sec. 5. NRS 587.800 is hereby amended to read as follows:

587.800 1. The Director ~~[shall]~~ *may* establish a program for the certification of *producers and handlers of organic agricultural products.* ~~[The program must include all vegetable products and may include animal products.~~

2. ~~The]~~

2. If such a program is established, the Governor and the Director shall submit the program to the Secretary of Agriculture for approval ~~[.]~~ *pursuant to the Federal Act.*

Sec. 6. NRS 587.810 is hereby amended to read as follows:

587.810 1. An Advisory Council for Organic Agricultural Products is hereby created in the Department. The Advisory Council consists of:

- (a) Four members who are producers or handlers of organic agricultural products;
- (b) One member who is a purchaser, consumer, or wholesale or retail seller of organic agricultural products; and
- (c) One member who represents an agricultural interest other than organic agricultural products.

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 ê 2003 Statutes of Nevada, Page 400 ([Chapter 43, AB 75](#)) ê

2. The Director shall nominate members for the Advisory Council, and the State Board of Agriculture shall appoint the members.

3. The Advisory Council ~~[shall advise]~~ *may:*

(a) Advise the Director and the State Board of Agriculture concerning the ~~[administration of]~~ provision of information and educational services to the public and to producers and handlers of organic agricultural products concerning the program for the certification of producers and handlers of organic agricultural products ~~[] established by the Director pursuant to NRS 587.800, if such a program is established; and~~

(b) Provide information and educational services to the public and to producers and handlers of organic agricultural products.

Sec. 7. NRS 587.820 is hereby amended to read as follows:

587.820 1. The State Board of Agriculture shall appoint three of the first members of the Advisory Council for Organic Agricultural Products for terms of 2 years and three for terms of 3 years. After the expiration of the initial term, the term of office of each member is 3 years. A vacancy must be filled, for the unexpired term, by appointment of a member whose qualifications are the same as those of the member replaced. The Advisory Council shall elect a Chairman and Vice Chairman from among its members. The Director shall provide appropriate secretarial support and a place for the meetings of the Advisory Council.

2. The Advisory Council shall meet at least ~~[quarterly,]~~ *annually*, upon the call of the Director or the Chairman. A majority of the members appointed to the Advisory Council constitutes a quorum.

3. For each day or portion of a day necessarily spent on the business of the Advisory Council, each member is entitled to receive:

(a) Compensation, to be fixed by regulation of the State Board of Agriculture, which must not exceed \$80 per day; and

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 8. NRS 587.830 is hereby amended to read as follows:

587.830 ~~[The]~~ *If the Director establishes a program for the certification of producers and handlers of organic agricultural products pursuant to NRS 587.800, the* State Board of Agriculture shall adopt appropriate regulations ~~[for]~~ :

1. For the administration of the program ~~[for the certification of organic agricultural products, including:]~~, including, without limitation:

(a) Standards for the analysis ~~[, inspection and certification]~~ and inspection of organic agricultural products;

~~[2.] (b) Records required of producers and handlers of organic agricultural products;~~

~~[3.] (c) Standards for the certification of producers and handlers of organic agricultural products;~~

~~[4. Lists of approved and prohibited substances for use in the production and handling of organic agricultural products;~~

~~[5.] (d) Requirements for the use of a seal of approval for organic agricultural products produced in this state ; and [standards for labeling those products; and~~

~~[6.] (e) A schedule of fees for initial certification and [inspection] for continued certification as a producer or handler of organic agricultural products.~~

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 ê 2003 Statutes of Nevada, Page 401 ([Chapter 43, AB 75](#)) ê

2. As necessary for the enforcement of the program, including, without limitation:

(a) Standards for the registration of producers and handlers of organic agricultural products; and

(b) A schedule of fees for initial registration and for continued registration of producers and handlers of organic agricultural products.

Sec. 9. NRS 587.720, 587.730, 587.760, 587.770, 587.790, 587.840 and 587.850 are hereby repealed.

Sec. 10. This act becomes effective on July 1, 2003.

Assembly Bill No. 77—Assemblymen Angle, Gustavson, Andonov, Beers, Brown, Claborn, Collins, Geddes, Gibbons, Goicoechea, Grady, Griffin, Hardy, Hettrick, Knecht, Mabey, McCleary, Mortenson, Ohrenschall, Sherer and Weber (by request)

Joint Sponsor: Senator Shaffer

CHAPTER 44

AN ACT relating to motorcycles; authorizing certain inserts in tail lamps; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 484.551 is hereby amended to read as follows:

484.551 1. Except as otherwise provided in this chapter [,] *and NRS 486.261*, every motor vehicle, trailer, semitrailer and any vehicle which is being drawn at the end of a train of vehicles must be equipped with at least two tail lamps mounted on the rear, which, when lighted as required by this chapter, emit a red light plainly visible from a distance of 500 feet to the rear, except that vehicles manufactured before July 1, 1969, must have at least one tail lamp if they were originally equipped with only one tail lamp.

2. Only the tail lamp on the rearmost vehicle of a train of vehicles need actually be seen from the distance specified.

3. On vehicles equipped with more than one tail lamp, the lamps must be mounted on the same level, as widely spaced laterally as practicable and at a height of not more than 72 inches nor less than 15 inches.

4. Every passenger car, bus and truck under 80 inches in overall width must be equipped with a lamp so constructed and placed as to illuminate with a white light the rear registration or license plate and render it clearly legible from a distance of 50 feet to the rear.

5. All such lamps must be wired to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

6. The provisions of this section do not apply to towable tools or equipment which is being towed during the hours of daylight.

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Sec. 2. NRS 484.563 is hereby amended to read as follows:

484.563 1. Front clearance lamps, identification lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle ~~shall~~ *must* display or reflect an amber color.

2. Rear clearance lamps, identification lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle ~~shall~~ *must* display or reflect a red color.

3. All lighting devices and reflectors mounted on the rear of any vehicle ~~shall~~ *must* display or reflect a red color, except that:

(a) The stoplight or other signal device may be red, amber or yellow.

(b) The light illuminating the license plate ~~shall~~ *must* be white.

(c) The light emitted by a backup lamp ~~shall~~ *must* be white or amber.

(d) The tail lamp on a motorcycle may contain a blue insert as authorized in NRS 486.261.

Sec. 3. NRS 484.787 is hereby amended to read as follows:

484.787 1. Except as *otherwise* provided in NRS 484.789, authorized emergency vehicles are vehicles publicly owned and operated in the performance of the duty of:

(a) A police or fire department.

(b) A sheriff's office.

(c) The Nevada Highway Patrol.

(d) The Division of Forestry of the State Department of Conservation and Natural Resources in responding to a fire.

(e) A public ambulance agency.

(f) A public lifeguard or lifesaving agency.

2. A vehicle publicly maintained in whole or in part by the State, or by a city or county, and privately owned and operated by a regularly salaried member of a police department, sheriff's office or traffic law enforcement department, is an authorized emergency vehicle if:

(a) The vehicle has a permit, pursuant to NRS 484.789, from the Department;

(b) The person operates the vehicle in responding to emergency calls or fire alarms, or at the request of the Nevada Highway Patrol or in the pursuit of actual or suspected violators of the law; and

(c) The State, county or city does not furnish a publicly owned vehicle for the purposes stated in paragraph (b).

3. Every authorized emergency vehicle must be equipped with at least one flashing red warning lamp visible from the front and a siren for use as provided in this chapter, which lamp and siren must be in compliance with standards approved by the Department. In addition, an authorized emergency vehicle may display revolving, flashing or steady red or blue warning lights to the front, sides or rear of the vehicle.

4. An authorized emergency vehicle may be equipped with a system or device that causes the upper-beam head lamps of the vehicle to continue to flash alternately while the system or device is activated. The driver of a vehicle that is so equipped may use the system or device when responding to an emergency call or fire alarm, while escorting a funeral procession, or when in pursuit of an actual or suspected violator of the law. As used in this subsection, "upper-beam head lamp" means a head lamp or that part of a head lamp which projects a distribution of light or composite beam meeting the requirements of subsection 1 of NRS 484.587.

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5. Except as otherwise provided in subsection 4, a person shall not operate a motor vehicle with any system or device that causes the head lamps of the vehicle to continue to flash alternately or simultaneously while the system or device is activated. This subsection does not prohibit the operation of a motorcycle equipped with any system or device that modulates the intensity of light produced by the head lamp of the motorcycle, if the system or device is used only during daylight hours and conforms to the requirements of 49 C.F.R. § 571.108.

6. A person shall not operate a vehicle with any lamp or device displaying a red light visible from directly in front of the center of the vehicle except an authorized emergency vehicle, a school bus or an official vehicle of a regulatory agency.

7. A person shall not operate a vehicle with any lamp or device displaying a blue light, except *a motorcycle pursuant to NRS 486.261 or* an authorized emergency vehicle.

Sec. 4. NRS 486.261 is hereby amended to read as follows:

486.261 1. ~~Every~~ *Except as otherwise provided in subsection 3, every* motorcycle or moped must be equipped with at least one tail lamp mounted on the rear, which, when lighted as required by NRS 486.011 to 486.381, inclusive, emits a red light plainly visible from a distance of 500 feet to the rear.

2. The tail lamp must be wired to be lighted whenever the head lamp is lighted.

3. *The tail lamp on a motorcycle may contain a blue insert that does not exceed 1 inch in diameter.*

Assembly Bill No. 83–Committee on Transportation

CHAPTER 45

AN ACT relating to motor vehicles; prohibiting the use of certain devices for braking in certain circumstances; requiring that regulations adopted by the Department of Transportation concerning combinations of vehicles in excess of 70 feet in length be consistent with certain federal requirements; eliminating the limitation on the maximum fee which may be charged for a permit for a combination of vehicles in excess of 80,000 pounds; repealing certain provisions relating to alternative limitations on the

weight of a trailer or semitrailer; providing a penalty; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The driver of a vehicle which is equipped with a device for braking that uses the compression of the engine of the vehicle shall not use the device at any time unless:

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ê 2003 Statutes of Nevada, Page 404 ([Chapter 45, AB 83](#))ê

(a) The device is equipped with an operational muffler; or

(b) The driver reasonably believes that an emergency requires the use of the device to protect the physical safety of a person or others from an immediate threat of physical injury or to protect against an immediate threat of damage to property.

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 2. NRS 484.739 is hereby amended to read as follows:

484.739 1. Except as otherwise provided in subsection 2, the length of a bus may not exceed 45 feet and the length of a motortruck may not exceed 40 feet.

