

CHAPTER.....

AN ACT relating to hazardous materials; providing that certain required analyses relating to hazardous waste and regulated substances must be performed by certified laboratories; requiring the State Environmental Commission to adopt regulations for the certification of such laboratories; providing for the regulation of certain aboveground storage tanks by the Commission; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 445A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2.** *“Hazardous waste” has the meaning ascribed to it in NRS 459.430.*

**Sec. 3. 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 445A.300 to 445A.730, inclusive, and sections 2 and 3 of this act must be performed by a laboratory certified pursuant to the regulations adopted pursuant to NRS 445A.425.*

*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.*

**Sec. 4.** NRS 445A.310 is hereby amended to read as follows:

445A.310 As used in NRS 445A.300 to 445A.730, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 445A.315 to 445A.420, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

**Sec. 5.** NRS 445A.425 is hereby amended to read as follows:

445A.425 1. Except as specifically provided in NRS 445A.625 to 445A.645, inclusive, the Commission shall:

(a) Adopt regulations carrying out the provisions of NRS 445A.300 to 445A.730, inclusive, *and sections 2 and 3 of this act*, including standards of water quality and amounts of waste which may be discharged into the waters of the State.

(b) *Adopt regulations providing for the certification of laboratories that perform analyses for the purposes of NRS 445A.300 to 445A.730, inclusive, and sections 2 and 3 of this act to detect the presence of hazardous waste or a regulated substance in soil or water.*

(c) Adopt regulations controlling the injection of fluids through a well to prohibit those injections into underground water, if it supplies or may reasonably be expected to supply any public water system, as defined in NRS 445A.840, which may result in that system's noncompliance with any regulation regarding primary drinking water or may otherwise have an adverse effect on human health.

~~[(e)]~~ (d) Advise, consult and cooperate with other agencies of the State, the Federal Government, other states, interstate agencies and other persons in furthering the provisions of NRS 445A.300 to 445A.730, inclusive ~~[(d)]~~, *and sections 2 and 3 of this act.*

~~[(d)]~~ (e) Determine and prescribe the qualifications and duties of the supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment.

2. The Commission may by regulation require that supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment be certified by the Department. The regulations may include a schedule of fees to pay the costs of certification. The provisions of this subsection apply only to a package plant for sewage treatment whose capacity is more than 5,000 gallons per day and to any other plant whose capacity is more than 10,000 gallons per day.

3. In adopting regulations, standards of water quality and effluent limitations pursuant to NRS 445A.300 to 445A.730, inclusive, *and sections 2 and 3 of this act*, the Commission shall recognize the historical irrigation practices in the respective river basins of this state, the economy thereof and their effects.

4. The Commission may hold hearings, issue notices of hearings, issue subpoenas requiring the attendance of witnesses and the production of evidence, administer oaths and take testimony as it considers necessary to carry out the provisions of this section and for the purpose of reviewing standards of water quality.

5. As used in this section, "plant for sewage treatment" means any facility for the treatment, purification or disposal of sewage.

**Sec. 6.** NRS 445A.625 is hereby amended to read as follows:

445A.625 ~~[(1)]~~ The Department may issue, pursuant to NRS 445A.630, 445A.635 and 445A.640, a written permit to an applicant for that person to discharge, deposit, generate or dispose of any radioactive or hazardous waste.

~~[(2.—As used in this section, "hazardous waste" has the meaning ascribed to it in NRS 459.430.)]~~

**Sec. 7.** Chapter 459 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

**Sec. 8. 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, and sections 8 and 9 of this act, 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.*

**Sec. 9.** *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, and sections 8 and 9 of this act must be performed by a laboratory certified pursuant to the regulations adopted pursuant to NRS 459.500.*

**Sec. 10.** NRS 459.405 is hereby amended to read as follows:

459.405 As used in NRS 459.400 to 459.600, inclusive, *and sections 8 and 9 of this act*, 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.

**Sec. 11.** NRS 459.460 is hereby amended to read as follows:

459.460 1. NRS 459.400 to 459.600, inclusive, *and sections 8 and 9 of this act*, 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, *and sections 8 and 9 of this act*, 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.

**Sec. 12.** NRS 459.465 is hereby amended to read as follows:

459.465 The following types of waste are subject to the provisions of NRS 459.400 to 459.600, inclusive, *and sections 8 and 9 of this act*, 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.

**Sec. 13.** NRS 459.500 is hereby amended to read as follows:

459.500 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; ~~and~~

(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~~; and

*(4) For the certification of laboratories that perform analyses for the purposes of NRS 459.400 to 459.600, inclusive, and sections 8 and 9 of this act, 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.

**Sec. 14.** NRS 459.812 is hereby amended to read as follows:  
459.812 “Owner” means any person who owns ~~it~~:

*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 ~~it~~; 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.*

**Sec. 15.** NRS 459.820 is hereby amended to read as follows:

459.820 “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 ~~these~~:

*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.*

**Sec. 16.** NRS 459.825 is hereby amended to read as follows:

459.825 1. The Commission shall coordinate:

(a) The collection of fees related to ~~underground~~ storage tanks;  
(b) The adoption of regulations governing ~~underground~~ storage tanks; and

(c) The standardization of forms used by the agencies of the State and local governments that regulate ~~underground~~ storage tanks for reporting information relating to such storage tanks.

2. Each agency of this state and local government that regulates ~~underground~~ storage tanks shall, in consultation with the Commission:

(a) Cooperate to eliminate any duplication, conflicts or inconsistencies in regulations adopted to govern ~~underground~~ storage tanks;

(b) Review periodically the forms for reporting information related to ~~underground~~ 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 ~~underground~~ storage tanks;

(d) Cooperate to ensure that agencies of local governments that respond to emergencies involving ~~underground~~ storage tanks receive reports of those emergencies in a timely manner; and

(e) Consolidate the collection of fees related to ~~underground~~ storage tanks.

**Sec. 17.** 1. This section becomes effective upon passage and approval.

2. Sections 14, 15 and 16 of this act become effective upon passage and approval for the purpose of adopting regulations governing aboveground storage tanks and on October 1, 2003, for all other purposes.

3. Section 13 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2004, for all other purposes.

4. Sections 1 to 12, inclusive, of this act become effective on July 1, 2004.