2. A passenger bus which has three or more axles and two sections joined together by an articulated joint with a trailer which is equipped with a mechanically steered rear axle may not exceed a length of 65 feet.

3. Except as otherwise provided in subsections 4, 7 and 9, no combination of vehicles, including any attachments thereto coupled together, may exceed a length of 70 feet.

4. The Department of Transportation, by regulation, shall provide for the operation of combinations of vehicles in excess of 70 feet in length. ~~[, but in no event exceeding 105 feet.]~~ The regulations must establish standards for the operation of such vehicles which must be consistent with their safe operation upon the public highways and *with the provisions of 23 C.F.R. § 658.23. Such standards* must include:

- (a) Types and number of vehicles to be permitted in combination;
- (b) Horsepower of a motortruck;
- (c) Operating speeds;
- (d) Braking ability; and
- (e) Driver qualifications.

The operation of such vehicles is not permitted on highways where, in the opinion of the Department of Transportation, their use would be inconsistent with the public safety because of a narrow roadway, excessive grades, extreme curvature or vehicular congestion.

5. Combinations of vehicles operated under the provisions of subsection 4 may, after obtaining a special permit issued at the discretion of, and in accordance with procedures established by, the Department of Transportation, carry loads not to exceed the values set forth in the following formula: $W=500 [LN/(N-1) + 12N + 36]$, wherein:

- (a) W equals the maximum load in pounds carried on any group of two or more consecutive axles;
- (b) L equals the distance in feet between the extremes of any group of two or more consecutive axles; and
- (c) N equals the number of axles in the group under consideration.

The distance between axles must be measured to the nearest foot. If a fraction is exactly one-half foot, the next largest whole number must be used. The permits may be restricted in such manner as the Department of Transportation considers necessary and may, at the option of the Department, be cancelled without notice. No such permits may be issued for operation on any highway where that operation would prevent this state from receiving federal money for highway purposes.

6. Upon approving an application for a permit to operate combinations of vehicles pursuant to subsection 5, the Department of Transportation shall

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ê 2003 Statutes of Nevada, Page 405 ([Chapter 45, AB 83](#))ê

withhold issuance of the permit until the applicant has furnished proof of compliance with the provisions of NRS 706.531.

7. The load upon any motor vehicle operated alone, or the load upon any combination of vehicles, must not extend beyond the front or the rear of the vehicle or combination of vehicles for a distance of more than 10 feet, or a total of 10 feet both to the front or the rear, and a combination of vehicles and load thereon may not exceed a total of 75 feet without having secured a permit pursuant to subsection 4 or NRS 484.737. The provisions of this subsection do not apply to the booms or masts of shovels, cranes or water well drilling and servicing equipment carried upon a vehicle if:

(a) The booms or masts do not extend by a distance greater than two-thirds of the wheelbase beyond the front tires of the vehicle.

(b) The projecting structure or attachments thereto are securely held in place to prevent dropping or swaying.

(c) No part of the structure which extends beyond the front tires is less than 7 feet from the roadway.

(d) The driver's vision is not impaired by the projecting or supporting structure.

8. Lights and other warning devices which are required to be mounted on a vehicle pursuant to this chapter must not be included in determining the length of a vehicle or combination of vehicles and the load thereon.

9. This section does not apply to:

(a) Vehicles used by a public utility for the transportation of poles;

(b) A combination of vehicles consisting of a truck-tractor drawing a semitrailer that does not exceed 53 feet in length;

(c) A combination of vehicles consisting of a truck-tractor drawing a semitrailer and a trailer, neither of which exceeds 28 1/2 feet in length; or

(d) A combination of vehicles consisting of a truck-tractor drawing no more than three saddle-mounted vehicles and one full-mounted vehicle that does not exceed 75 feet in length.

10. As used in this section:

(a) "Full-mounted vehicle" means a smaller vehicle mounted completely on the frame of a saddle-mounted vehicle.

(b) "Saddle-mounted vehicle" means a vehicle forming part of a combination of vehicles used in a driveway-towaway operation that is connected by a saddle mount to the frame or fifth-wheel coupling of the vehicle in front of it.

Sec. 3. NRS 484.745 is hereby amended to read as follows:

484.745 1. Except as otherwise provided in NRS ~~[484.746,]~~ 484.748 and 484.7485, a vehicle may be operated or moved upon any public highway if:

(a) The maximum weight on any single axle does not exceed 20,000 pounds.

(b) The maximum weight on any tandem axle does not exceed 34,000 pounds.

(c) Except as otherwise provided in subsection 2, the maximum overall gross weight on any group of two or more consecutive axles does not exceed the values set forth in the following formula: $W=500 [LN/(N-1) + 12N + 36]$ wherein:

(1) W equals the maximum load in pounds carried on any group of two or more consecutive axles;

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 2003 Statutes of Nevada, Page 406 ([Chapter 45, AB 83](#))

(2) L equals the distance in feet between the extremes of any group of two or more consecutive axles; and

(3) N equals the number of axles in the group under consideration.

2. Two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the distance between the first and last axles of the consecutive sets of axles is 36 feet or more.

Sec. 4. NRS 484.752 is hereby amended to read as follows:

484.752 1. The provisions of NRS 484.745 ~~[and 484.746,]~~ do not apply to any highway which is a part of the Federal-Aid Primary System, Federal-Aid Urban System, Federal-Aid Secondary System or Interstate System if their application would prevent this state from receiving any federal funds for highway purposes under section 127 of Title 23, U.S.C.

2. The Department of Transportation, with respect to highways under its jurisdiction, and the governing bodies of cities and counties, with respect to roads and streets under their jurisdiction, after determining that use by vehicles otherwise conforming with the maximum weight limits prescribed in NRS 484.745 ~~[or 484.746]~~ is likely to cause substantial stress to any highway, road, street, or portion or structure thereof, may, by proper notice, fix a reduced maximum weight limit for vehicles which may pass over any such highway, road, street, or portion or structure thereof.

Sec. 5. NRS 706.531 is hereby amended to read as follows:

706.531 1. The Department of Transportation shall approve an application for a permit pursuant to the provisions of subsection 5 of NRS 484.739. The permit must be carried and displayed in such a manner as the Department determines on every combination so operating. The permit issued may be transferred from one combination to another, under such conditions as the Department may by regulation prescribe, but must not be transferred from one person or operator to another without prior approval of the Department. The permit may be used only on motor vehicles regularly licensed pursuant to the provisions of NRS 482.482.

2. The annual fee for each permit for a combination of vehicles is \$60 for each 1,000 pounds or fraction thereof of gross weight in excess of 80,000 pounds. **[The maximum fee must not exceed \$2,940.]** The fee must be reduced one-twelfth for each month that has elapsed since the beginning of each calendar year, rounded to the nearest dollar, but must not be less than \$50. The annual fee for each permit for a combination of vehicles not exceeding 80,000 pounds is \$10. The fee must be paid in addition to all other fees required by the provisions of this chapter.

3. Any person operating a combination of vehicles licensed pursuant to the provisions of subsection 2 **[.]** who is apprehended operating a combination in excess of the gross weight for which the fee in subsection 2 has been paid is, in addition to all other penalties provided by law, liable for the difference between the fee for the load being carried and the fee paid, for the full licensing period.

4. Any person apprehended operating a combination of vehicles without having complied with the provisions of NRS 484.739 and this section is, in addition to all other penalties provided by law, liable for the payment of the fee which would be due pursuant to the provisions of subsection 2 for the balance of the calendar year for the gross load being carried at the time of apprehension.

5. The holder of an original permit may, upon surrendering the permit to the Department or upon delivering to the Department a signed and

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ê 2003 Statutes of Nevada, Page 407 ([Chapter 45, AB 83](#)) ê

notarized statement that the permit was lost or stolen and such other documentation as the Department may require, apply to the Department:

- (a) For a refund of an amount equal to that portion of the fees paid for the permit that is attributable, on a pro rata monthly basis, to the remainder of the calendar year; or
- (b) To have that amount credited against excise taxes due pursuant to the provisions of chapter 366 of NRS.

Sec. 6. NRS 484.746 is hereby repealed.

Assembly Bill No. 105–Committee on Judiciary

CHAPTER 46

AN ACT relating to parole; providing additional credits against the sentence of a parolee under certain circumstances; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of 10 days from his sentence for each month he serves if:

- (a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and*
- (b) He is current with any payment of restitution required pursuant to NRS 213.126.*

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

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ê 2003 Statutes of Nevada, Page 408 ([Chapter 46, AB 105](#)) ê

Sec. 2. NRS 209.432 is hereby amended to read as follows:

209.432 As used in NRS 209.432 to 209.451, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Offender" includes:

(a) A person who is convicted of a felony under the laws of this state and sentenced, ordered or otherwise assigned to serve a term of residential confinement.

(b) A person who is convicted of a felony under the laws of this state and assigned to the custody of the division of parole and probation of the department of public safety pursuant to NRS 209.4886.

2. "Residential confinement" means the confinement of a person convicted of a felony to his place of residence under the terms and conditions established pursuant to specific statute. The term does not include any confinement ordered pursuant to NRS 176A.530 to 176A.560, inclusive, 176A.660 to 176A.690, inclusive, 213.15105, 213.15193 or 213.152 to 213.1528, inclusive.

Sec. 3. NRS 209.447 is hereby amended to read as follows:

209.447 1. An offender who is sentenced after June 30, 1991, for a crime committed before July 1, 1985, and who is released on parole for a term less than life must, if he has no serious infraction of the terms and conditions of his parole or the laws of this state recorded against him, be allowed for the period he is actually on parole a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years, and 5 months for each of the remaining years of the term, and pro rata for any part of a year where the actual term served is for more or less than a year. Credit must be recorded on a monthly basis as earned.

2. An offender who is sentenced after June 30, 1991, for a crime committed on or after July 1, 1985, and who is released on parole for a term less than life must, if he has no serious infraction of the terms and conditions of his parole or the laws of this state recorded against him, be allowed for the period he is actually on parole a deduction of 10 days from his sentence for each month he serves.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.448 and 209.449 ~~H~~ *and section 1 of this act*, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 4. NRS 213.1518 is hereby amended to read as follows:

213.1518 1. If a parolee violates a condition of his parole, he forfeits all or part of the credits earned by him pursuant to NRS 209.447 *and section 1 of this act* after his release on parole, in the discretion of the Board.

2. A forfeiture may be made only by the Board after proof of the violation and notice to the parolee.

3. The Board may restore credits forfeited for such reasons as it considers proper.

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ê 2003 Statutes of Nevada, Page 409 ([Chapter 46, AB 105](#)) ê

4. The Chief Parole and Probation Officer shall report to the Director of the Department of Corrections any

forfeiture or restoration of credits pursuant to this section.

Sec. 5. This act becomes effective on January 1, 2004.

Assembly Bill No. 133–Committee on Judiciary

CHAPTER 47

AN ACT relating to district courts; revising the provision governing the duties that may be performed by masters for criminal proceedings in district courts; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 3.245 is hereby amended to read as follows:

3.245 [The] *In any county in which the appointment of masters for criminal proceedings by a district court is authorized by the board of county commissioners, the local rules of practice adopted in a judicial district within the county may authorize the chief* judge of a district court [may] *to* appoint one or more masters for criminal proceedings to [inform defendants of their rights, assign counsel for indigent defendants and perform other similar] *perform certain subordinate or* administrative duties *that the Nevada Supreme Court has approved to be* assigned [by the court in any county where the appointment is authorized by the board of county commissioners. The duty of setting bail shall not be assigned to a master.] *to such a master.*

Sec. 2. This act becomes effective on July 1, 2003.

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ê2003 Statutes of Nevada, Page 410ê

Assembly Bill No. 193–Committee on Natural Resources, Agriculture, and Mining

CHAPTER 48

AN ACT relating to agriculture; revising the provisions governing commercial fertilizers and agricultural minerals; requiring the Director of the State Department of Agriculture to adopt regulations concerning the application, distribution and classification for restricted use of certain commercial fertilizers and agricultural minerals; prohibiting a person who is not registered with the Director from selling or offering to sell at retail, or distributing or delivering for transportation for delivery to the consumer or user, a commercial fertilizer or agricultural mineral that is classified for restricted use; requiring the State Board of Agriculture to adopt regulations establishing fees for such registration; providing a penalty; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 588 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8,

inclusive, of this act.

Sec. 2. *“Restricted-use commercial fertilizer or agricultural mineral” means a commercial fertilizer or agricultural mineral classified for restricted use pursuant to section 6 of this act.*

Sec. 3. *The Director has jurisdiction in all matters pertaining to the distribution, sale and transportation of commercial fertilizers and agricultural minerals pursuant to this chapter.*

Sec. 4. *The Director shall:*

1. Eliminate from use in this state any commercial fertilizer or agricultural mineral that he finds:

- (a) Endangers the agricultural or nonagricultural environment;*
- (b) Is not beneficial for the purposes for which it is sold; or*
- (c) Is misrepresented.*

2. In carrying out his duties pursuant to subsection 1, develop a program for the continual evaluation of all commercial fertilizers and agricultural minerals the brands and grades of which have been registered pursuant to NRS 588.170.

Sec. 5. 1. *The Director may, after a hearing, cancel the registration of, or refuse to register, the brand and grade of any commercial fertilizer or agricultural mineral if he finds that:*

- (a) The commercial fertilizer or agricultural mineral has demonstrated serious uncontrollable adverse effects within or outside the agricultural environment;*
- (b) The use of the commercial fertilizer or agricultural mineral is of less value to the public or greater detriment to the environment than the benefit received by its use;*
- (c) There is a reasonably effective and practicable alternate material which is demonstrably less destructive to the environment;*

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(d) The commercial fertilizer or agricultural mineral, if properly used, is detrimental to:

- (1) Vegetation, except weeds;*
- (2) Domestic animals; or*
- (3) Public health and safety;*

(e) The commercial fertilizer or agricultural mineral is of little or no value for the purpose for which it is intended; or

(f) Any false or misleading statement concerning the commercial fertilizer or agricultural mineral has been made or implied by the registrant or his agent, or by the applicant for registration, orally or in writing, or in the form of any advertising.

2. In making any such determination, the Director may require such practical demonstrations as are necessary to determine the facts.

3. If the Director has reason to believe that any of the findings described in subsection 1 are applicable to any commercial fertilizer or agricultural mineral the brand and grade of which is registered and that the use or continued use of the commercial fertilizer or agricultural mineral constitutes an immediate substantial danger to any person or the environment, the Director may, after notice to the registrant, suspend the registration of the brand and grade of the commercial fertilizer or agricultural mineral pending a hearing and final decision.

Sec. 6. 1. *The Director shall adopt regulations governing the application and distribution of any commercial fertilizer or agricultural mineral which he finds must necessarily be applied as a commercial fertilizer or agricultural mineral but which, unless carefully used, is likely to be:*

- (a) Injurious to persons, pollinating insects, bees, animals, crops or land; or*
- (b) Detrimental to:*

- (1) Vegetation, except weeds;*
- (2) Wildlife; or*
- (3) Public health and safety.*

2. The Director in classifying commercial fertilizers and agricultural minerals as restricted-use commercial fertilizers or agricultural minerals shall determine whether:

(a) The commercial fertilizer or agricultural mineral is highly toxic to humans or other animals, including wildlife;

(b) The regulations governing the application and distribution of the commercial fertilizer or agricultural mineral are reasonably calculated to avoid injury and are necessary for the proper use of the commercial fertilizer or agricultural mineral;

(c) The benefit from the use of the commercial fertilizer or agricultural mineral is of greater value to the

public than the detriment to the environment or the public health and safety from the use of the commercial fertilizer or agricultural mineral; and

(d) The commercial fertilizer or agricultural mineral can be used for harmful purposes other than its registered purposes.

3. The Director may adopt such other regulations as are necessary to carry out the provisions of this chapter, including, without limitation, regulations governing:

(a) The collection and examination of commercial fertilizers and agricultural minerals;

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ê 2003 Statutes of Nevada, Page 412 ([Chapter 48, AB 193](#))ê

(b) The types of containers and packages required to be used for specific commercial fertilizers or agricultural minerals, including, without limitation, requirements concerning the construction, strength and size of the containers and packages to avoid the danger of spillage, breakage or misuse;

(c) The safe handling, transportation, storage, display, distribution and disposal of commercial fertilizers and agricultural minerals and their containers; and

(d) The information required to be recorded and maintained concerning the sale, use and distribution of restricted-use commercial fertilizers and agricultural minerals.

Sec. 7. 1. *It is unlawful for any person to sell or offer to sell at retail, or to distribute or deliver for transportation for delivery to the consumer or user, a restricted-use commercial fertilizer or agricultural mineral unless the person is registered with the Director.*

2. Each person applying for registration must provide the Director with a registration statement that includes:

(a) The name and address of the person registering; and

(b) The name and address of any person who, on behalf of the person registering, sells, offers to sell, distributes or delivers for transportation a restricted-use commercial fertilizer or agricultural mineral.

3. All such registrations expire on December 31 of each year and are renewable annually.

4. Each person registering with the Director must pay:

(a) An annual registration fee established by regulation of the State Board of Agriculture; and

(b) A penalty fee established by regulation of the State Board of Agriculture if the person failed to renew his previous registration on or before February 1 next following its expiration, unless his registration is accompanied by a signed statement that no person named on the registration statement has sold or distributed any restricted-use commercial fertilizer or agricultural mineral during the period the registration was not in effect.

5. Each person registered pursuant to this section shall maintain for at least 2 years a record of all sales of restricted-use commercial fertilizers or agricultural minerals showing:

(a) The date of sale or delivery of the restricted-use commercial fertilizer or agricultural mineral;

(b) The name and address of the person to whom the restricted-use commercial fertilizer or agricultural mineral was sold or delivered;

(c) The brand name of the restricted-use commercial fertilizer or agricultural mineral sold or delivered;

(d) The amount of the restricted-use commercial fertilizer or agricultural mineral sold or delivered; and

(e) Such other information as may be required by the Director.

6. Each person registered pursuant to this section shall, on or before the date specified for each reporting period established pursuant to subsection 7, file a report with the Director specifying the restricted-use commercial fertilizers or agricultural minerals that the person sold during the reporting period. The Director shall provide the form for the report. The report must be filed regardless of whether the person sold any commercial fertilizers or agricultural minerals during the reporting period.

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ê 2003 Statutes of Nevada, Page 413 ([Chapter 48, AB 193](#))ê

7. The Director shall adopt regulations establishing reporting periods and dates for filing reports pursuant to subsection 6.

Sec. 8. *The Director may refuse to grant or renew a registration pursuant to section 7 of this act or may suspend or revoke the registration if, after notice and a hearing, he finds that:*

1. The person registered has, without reasonable cause, failed to record information as required by section 7 of this act or a regulation adopted by the Director;

2. The person registered has made a false entry in a required record; or

3. The applicant for registration has made a sale or delivery of a restricted-use commercial fertilizer or agricultural mineral without registering with the Director.

Sec. 9. NRS 588.010 is hereby amended to read as follows:

588.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 588.020 to 588.150, inclusive, *and section 2 of this act*, have the meanings ascribed to them in those sections.

Sec. 10. NRS 588.170 is hereby amended to read as follows:

588.170 1. Each brand and grade of commercial fertilizer or agricultural mineral must be registered with the Department before being offered for sale, sold or distributed in this state.

2. An application for registration must be submitted **[in duplicate]** to the Director on a form furnished by him, and, *except as otherwise provided in subsection 3*, must be accompanied by a registration fee in an amount to be fixed annually by the Director for each combined registration of brand and grade.

3. **[The applicant must deposit with the Department an airtight container containing not less than 2 pounds of the fertilizer or agricultural mineral, together with an affidavit stating that it is a fair sample of the fertilizer or agricultural mineral to be sold or offered for sale.] A person who offers a commercial fertilizer or agricultural mineral for sale before registering the brand and grade of the commercial fertilizer or agricultural mineral shall pay an amount equal to twice the otherwise applicable registration fee for registering the brand and grade of the commercial fertilizer or agricultural mineral.**

4. Upon approval by the Director, a copy of the registration must be furnished to the applicant.

5. All registrations expire on June 30 of each year.

Sec. 11. NRS 561.305 is hereby amended to read as follows:

561.305 The Department shall establish and maintain a laboratory for the following purposes:

1. The diagnosis of infectious, contagious and parasitic diseases of livestock, as may be necessary under the provisions of chapter 571 of NRS.

2. The diagnosis of infectious, contagious and parasitic diseases of bees, as may be necessary under the provisions of NRS 552.085 to 552.310, inclusive.

3. The diagnosis of infectious, contagious and destructive diseases of agricultural commodities, and infestations thereof by pests, as may be necessary under the provisions of NRS 554.010 to 554.240, inclusive.

4. The survey and identification of insect pests, plant diseases and noxious weeds, and the maintenance of a herbarium, as may be necessary under the provisions of NRS 555.010 to 555.249, inclusive.

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ê 2003 Statutes of Nevada, Page 414 ([Chapter 48, AB 193](#)) ê

5. The testing of pesticides, as may be necessary under the provisions of NRS 555.2605 to 555.460, inclusive, and 586.010 to 586.450, inclusive.

6. The safekeeping and maintenance of official standards of weights and measures, as may be necessary under the provisions of chapter 581 of NRS.

7. The testing and grading of agricultural products and the testing of the purity and germinating power of agricultural seeds and the testing of the spray residue contained in produce, as may be necessary under the provisions of chapter 587 of NRS.

8. The analysis and testing of commercial fertilizers and agricultural minerals, as may be necessary under the provisions of *chapter 588 of NRS* . ~~[588.010 to 588.350, inclusive.]~~

9. The analysis and testing of petroleum products, as may be necessary under the provisions of NRS 590.010 to 590.150, inclusive.

10. The analysis and testing of antifreeze, as may be necessary under the provisions of NRS 590.340 to 590.450, inclusive.

11. Any laboratory examinations, diagnoses, analyses or testing as may be deemed necessary by the Director and which can be made with equipment available in any such laboratory. Any resident of this state may submit samples to the Department for examination, diagnosis, analysis or testing, subject to such rules and regulations as may be adopted by the Director.

Sec. 12. NRS 561.385 is hereby amended to read as follows:

561.385 1. The Agriculture Registration and Enforcement Account is hereby created in the State General Fund for the use of the Department.

2. The following fees must be deposited in the Agriculture Registration and Enforcement Account:

(a) Fees collected pursuant to the provisions of NRS 586.010 to 586.450, inclusive.

(b) Fees collected pursuant to the provisions of *chapter 588 of NRS* . ~~[588.010 to 588.350, inclusive.]~~

(c) Fees collected pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

(d) Laboratory fees collected for the testing of pesticides as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 555.2605 to 555.460, inclusive, and 586.010 to 586.450, inclusive.

(e) Laboratory fees collected for the analysis and testing of commercial fertilizers and agricultural minerals, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of *chapter 588 of NRS* . [588.010 to 588.350, inclusive.]

(f) Laboratory fees collected for the analysis and testing of petroleum products, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.010 to 590.150, inclusive.

(g) Laboratory fees collected for the analysis and testing of antifreeze, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

3. Expenditures from the Agriculture Registration and Enforcement Account may be made only to carry out the provisions of this chapter, chapters 586, 588 and 590 of NRS and NRS 555.2605 to 555.460, inclusive.

Sec. 13. 1. This section and section 6 of this act become effective upon passage and approval.

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ê 2003 Statutes of Nevada, Page 415 ([Chapter 48, AB 193](#)) ê

2. Sections 2 and 7 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2004, for all other purposes.

3. Sections 1, 3, 4 and 5, and 8 to 12, inclusive, of this act become effective on January 1, 2004.

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Assembly Bill No. 253–Committee on Ways and Means

CHAPTER 49

AN ACT making a supplemental appropriation to the State Distributive School Account in the State General Fund for an unanticipated shortfall in Fiscal Year 2002-2003; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. There is hereby appropriated from the State General Fund to the State Distributive School Account created by NRS 387.030 in the State General Fund the sum of \$71,750,340 for an unanticipated shortfall in money in Fiscal Year 2002-2003. This appropriation is supplemental to that made by section 4 of chapter 565, Statutes of Nevada 2001, at page 2832.

Sec. 2. This act becomes effective upon passage and approval.

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Assembly Bill No. 520–Committee on Transportation

CHAPTER 50

AN ACT relating to motor vehicles; transferring the Program for the Education of Motorcycle Riders from the Department of Motor Vehicles to the Department of Public Safety; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 480.110 is hereby amended to read as follows:

480.110 Except as otherwise provided therein, the Department shall execute, administer and enforce, and perform the functions and duties provided in:

1. Chapters 176A and 213 of NRS relating to parole and probation;
2. Chapter 414 of NRS relating to emergency management;
3. Chapter 453 of NRS relating to controlled substances and chapter 454 of NRS relating to dangerous drugs;

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ê 2003 Statutes of Nevada, Page 416 ([Chapter 50, AB 520](#)) ê

4. Chapter 459 of NRS relating to the transportation of hazardous materials; ~~and~~
5. Chapter 477 of NRS relating to the State Fire Marshal ~~;~~ *and*
6. *NRS 486.370 to 486.377, inclusive, and sections 5, 6 and 7 of this act relating to the education and safety of motorcycle riders.*

Sec. 2. NRS 481.015 is hereby amended to read as follows:

481.015 Except as otherwise provided in chapters 480 and 486A of NRS ~~;~~ *and NRS 486.370 to 486.377, inclusive, and sections 5, 6 and 7 of this act*, as used in this title, unless the context otherwise requires:

1. "Department" means the Department of Motor Vehicles.
2. "Director" means the Director of the Department of Motor Vehicles.

Sec. 3. NRS 481.023 is hereby amended to read as follows:

481.023 1. Except as otherwise provided ~~[therein.] in this section and in the provisions of law described in this section~~, the Department shall execute, administer and enforce, and perform the functions and duties provided in:

(a) Chapter 108 of NRS, and perform such duties and exercise such powers relating to liens on vehicles as may be conferred upon it pursuant to chapter 108 of NRS or the provisions of any other law.

(b) Chapters 360A, 365, 366, 371 and 373 of NRS, relating to the imposition and collection of taxes on motor fuels.

(c) Chapters 481, 482 to 486, inclusive, and 487 of NRS, relating to motor vehicles. *The Department shall not execute, administer or enforce, or perform the functions or duties provided in NRS 486.370 to 486.377, inclusive, and sections 5, 6 and 7 of this act relating to the education and safety of motorcycle riders.*

(d) Chapter 706 of NRS relating to licensing of motor vehicle carriers and the use of public highways by those carriers.

(e) The provisions of NRS 426.401 to 426.461, inclusive.

2. The Department shall perform such other duties and exercise such other powers as may be conferred upon the Department.

Sec. 4. Chapter 486 of NRS is hereby amended by adding thereto the provisions set forth as sections 5, 6 and 7 of this act.

Sec. 5. *As used in NRS 486.370 to 486.377, inclusive, and sections 5, 6 and 7 of this act, unless the context otherwise requires, the words and terms defined in NRS 486.370 and sections 6 and 7 of this act have the meanings ascribed to them in those sections.*

Sec. 6. *"Department" means the Department of Public Safety.*

Sec. 7. *"Director" means the Director of the Department of Public Safety.*

Sec. 8. NRS 486.370 is hereby amended to read as follows:

486.370 ~~[As used in NRS 486.372 to 486.377, inclusive, "motoreycle"]~~ *"Motorcycle"* does not include a trimobile.

Sec. 9. This act becomes effective upon passage and approval.

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ê 2003 Statutes of Nevada, Page 417 ê

CHAPTER 51

AN ACT relating to programs for public employees; providing that certain money set aside for group insurance for officers and employees of school districts must not be used for other purposes; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the governing body of a school district:

(a) Provides group life, accident or health coverage through a self-insurance reserve fund as described in paragraph (c) of subsection 1 of NRS 287.010; or

(b) Establishes or carries into effect any other system of self-funded life, accident or health coverage, any money that is paid toward such coverage by officers and employees of the school district in the form of contributions, deductions and premiums, and any money that is set aside by the school district for the matching of contributions, or for the defraying of costs pursuant to paragraph (d) of subsection 1 of NRS 287.010, must be deposited in a trust fund or otherwise held in trust for the benefit of the officers and employees of the school district.

2. Money that is deposited in a trust fund or otherwise held in trust pursuant to subsection 1:

(a) Must be used only for the purpose of funding, maintaining, operating and administering the program or system of group insurance;

(b) Must not be loaned to the school district or the board of trustees of the school district or its agent or any other governmental entity; and

(c) May be invested in any reasonable and prudent manner, except that such money must not be invested to purchase any obligations of the school district or the board of trustees of the school district or its agent. All interest and income earned on the money in the fund must be deposited in the fund.

Sec. 2. NRS 287.040 is hereby amended to read as follows:

287.040 The provisions of NRS 287.010 to 287.040, inclusive, *and section 1 of this act* do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other public agency of the State of Nevada to, except as otherwise provided in NRS 287.021, make any contributions for the payment of any premiums or other costs for group insurance or medical or hospital services, or upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other public agency of this state to accept or join any plan of group insurance or to assign his wages or salary or to authorize deductions from his wages or salary in payment of premiums or contributions therefor.

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Sec. 3. This act becomes effective upon passage and approval.

Senate Bill No. 88—Committee on Judiciary

CHAPTER 52

AN ACT relating to civil actions; allowing a district judge to transfer certain civil actions to the justice's

court under certain circumstances; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 3 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If an action is filed in the district court and a district judge determines that the sum claimed, exclusive of interest, does not exceed \$7,500, the district judge may transfer original jurisdiction of the action to the justice's court.

2. For the purposes of this section, "action" includes the following civil cases and proceedings and no others except as otherwise provided by specific statute:

(a) An action arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, exceeds \$7,500.

(b) An action for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed exceeds \$7,500.

(c) Except in actions for a fine imposed for a violation of NRS 484.757, an action for a fine, penalty or forfeiture exceeding \$7,500, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(d) An action upon bonds or undertakings conditioned for the payment of money, if the sum claimed exceeds \$7,500.

(e) An action to recover the possession of personal property, if the value of the property exceeds \$7,500.

(f) To take and enter judgment on the confession of a defendant, when the amount confessed, exclusive of interest, exceeds \$7,500.

(g) Of actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed exceed \$7,500.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed exceed \$7,500.

(i) Of suits for the collection of taxes, where the amount of the tax sued for exceeds \$7,500.

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ê 2003 Statutes of Nevada, Page 419 ([Chapter 52, SB 88](#))ê

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, exceeds \$7,500.

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, exceeds \$7,500.

Sec. 2. Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

If an action is transferred from the district court to the justice's court pursuant to section 1 of this act:

1. The transfer of the action shall not be deemed to constitute the filing of a new action in the justice's court, and a party to the action may not be required to pay a new filing fee to the justice's court as the result of the transfer of the action; and

2. The transfer of the action must not be construed to affect any period of limitation concerning the filing of the action.

Sec. 3. NRS 4.370 is hereby amended to read as follows:

4.370 1. Except as otherwise provided in subsection 2, justices' courts have jurisdiction of the following civil actions and proceedings and no others except as otherwise provided by specific statute:

(a) In actions arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, does not exceed \$7,500.

(b) In actions for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed does not exceed \$7,500.

(c) Except as otherwise provided in paragraph (1), in actions for a fine, penalty or forfeiture not exceeding \$7,500, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(d) In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not exceed \$7,500, though the penalty may exceed that sum. Bail bonds and other undertakings posted in criminal matters may be forfeited regardless of amount.

(e) In actions to recover the possession of personal property, if the value of the property does not exceed \$7,500.

(f) To take and enter judgment on the confession of a defendant, when the amount confessed, exclusive of interest, does not exceed \$7,500.

(g) Of actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed \$7,500 or when no damages are claimed.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed \$7,500 or when no damages are claimed.

(i) Of suits for the collection of taxes, where the amount of the tax sued for does not exceed \$7,500.

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$7,500.

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ê 2003 Statutes of Nevada, Page 420 ([Chapter 52, SB 88](#)) ê

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$7,500.

(l) In actions for a fine imposed for a violation of NRS 484.757.

(m) Except in a judicial district that includes a county whose population is 100,000 or more, in any action for the issuance of a temporary or extended order for protection against domestic violence.

(n) In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive.

(o) In small claims actions under the provisions of chapter 73 of NRS.

(p) In actions to contest the validity of liens on mobile homes or manufactured homes.

(q) In any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment.

(r) In actions transferred from the district court pursuant to section 1 of this act.

2. The jurisdiction conferred by this section does not extend to civil actions, other than for forcible entry or detainer, in which the title of real property or mining claims or questions affecting the boundaries of land are involved.

3. Justices' courts have jurisdiction of all misdemeanors and no other criminal offenses except as otherwise provided by specific statute. Upon approval of the district court, a justice's court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250.

4. Except as otherwise provided in subsections 5 and 6, in criminal cases the jurisdiction of justices of the peace extends to the limits of their respective counties.

5. In the case of any arrest made by a member of the Nevada Highway Patrol, the jurisdiction of the justices of the peace extends to the limits of their respective counties and to the limits of all counties which have common boundaries with their respective counties.

6. Each justice's court has jurisdiction of any violation of a regulation governing vehicular traffic on an airport within the township in which the court is established.

Sec. 4. The amendatory provisions of this act apply to an action that is:

1. Pending on the effective date of this act; or
2. Filed on or after the effective date of this act.

Sec. 5. This act becomes effective upon passage and approval.

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ê 2003 Statutes of Nevada, Page 421 ê

CHAPTER 53

AN ACT relating to medical facilities; removing certain mobile units from the requirement of being regulated as a medical facility; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 449.01515 is hereby amended to read as follows:

449.01515 [**“Mobile”**]

1. Except as otherwise provided in subsection 2, “mobile unit” means a motor vehicle [, other than a vehicle operated under the authority of a permit issued pursuant to chapter 450B of NRS,] that is specially designed, constructed and equipped to provide any of the medical services provided by a medical facility described in subsections 1 to 13, inclusive, of NRS 449.0151.

2. “Mobile unit” does not include:

(a) A motor vehicle that is operated by a medical facility described in subsections 1 to 13, inclusive, of NRS 449.0151 which is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association;

(b) A motor vehicle that is operated by a health center that is funded under section 330 of the Public Health Service Act, 42 U.S.C. § 254b, as amended; or

(c) A vehicle operated under the authority of a permit issued pursuant to chapter 450B of NRS.

Sec. 2. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive. [For the purposes of this subsection, “building or premises” does not include a mobile unit that is operated by a medical facility which is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association.]

2. The State Fire Marshal or his designee shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 7 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 7 of NRS 449.037,

to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or his designee shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

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ê 2003 Statutes of Nevada, Page 422 ([Chapter 53, SB 96](#)) ê

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.

Sec. 3. NRS 449.235 is hereby amended to read as follows:

449.235 [~~1. Except as otherwise provided in subsection 2, every~~] **Every** medical facility or facility for the dependent may be inspected at any time, with or without notice, as often as is necessary by:

~~[(a)]~~ **1.** The Health Division to ensure compliance with all applicable regulations and standards; and

~~[(b)]~~ **2.** Any person designated by the Aging Services Division of the Department of Human Resources to investigate complaints made against the facility.

~~[2. The provisions of subsection 1 do not authorize the Health Division to inspect a mobile unit that is operated by a medical facility which is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association, unless the Health Division has reasonable cause to believe that the mobile unit has violated any provision of NRS 449.001 to 449.240, inclusive, or any regulation or standard adopted pursuant~~

thereto.]

Sec. 4. This act becomes effective on July 1, 2003.

Senate Bill No. 110—Committee on Government Affairs

CHAPTER 54

AN ACT relating to counties; revising provisions relating to the purchase, sale or exchange by a county of certain real property; revising provisions relating to the notice that a board of county commissioners must provide before selling or exchanging certain real property; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 244.276 is hereby amended to read as follows:

244.276 1. Except as otherwise provided in subsection 2, any county may buy, sell or exchange property in the manner set forth in subsection 3 [, and] without complying with the provisions of NRS 244.281 [,] when deemed necessary or proper to establish, align, realign, change, vacate or otherwise adjust [any of the streets, alleys, avenues or other thoroughfares, or portions] a street, alley, avenue or other thoroughfare, or portion thereof, or a flood control facility within its limits.

2. If the county acquired the property by dedication, the property may not be sold and ownership must revert to the abutting property owners in the proportion that the property was dedicated by them or their predecessors in interest. In the case of realignment, the property may be exchanged for other real property.

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3. When a petition signed by all property holders owning or controlling property abutting on [any] a proposed or existing street, avenue, alley or other thoroughfare, or a flood control facility which may be affected by an establishment, alignment, realignment, change, vacation or other adjustment [is] is presented to any board of county commissioners, praying to have the proposed or existing street, alley, avenue or other thoroughfare, or the flood control facility established, aligned, realigned, changed, vacated or otherwise adjusted, or upon the resolution of the board of county commissioners, the board of county commissioners may make the establishment, alignment, realignment, change, vacation or other adjustment as it may deem proper, by purchase, sale, proceedings in eminent domain or exchange of county property, including portions of streets, alleys, avenues or other thoroughfares, or flood control facilities, in order to carry out any necessary establishment, alignment, realignment, change, vacation or other adjustment whenever the board of county commissioners considers it to be in the best interests of the county.

4. As used in this section, "flood control facility" means any natural or artificial water facility for the collection, channeling, impoundment and disposal of rainfall, other surface and subsurface drainage waters, and storm and floodwaters, including, without limitation, ditches, ponds, dams, spillways, retarding basins, detention basins, lakes, reservoirs, canals, channels, levees, revetments, dikes, walls, embankments, bridges, inlets, outlets, connections, laterals, other collection lines, intercepting sewers, outfalls, outfall sewers, trunk sewers, force mains, submains, water lines, sluices, flumes, syphons, sewer lines, pipes, conduits, culverts, other transmission lines, pumping stations, gauging stations, ventilating facilities, stream gauges, rain gauges, engines, valves, pumps, meters, junction boxes, manholes, other inlet and outlet structures, apparatus, fixtures, structures and buildings, flood-warning service and appurtenant telephone, telegraph, radio and television apparatus, and other water diversion facilities.

Sec. 2. NRS 244.281 is hereby amended to read as follows:

244.281 Except as otherwise provided in NRS 244.276, 244.279, 244.2825 and 244.288:

1. When a board of county commissioners has determined by resolution that the sale or exchange of any real property owned by the county will be for purposes other than to *establish, align*, realign, change, vacate or otherwise adjust any street, alley, avenue or other thoroughfare, or portion thereof, *or flood control facility* within the county and will be in the best interest of the county, it may:

(a) Sell the property at public auction, in the manner prescribed for the sale of real property in NRS 244.282.

(b) Sell the property through a licensed real estate broker, or if there is no real estate broker resident of the county, the board of county commissioners may negotiate the sale of the property. No exclusive listing may be given. In all listings, the board of county commissioners shall specify the minimum price, the terms of sale and the commission to be allowed, which must not exceed the normal commissions prevailing in the community at the time.

(c) Exchange the property for other real property of substantially equal value, or for other real property plus an amount of money equal to the

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 ê 2003 Statutes of Nevada, Page 424 ([Chapter 54, SB 110](#)) ê

difference in value, if it has also determined by resolution that the acquisition of the other real property will be in the best interest of the county.

2. Before the board of county commissioners may sell or exchange any real property as provided in paragraphs (b) and (c) of subsection 1, it shall ~~publish a notice of its intention to sell or exchange~~ :

(a) Post copies of the resolution described in subsection 1 in three public places in the county; and

(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS ~~[-In]~~ that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or exchanged in such a manner as to identify it;

(2) The minimum price, if applicable, of the real property proposed to be sold or exchanged; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph

(a), and any other places at which copies of that resolution may be obtained.

If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. In addition to the requirements set forth in paragraph (b) of subsection 2, in case of:

(a) A sale, the notice must state the name of the licensed real estate broker handling the sale and invite interested persons to negotiate with him.

(b) An exchange, the notice must call for offers of cash or exchange. The commission shall accept the highest and best offer.

~~[3.]~~ 4. If the board of county commissioners by its resolution further finds that the property to be sold is worth more than \$1,000, the board shall appoint one or more disinterested, competent real estate appraisers to appraise the property, and, except for property acquired pursuant to NRS 371.047, shall not sell or exchange it for less than the appraised value.

~~[4.]~~ 5. If the property is appraised at \$1,000 or more, the board of county commissioners may sell it either for cash or for not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust, bearing such interest and upon such further terms as the board of county commissioners may specify.

6. As used in this section, "flood control facility" has the meaning ascribed to it in NRS 244.276.

Sec. 3. NRS 244.282 is hereby amended to read as follows:

244.282 1. Except as otherwise provided in NRS 244.279, before ordering the sale at auction of any real property the board shall, in open meeting by a majority vote of the members, adopt a resolution declaring its intention to sell the property at auction. The resolution must:

(a) Describe the property proposed to be sold in such a manner as to identify it.

(b) Specify the minimum price and the terms upon which it will be sold.

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the board to be held at its regular place of meeting, at which sealed bids will be received and considered.

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 ê 2003 Statutes of Nevada, Page 425 ([Chapter 54, SB 110](#)) ê

2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) *[Publishing the resolution not less than] Causing to be published at least* once a week for *[2] 3* successive weeks before the meeting, in a newspaper *[of general circulation] qualified under chapter 238 of NRS that is* published in the county *[, if any such newspaper is published therein.] in which the real property is located, a notice setting forth:*

(1) A description of the real property proposed to be sold at auction in such a manner as to identify it;

(2) The minimum price of the real property proposed to be sold at auction; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph

(a), and any other places at which copies of that resolution may be obtained.

If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. At the time and place fixed in the resolution for the meeting of the board, all sealed bids which have been received must, in public session, be opened, examined and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

4. Before accepting any written bid, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the board may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

6. The board may, either at the same session or at any adjourned session of the same meeting held within the 10 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale.

7. Any resolution of acceptance of any bid made by the board must authorize and direct the chairman to execute a deed and to deliver it upon performance and compliance by the purchaser with all the terms or conditions of his contract which are to be performed concurrently therewith.

8. All money received from sales of real property must be deposited forthwith with the county treasurer to be credited to the county general fund.

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ê2003 Statutes of Nevada, Page 426ê

Senate Bill No. 128–Committee on Judiciary

CHAPTER 55

AN ACT relating to property; allowing a tenant to recover immediate possession of the premises from a landlord under certain circumstances; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 118A.390 is hereby amended to read as follows:

118A.390 1. If the landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block his entry upon the premises or willfully interrupts or causes or permits the interruption of any

essential service required by the rental agreement or this chapter, the tenant may recover *immediate* possession [.] pursuant to subsection 4, proceed under NRS 118A.380 or terminate the rental agreement and, in addition to any other remedy, recover his actual damages, receive an amount not greater than \$1,000 to be fixed by the court, or both.

2. In determining the amount, if any, to be awarded under subsection 1, the court shall consider:

- (a) Whether the landlord acted in good faith;
- (b) The course of conduct between the landlord and the tenant; and
- (c) The degree of harm to the tenant caused by the landlord's conduct.

3. If the rental agreement is terminated [.] pursuant to subsection 1, the landlord shall return all prepaid rent and security recoverable under this chapter.

4. Except as otherwise provided in subsection 5, the tenant may recover immediate possession of the premises from the landlord by filing a verified complaint for expedited relief for the unlawful removal or exclusion of the tenant from the premises or the willful interruption of essential services.

5. A verified complaint for expedited relief:

(a) Must be filed with the court within 5 judicial days after the date of the unlawful act by the landlord, and the verified complaint must be dismissed if it is not timely filed. If the verified complaint for expedited relief is dismissed pursuant to this paragraph, the tenant retains the right to pursue all other available remedies against the landlord.

(b) May not be filed with the court if an action for summary eviction or unlawful detainer is already pending between the landlord and tenant, but the tenant may seek similar relief before the judge presiding over the pending action.

6. The court shall conduct a hearing on the verified complaint for expedited relief within 3 judicial days after the filing of the verified complaint for expedited relief. Before or at the scheduled hearing, the tenant must provide proof that the landlord has been properly served with a copy of the verified complaint for expedited relief. Upon the hearing, if it is determined that the landlord has violated any of the provisions of subsection 1, the court may:

(a) Order the landlord to restore to the tenant the premises or essential services, or both;

(b) Award damages pursuant to subsection 1; and

(c) Enjoin the landlord from violating the provisions of subsection 1 and, if the circumstances so warrant, hold the landlord in contempt of court.

7. The payment of all costs and official fees must be deferred for any tenant who files a verified complaint for expedited relief. After any hearing and not later than final disposition of the filing or order, the court shall assess the costs and fees against the party that does not prevail, except that the court may reduce them or waive them, as justice may require.

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 2003 Statutes of Nevada, Page 427 (Chapter 55, SB 128)

Senate Bill No. 232–Committee on Judiciary

CHAPTER 56

AN ACT relating to the State Board of Parole Commissioners; authorizing the Chairman of the State Board of Parole Commissioners to appoint a person to serve as Secretary to the State Board of Pardons Commissioners; revising the provisions pertaining to the timing of certain hearings concerning violations of parole; revising certain provisions pertaining to the revocation of parole and discharge from parole; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 213.017 is hereby amended to read as follows:

213.017 **1.** The ~~[Executive Secretary]~~ *Chairman* of the State Board of Parole Commissioners shall ~~[be the Secretary of the Board and shall perform such duties in connection therewith as the Board may require without additional compensation.]~~ *appoint a person to serve as Secretary of the State Board of Pardons Commissioners.*

2. *The Secretary must be selected on the basis of his training, experience, capacity and interest in correctional services.*

3. *The Secretary shall perform such duties as are required by the Board, including, but not limited to:*

(a) Preparing the agenda for meetings of the Board;

(b) Providing notification to victims on behalf of the Board and the State Board of Parole Commissioners; and

(c) Establishing and facilitating the procedures by which a person may apply to have a fine or forfeiture remitted, a punishment commuted, a pardon granted or his civil rights restored by the Board.

Sec. 2. NRS 213.1517 is hereby amended to read as follows:

213.1517 **1.** Where the inquiring officer has determined that there is probable cause for a hearing by the Board, the Chief may, after consideration of the case and pending the next meeting of the Board:

(a) Release the arrested parolee again upon parole;

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ê2003 Statutes of Nevada, Page 428 ([Chapter 56, SB 232](#))ê

(b) Order the parolee to be placed in residential confinement in accordance with the provisions of NRS 213.15193, 213.15195 and 213.15198; or

(c) Suspend his parole and return him to confinement.

2. The Chief shall take whichever action under subsection 1 he deems appropriate within:

(a) Fifteen days if the prisoner was paroled by the Board.

(b) Thirty days if the prisoner was paroled by the authority of another state and is under supervision in this state pursuant to NRS 213.215. This paragraph does not apply to a parolee who is retaken by an officer of the sending state.

3. ~~[H]~~ *Except as otherwise provided in subsection 4, if* a determination has been made that probable cause exists for the continued detention of a paroled prisoner, the Board shall consider the prisoner's case within 60 days after his return to the custody of the Department of Corrections or his placement in residential confinement pursuant to subsection 1.

4. *If probable cause for continued detention of a paroled prisoner is based on conduct which is the subject of a new criminal charge, the Board may consider the prisoner's case under the provisions of subsection 3 or defer consideration until not more than 60 days after his return to the custody of the Department of Corrections following the final adjudication of the new criminal charge.*

Sec. 3. NRS 213.1519 is hereby amended to read as follows:

213.1519 **1.** Except as otherwise provided in subsection 2, a parolee whose parole is revoked by decision of the Board for a violation of any rule or regulation governing his conduct:

(a) Forfeits all credits previously earned to reduce his sentence pursuant to chapter 209 of NRS; and

(b) Must serve such part of the unexpired maximum term of his original sentence as may be determined by the Board. The Board may restore any credits forfeited under this subsection.

2. A parolee released on parole pursuant to NRS 213.1215 whose parole is revoked for ~~[a violation of any rule or regulation governing his conduct:]~~ *having been convicted of a new felony:*

(a) Forfeits all credits previously earned to reduce his sentence pursuant to chapter 209 of NRS;

(b) Must serve the entire unexpired maximum term of his original sentence; and

(c) May not again be released on parole during his term of imprisonment.

~~[3. If a person, after his release on parole, is convicted in another jurisdiction of a crime and sentenced to imprisonment for a term of more than 1 year, he may be given a dishonorable discharge from parole.]~~

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ê2003 Statutes of Nevada, Page 429ê

Senate Bill No. 286–Senator McGinness

CHAPTER 57

AN ACT relating to juveniles; providing for the supervision of certain juvenile sex offenders placed in treatment programs in this state; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 62 of NRS is hereby amended by adding thereto a new section to read as follows:

If a child is adjudicated delinquent in another state for an act that, if committed by an adult, would be a sexual offense pursuant to the laws of the other state, the other state may send the child to this state to receive care, treatment or rehabilitation in any residential, group or institutional program only if the program in this state ensures that the other state has requested through the Interstate Compact on Juveniles pursuant to chapter 214 of NRS or the Interstate Compact on the Placement of Children pursuant to NRS 127.320 to 127.350, inclusive, that courtesy supervision be provided for the child during the period that the child is in this state for care, treatment or rehabilitation.

Senate Bill No. 300–Committee on Judiciary

CHAPTER 58

AN ACT relating to crimes; limiting the fee that may be charged by a provider of Internet service for providing information pursuant to certain subpoenas; revising the provision relating to using technology to lure children; providing that the crime of using technology to lure a child constitutes immoral conduct for the purposes of certain provisions related to educational personnel; providing that certain licensed educational employees forfeit their rights of employment if convicted of such a crime; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 193.340 is hereby amended to read as follows:

193.340 1. A provider of Internet service who violates the provisions of 18 U.S.C. § 2703 [, as that section existed on June 13, 2001,] is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 or more than \$500 for each violation.

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2. In investigating criminal activity that involves or may involve the use of a computer, the Attorney General, a district attorney, the sheriff of any county in this state, the head of any organized police department of any municipality in this state, the head of any department of this state engaged in the enforcement of any criminal law of this state and any sheriff or chief of police of a municipality may, if there is reasonable cause to believe that an individual subscriber or customer of a provider of Internet service has committed an offense through the use of the

services of the provider of Internet service , [that is punishable as a felony,] issue a subpoena to carry out the procedure set forth in 18 U.S.C. § 2703 [, as that section existed on June 13, 2001,] to compel the provider of Internet service to provide information concerning the individual subscriber or customer that the provider of Internet service is required to disclose pursuant to 18 U.S.C. § 2703 . [, as that section existed on June 13, 2001.]

3. *If a person who has been issued a subpoena pursuant to subsection 2 charges a fee for providing the information, the fee must not exceed the actual cost for providing the information.*

4. If a person who has been issued a subpoena pursuant to subsection 2 refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.

[4.] 5. As used in this section, “provider of Internet service” has the meaning ascribed to it in NRS 205.4758, but does not include a public library when it is engaged in providing access to the Internet.

Sec. 2. NRS 201.265 is hereby amended to read as follows:

201.265 Except as otherwise provided in NRS 200.720 and 201.2655, *and unless a greater penalty is provided pursuant to NRS 201.560*, a person is guilty of a misdemeanor if the person knowingly:

1. Distributes or causes to be distributed to a minor material that is harmful to minors, unless the person is the parent, guardian or spouse of the minor.
2. Exhibits for distribution to an adult in such a manner or location as to allow a minor to view or to have access to examine material that is harmful to minors, unless the person is the parent, guardian or spouse of the minor.
3. Sells to a minor an admission ticket or pass for or otherwise admits a minor for monetary consideration to any presentation of material that is harmful to minors, unless the minor is accompanied by his parent, guardian or spouse.
4. Misrepresents that he is the parent, guardian or spouse of a minor for the purpose of:
 - (a) Distributing to the minor material that is harmful to minors; or
 - (b) Obtaining admission of the minor to any presentation of material that is harmful to minors.
5. Misrepresents his age as 18 or over for the purpose of obtaining:
 - (a) Material that is harmful to minors; or
 - (b) Admission to any presentation of material that is harmful to minors.
6. Sells or rents motion pictures which contain material that is harmful to minors on the premises of a business establishment open to minors, unless the person creates an area within the establishment for the placement of the

motion pictures and any material that advertises the sale or rental of the motion pictures which:

- (a) Prevents minors from observing the motion pictures or any material that advertises the sale or rental of the motion pictures; and
- (b) Is labeled, in a prominent and conspicuous location, “Adults Only.”

Sec. 3. NRS 201.560 is hereby amended to read as follows:

201.560 1. Except as otherwise provided in subsection 2, a person shall not use a computer, system or network to knowingly contact or communicate with or attempt to contact or communicate with a child who is less than 16 years of age and who is at least 5 years younger than the person with the intent to persuade, lure or transport the child away from his home or from any location known to his parent or guardian or other person legally responsible for the child to a place other than where the child is located, for any purpose:

- (a) Without the express consent of the parent or guardian or other person legally responsible for the child; and
 - (b) With the intent to avoid the consent of the parent or guardian or other person legally responsible for the child.
2. The provisions of this section do not apply if the contact or communication is made or attempted with the intent to prevent imminent bodily, emotional or psychological harm to the child.

3. A person who violates or attempts to violate the provisions of this section:

(a) With the intent to engage in sexual conduct with the child or to cause the child to engage in sexual conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000;

(b) By providing the child with ~~[obscene]~~ material *that is harmful to minors* or requesting the child to provide the person with ~~[obscene material,]~~ *material that is harmful to minors*, is guilty of a category C felony and shall be punished as provided in NRS 193.130; or

(c) If paragraph (a) or (b) does not apply, is guilty of a gross misdemeanor.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) *"Harmful to minors" has the meaning ascribed to it in NRS 201.257.*

(c) "Material" means anything that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner.

[(c)] (d) "Network" has the meaning ascribed to it in NRS 205.4745.

[(d) "Obscene" has the meaning ascribed to it in NRS 201.235.]

(e) "Sexual conduct" has the meaning ascribed to it in NRS 201.520.

(f) "System" has the meaning ascribed to it in NRS 205.476.

Sec. 4. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

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ê 2003 Statutes of Nevada, Page 432 ([Chapter 58, SB 300](#)) ê

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means an act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, **201.560** or 207.260.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 5. NRS 391.314 is hereby amended to read as follows:

391.314 1. If a superintendent has reason to believe that cause exists for the dismissal of a licensed employee and he is of the opinion that the immediate suspension of the employee is necessary in the best interests of the pupils in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a licensed employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

2. Within 5 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The employee is entitled to continue to receive his salary and other benefits after the suspension becomes effective until the date on which the dismissal proceedings are commenced. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with full compensation, plus interest.

4. A licensed employee who furnishes to the school district a bond or other security which is acceptable to the board as a guarantee that he will repay any amounts paid to him pursuant to this subsection as salary during a period of suspension is entitled to continue to receive his salary from the date on which the dismissal proceedings are commenced until the decision of the board or the report of the hearing officer, if the report is final and binding. The board shall not unreasonably refuse to accept security other than a bond. An employee who receives salary pursuant to this subsection shall repay it if he is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

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ê 2003 Statutes of Nevada, Page 433 ([Chapter 58, SB 300](#)) ê

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.200 to 179D.290, inclusive, or 179D.350 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, [or] 201.265 or 201.560 forfeits all rights of employment from the date of his arrest.

6. A licensed employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his arrest or the date on which his employment terminated, whichever is later.

7. A licensed employee who is charged with a felony or a crime involving immorality or moral turpitude and who waives his right to a speedy trial while suspended may receive no more than 12 months of back pay and seniority upon reinstatement if he is found not guilty or the charges are dismissed, unless proceedings have been begun to dismiss the employee upon one of the other grounds set forth in NRS 391.312.

8. A superintendent may discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held which affords the due process provided for in this chapter. The grounds for suspension are the same as the grounds contained in NRS 391.312. An employee may be suspended more than once during the employee's contract year, but the total number of days of suspension may not exceed 20 in 1 contract year. Unless circumstances require otherwise, the suspensions must be progressively longer.

Sec. 6. This act becomes effective on July 1, 2003.

Senate Bill No. 334—Senator Hardy

CHAPTER 59

AN ACT relating to metropolitan police departments; authorizing a metropolitan police committee on fiscal affairs under certain circumstances to propose to the registered voters of the taxing district the question of whether an additional ad valorem tax shall be levied on all taxable property within the taxing district for the support of the metropolitan police department for the purpose of employing additional police officers; and providing other matters properly relating thereto.

[Approved: May 6, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 280 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. "Taxing district" means a district created pursuant to NRS 280.262.

Sec. 3. 1. The committee may, with the consent of the governing body of each participating political subdivision and the debt management commission in the participating county, propose to the registered voters of the taxing district, at a county general election, the question of whether an

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ê 2003 Statutes of Nevada, Page 434 ([Chapter 59, SB 334](#))ê

additional ad valorem tax shall be levied on all taxable property within the taxing district for the support of the department for the purpose of employing additional police officers.

2. The question submitted to the voters must include information regarding:

(a) The initial ad valorem tax rate and the method for determining the ad valorem tax rate for each fiscal year; and

(b) The rate of the proposed additional property tax stated in dollars and cents per \$100 assessed valuation, the purpose of the proposed additional property tax, the duration of the proposed additional property tax and an

estimate established by the committee of the increase in the amount of property taxes that an owner of a new home with a fair market value of \$100,000 will pay per year as a result of the passage of the question.

3. For the purposes of NRS 350.011 to 350.0165, inclusive, a committee shall be deemed a municipality or a governing body of a municipality.

Sec. 4. *If the voters of the taxing district approve the levy of an additional ad valorem tax pursuant to section 3 of this act:*

1. The board of county commissioners of the county in which the taxing district is located shall impose the tax annually at the rate approved by the voters;

2. A county officer charged with the duty of collecting ad valorem taxes shall collect the tax in the same form and manner, and with the same interest and penalties, as other ad valorem taxes are collected, and shall pay all revenue generated by the tax, including all interest and penalties, to the department upon collection; and

3. The committee shall authorize the department to use the proceeds only for the purpose of employing additional police officers and the incurrence of related costs.

Sec. 5. NRS 280.020 is hereby amended to read as follows:

280.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 280.030 to 280.095, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 280.262 is hereby amended to read as follows:

280.262 1. In each county in which a metropolitan police department is established, there is hereby created a taxing district consisting of:

- (a) The area within the boundaries of each incorporated city which participates in the department; and
- (b) The area of the county outside the boundaries of any incorporated city.

2. A taxing district must not be used for any purpose not specifically authorized by the provisions of this chapter.

3. The boundary of the taxing district must not be altered or abolished as a result of the withdrawal of a participating political subdivision from the department or the dissolution of the department in such a manner as to impair any outstanding bonds or other obligations that are payable from or secured by a pledge of a tax imposed in the taxing district until those bonds or other obligations have been discharged in full.

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 2003 Statutes of Nevada, Page 435 ([Chapter 59, SB 334](#))

Sec. 7. Any tax that may be imposed pursuant to this act is not subject to the limitation provided in NRS 354.59811 and does not affect the amounts distributable to a participating political subdivision from the Local Government Tax Distribution Account pursuant to NRS 360.600 to 360.740, inclusive.

Sec. 8. This act becomes effective upon passage and approval.

Senate Bill No. 65–Committee on Judiciary

CHAPTER 60

AN ACT relating to professional corporations; allowing the formation of certain professional corporations; and providing other matters properly relating thereto.

[Approved: May 12, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 89.050 is hereby amended to read as follows:

89.050 1. Except as otherwise provided in subsection 2, a professional corporation may be organized only for the purpose of rendering one specific type of professional service and may not engage in any business other than rendering the professional service for which it was organized and services reasonably related thereto, except that a

professional corporation may own real and personal property appropriate to its business and may invest its money in any form of real property, securities or any other type of investment.

2. A professional corporation may be organized to render a professional service relating to:

(a) Architecture, interior design, residential design, engineering and landscape architecture, or any combination thereof, and may be composed of persons:

- (1) Engaged in the practice of architecture as provided in chapter 623 of NRS;
- (2) Practicing as a registered interior designer as provided in chapter 623 of NRS;
- (3) Engaged in the practice of residential design as provided in chapter 623 of NRS;
- (4) Engaged in the practice of landscape architecture as provided in chapter 623A of NRS; and
- (5) Engaged in the practice of professional engineering as provided in chapter 625 of NRS.

(b) Medicine, homeopathy and osteopathy, and may be composed of persons engaged in the practice of medicine as provided in chapter 630 of NRS, persons engaged in the practice of homeopathic medicine as provided in chapter 630A of NRS and persons engaged in the practice of osteopathic medicine as provided in chapter 633 of NRS. Such a professional corporation may market and manage additional professional corporations which are

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organized to render a professional service relating to medicine, homeopathy and osteopathy.

(c) Mental health services, and may be composed of the following persons, in any number and in any combination:

- (1) Any psychologist who is licensed to practice in this state;*
- (2) Any social worker who holds a master’s degree in social work and who is licensed by this state as a clinical social worker;*
- (3) Any registered nurse who is licensed to practice professional nursing in this state and who holds a master’s degree in the field of psychiatric nursing; and*
- (4) Any marriage and family therapist who is licensed by this state pursuant to chapter 641A of NRS.*

Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to mental health services pursuant to this paragraph.

3. A professional corporation may render a professional service only through its officers and employees who are licensed or otherwise authorized by law to render the professional service.

Sec. 2. This act becomes effective upon passage and approval.

Senate Bill No. 133–Committee on Commerce and Labor

CHAPTER 61

AN ACT relating to psychiatrists; authorizing the Board of Medical Examiners to issue restricted licenses that allow certain psychiatrists to practice medicine at certain mental health centers; and providing other matters properly relating thereto.

[Approved: May 12, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

- 1. Except as otherwise provided in NRS 630.161, the Board may issue a restricted license to a person who intends to practice medicine in this state as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.*
- 2. A person who applies for a restricted license pursuant to this section is not required to take or pass a*

written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues a restricted license pursuant to this section, the person who holds the restricted license may practice medicine in this state only as a psychiatrist in a mental health center of the Division and only

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under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

4. If a person who holds a restricted license issued pursuant to this section ceases to practice medicine in this state as a psychiatrist in a mental health center of the Division:

- (a) The Division shall notify the Board; and*
- (b) Upon receipt of such notification, the restricted license expires automatically.*

5. The Board may renew or modify a restricted license issued pursuant to this section, unless the restricted license has expired automatically or has been revoked.

6. Each person who holds a restricted license issued pursuant to this section and who accepts the privilege of practicing medicine in this state pursuant to the provisions of the restricted license shall be deemed to have given his consent to the revocation of the restricted license at any time by the Board for any of the grounds provided in NRS 630.161 or 630.301 to 630.3065, inclusive, or for any violation of the provisions of this section.

7. The provisions of this section do not limit the authority of the Board to issue a restricted license to an applicant in accordance with any other provision of this chapter.

8. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Human Resources.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 2. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.161 ~~for 630.164,~~ **630.164 and section 1 of this act**, a license may be issued to any person who:

- (a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (b) Has received the degree of doctor of medicine from a medical school:
 - (1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or
 - (2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;
- (c) Has passed:
 - (1) All parts of the examination given by the National Board of Medical Examiners;
 - (2) All parts of the Federation Licensing Examination;
 - (3) All parts of the United States Medical Licensing Examination;
 - (4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;
 - (5) All parts of the examination to become a licentiate of the Medical Council of Canada; or
 - (6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determined to be sufficient;

(d) Has completed 36 months of progressive postgraduate:

(1) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education of the American Medical Association or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(2) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant’s clinical training met the requirements of paragraph (b).

Sec. 3. This act becomes effective on July 1, 2003.

Senate Bill No. 350–Senator Rawson

CHAPTER 62

AN ACT relating to dentists; authorizing a dentist licensed to practice dentistry in this state who holds a medical degree to identify himself by that degree under certain circumstances; and providing other matters properly relating thereto.

[Approved: May 12, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 630.020 is hereby amended to read as follows:

630.020 “Practice of medicine” means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality.
2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.
3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.
4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.
5. To use in connection with a person’s name the words or letters “M.D.,” or any other title, word, letter or other designation intended to imply or designate him as a practitioner of medicine in any of its branches, except in the manner authorized by NRS 630A.220 ~~or~~ *or section 2 of this act.*

Sec. 2. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

A dentist licensed pursuant to this chapter who holds a degree as a doctor of medicine and is not licensed as a physician pursuant to chapter 630 of NRS may identify himself as a doctor of medicine and use the letters “M.D.” or any other appropriate abbreviation if the dentist clearly identifies himself as a practitioner of dentistry.

Sec. 3. This act becomes effective upon passage and approval.

Senate Bill No. 395–Committee on Commerce and Labor

CHAPTER 63

AN ACT relating to court reporters; authorizing the Certified Court Reporters' Board of Nevada to place a court reporter or court reporting firm on probation or impose an administrative fine against the court reporter or court reporting firm under certain circumstances; authorizing the Board to employ an Executive Secretary on a full-time basis; expanding the circumstances under which the Board may refuse to issue or renew or suspend or revoke the certificate of a court reporter for performing certain acts; eliminating the provisions that require the holder of a certificate to place the number of his certificate on certain advertisements, solicitations, stationery and listings in telephone directories; and providing other matters properly relating thereto.

[Approved: May 12, 2003]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 656 of NRS is hereby amended by adding thereto a new section to read as follows:

In addition to or in lieu of suspending, revoking or refusing to issue or renew the certificate of a court reporter pursuant to NRS 656.240 or 656.250 or the license of a court reporting firm pursuant to NRS 656.253, the Board may, by a majority vote:

1. Place the court reporter or court reporting firm on probation for a period not to exceed 1 year; or
2. Impose an administrative fine against the court reporter or court reporting firm in an amount not to exceed \$5,000 for each violation for which the administrative fine is imposed.

Sec. 2. NRS 656.110 is hereby amended to read as follows:

656.110 1. The Board ~~[is charged with the administration]~~ shall administer the provisions of this chapter.

2. The Board may appoint such committees as it considers necessary or proper, and may employ, prescribe the duties of and fix the salary of an Executive Secretary who may be employed on a part-time or full-time basis, and may also employ such other persons as may be necessary.

3. All expenditures described in this section shall must be paid from the fees collected under this chapter.

Sec. 3. NRS 656.130 is hereby amended to read as follows:

656.130 1. The Board may ~~[by a majority vote suspend or revoke a license or certificate for any cause specified in this chapter.~~

2. The Board may] issue subpoenas for the attendance of witnesses and the production of relevant books and papers.

[3.] 2. The Board may adopt such regulations as are necessary to carry out the provisions of this chapter.

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Sec. 4. NRS 656.150 is hereby amended to read as follows:

656.150 1. Each applicant for a certificate shall must file an application with the Executive Secretary ~~for~~ Chairman of the Board at least 30 days before the date fixed for examination. The application must include the social security number of the applicant and be accompanied by the required fee.

2. No certificate may be issued until the applicant has passed the examination prescribed by the Board and paid the fee as provided in NRS 656.220.

Sec. 5. NRS 656.160 is hereby amended to read as follows:

656.160 1. Every person who files an application for an original certificate must personally appear before the Board for a written examination and the answering of such questions as may be prepared by the Board to enable it to determine the trustworthiness of the applicant ~~[]~~ and his competency to engage in the practice of court reporting in such a manner as to safeguard the interests of the public.

2. In determining competency, the Board shall administer a written examination to determine whether the applicant has:

(a) A good understanding of the English language, including reading, spelling, vocabulary, and medical and legal terminology;

(b) Sufficient ability to report accurately any of the matters comprising the practice of court reporting consisting

of material read at not less than 180 words per minute or more than 225 words per minute; and

(c) A clear understanding of the obligations **[of] owed by** a court reporter to the parties **[to proceedings] in any reported proceedings** and the obligations created by the provisions of this chapter **[.] and any regulation adopted pursuant to this chapter.**

Sec. 6. NRS 656.185 is hereby amended to read as follows:

656.185 1. It is unlawful for any person to conduct business as a court reporting firm or to advertise or put out any sign or card or other device which **[might] may** indicate to members of the public that he is entitled to conduct such a business without first obtaining a license from the Board.

2. Each applicant for a license as a court reporting firm **[shall] must** file an application with the Executive Secretary **[or Chairman]** of the Board on a form prescribed by the Board.

3. The application must:

(a) Include the social security number and federal identification number of the applicant;

(b) Be accompanied by the statement required pursuant to NRS 656.155; and

(c) Be accompanied by the required fee.

4. To obtain a license pursuant to this section, an applicant need not hold a certificate of registration as a certified court reporter.

Sec. 7. NRS 656.250 is hereby amended to read as follows:

656.250 The Board may refuse to issue or renew or may suspend or revoke any certificate if the court reporter in performing or attempting to perform or pretending to perform any act as a court reporter has:

1. Willfully failed to take full and accurate stenographic notes of any proceedings;

2. Willfully altered any stenographic notes taken at any proceedings;

3. Willfully failed accurately to transcribe verbatim any stenographic notes taken at any proceedings;

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4. Willfully altered a transcript of stenographic notes taken at any proceedings;

5. Affixed his signature to any transcript of his stenographic notes or certified to the correctness of such a transcript unless the transcript was prepared by him or was prepared under his immediate supervision;

6. Demonstrated unworthiness or incompetency to act as a court reporter in such a manner as to safeguard the interests of the public;

7. Professionally associated with or loaned his name to another for the illegal practice by another of court reporting, or professionally associated with any natural person, firm, copartnership or corporation holding **[himself, themselves or]** itself out in any manner contrary to the provisions of this chapter;

8. Habitually been intemperate in the use of intoxicating liquor or controlled substances;

9. **[Willfully] Except as otherwise provided in subsection 10, willfully** violated any of the provisions of this chapter or the regulations adopted by the Board to enforce this chapter;

10. **[Engaged in] Violated any regulation adopted by the Board relating to** unprofessional conduct;

11. Failed within a reasonable time to provide information requested by the Board as the result of a formal or informal complaint to the Board, which would indicate a violation of this chapter; or

12. **[Repeatedly failed] Failed** without excuse to transcribe *stenographic* notes of **[eases on appeal] a proceeding** and file **[the transcripts] a transcript** of the **[eases within] stenographic notes:**

(a) Within the time required by law or **[to transcribe or file notes of other proceedings within the time required by law or]** agreed **to** by contract **[.] ; or**

(b) Within any other reasonable time required for filing the transcript.

Sec. 8. NRS 656.310 is hereby amended to read as follows:

656.310 1. Every person to whom a valid existing certificate of registration as a certified court reporter has been issued under this chapter must be designated as a certified court reporter and not otherwise, and any such registered certified court reporter may, in connection with his practice of court reporting, use the abbreviation "C.C.R." No person other than the holder of a valid existing certificate of registration under this chapter may use the title or designation of "certified court reporter," or "C.C.R.," either directly or indirectly, in connection with his profession or business.

2. Every holder of a certificate shall place the number of his certificate **[on] :**

(a) On the cover page and certificate page of all transcripts of proceedings ; and **[on all presentments to the public, including without limitation:**

—(a) Advertising;

—(b) Solicitations;

- (c) Business cards;
 - (d) Stationery; and
 - (e) Listings in telephone directories.]
- (b) *On all business cards.*

Sec. 9. This act becomes effective on July 1, 2003.

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