

REQUIRES TWO-THIRDS MAJORITY VOTE
(§§ 10, 22, 23.5, 39, 49 & NRS 444.560, 459.500,
459.512, 459.537, 459.548, 459.634)

(Reprinted with amendments adopted on April 18, 2025)

FIRST REPRINT

A.B. 40

ASSEMBLY BILL NO. 40—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF ENVIRONMENTAL
PROTECTION OF THE STATE DEPARTMENT OF
CONSERVATION AND NATURAL RESOURCES)

PREFILED NOVEMBER 19, 2024

Referred to Committee on Natural Resources

SUMMARY—Revises various provisions relating to environmental hazards. (BDR 46-265)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to environmental hazards; authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to issue an order for certain violations relating to mining reclamation; providing the Division, solid waste management authority and Department with a lien on certain property under certain circumstances; revising provisions governing mining reclamation to include the stabilization of process fluids; revising certain requirements for a permit to engage in a mining operation or exploration project; authorizing the State Environmental Commission to adopt regulations relating to solid waste management facilities; requiring the Commission to adopt regulations relating to the requirements for the owner or operator of a municipal solid waste landfill or solid waste management facility to provide certain evidence of financial responsibility; requiring a permit to construct or operate a solid waste management facility; making requirements for disposal



sites applicable to solid waste management facilities; prohibiting a municipal solid waste landfill from accepting certain types of hazardous waste; revising provisions relating to the management of hazardous waste; revising requirements governing a permit to operate a facility for the management of hazardous waste; revising requirements relating to evidence of financial responsibility provided by an owner or operator of certain facilities for the management of hazardous waste; revising certain prohibitions relating to hazardous waste; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law establishes provisions governing the reclamation of land subject to
2 mining operations or exploration projects. (Chapter 519A of NRS) **Section 13** of
3 this bill revises the definition of the term "reclamation" to include actions
4 performed during or after an exploration project or mining operation to stabilize
5 process fluids. **Sections 2-9** of this bill define certain terms relating to reclamation.
6 **Section 14** of this bill revises the definition of the term "surety" to include an
7 account held by or for the benefit of the Division of Environmental Protection of
8 the State Department of Conservation and Natural Resources.

9 **Section 10** of this bill authorizes the Division to issue an order if the Division
10 has reasonable cause to believe that a holder of a permit is violating or is about to
11 violate certain provisions of existing law relating to the reclamation of land.

12 **Section 11** of this bill provides that the Division may lien all real and personal
13 property associated with a facility of a holder of a permit for an exploration project
14 or mining operation.

15 **Section 12** of this bill applies the definitions in existing law and **sections 2-9**
16 governing reclamation to the provisions of **sections 10 and 11**.

17 **Section 15** of this bill authorizes certain fees collected by the Division that are
18 used to administer the provisions of existing law relating to reclamation to also be
19 used to administer the provisions of **sections 2-11**.

20 Existing law requires an applicant for a permit to engage in a mining operation
21 to, amongst other requirements, complete a checklist developed by the Division and
22 file a plan for reclamation with the application. (NRS 519A.210, 519A.220)

23 **Section 16** of this bill requires that the information requested by the checklist
24 include a manual for the operation and maintenance of the fluid management
25 system for the mining operation. **Section 17** of this bill requires a plan for
26 reclamation to provide for the stabilization of process fluids.

27 Existing law provides that if an exploration project or a mining operation is
28 conducted on: (1) land administered by a federal agency, an approved federal plan of
29 operations and surety that are consistent with certain requirements supersede
30 certain requirements for a permit and bond or other surety; or (2) both public land
31 and privately owned land, compliance with the approved federal plan of operations
32 is sufficient if that plan substantially provides for the reclamation and bond or other
33 surety required by existing law. (NRS 519A.240) **Section 18** of this bill provides
34 that a federal plan of operations and surety approved by a federal agency for an
35 exploration project or a mining operation supersede, if wholly conducted on land
36 administered by a federal agency, or substitute, if partly conducted on land
37 administered by a federal agency, requirements in state law for a permit and bond
38 or other surety if the applicant: (1) submits to the Division the federal plan of
39 operations and an estimate of the costs of reclamation; and (2) remedies any



40 inconsistencies identified by the Division between the federal plan of operations
41 and the requirements of state law.

42 **Sections 19 and 20** of this bill apply certain disciplinary actions and criminal
43 penalties to the provisions of **sections 2-11**.

44 Existing law requires the governing body of every municipality or district board
45 of health of a health district to develop a plan to provide for a solid waste
46 management system which provides for the management and disposal of solid
47 waste. (NRS 444.510) Existing law defines the term "solid waste management
48 system" as the entire process of storage, collection, transportation, processing,
49 recycling and disposal of solid waste. (NRS 444.500) **Section 28.3** of this bill
50 revises the definition of "solid waste management system" to mean the entire
51 process of storage, collection, transportation, processing, recycling or disposal of
52 solid waste.

53 Existing law requires a solid waste management authority to issue permits to
54 operate disposal sites. (NRS 444.553) **Section 28.7** of this bill requires a solid
55 waste management authority to also issue permits to operate solid waste
56 management facilities. **Section 32.1** of this bill requires the State Environmental
57 Commission to adopt regulations concerning standards for the issuance, renewal,
58 modification, suspension, revocation and denial of, and for the imposition of terms
59 and conditions for, a permit to construct or operate a solid waste management
60 facility. **Sections 32.1-32.4 and 32.8** of this bill make certain provisions of existing
61 law relating to disposal sites applicable to solid waste management facilities.

62 **Section 22** of this bill defines the term "solid waste management facility" to
63 mean any place that engages in any activity related to a solid waste management
64 system. **Section 23.5** of this bill authorizes the State Environmental Commission to
65 adopt regulations establishing activities that are related to a solid waste
66 management system and the places which constitute a solid waste management
67 facility based on the activities performed at the place.

68 Existing law requires the owner or operator of a municipal solid waste landfill
69 to obtain a permit from a solid waste management authority before constructing or
70 operating the municipal solid waste landfill. The permit must be conditioned upon
71 all requirements necessary to ensure compliance with certain federal laws
72 governing solid waste, including financial requirements for the owners and
73 operators of municipal solid waste landfills. (NRS 444.465, 444.556) **Section 30** of
74 this bill revises certain references to the term "municipal solid waste landfill."
75 **Section 32.6** of this bill revises a reference to a sanitary landfill with a reference to
76 a municipal solid waste landfill. **Section 32** of this bill prohibits a municipal solid
77 waste landfill from accepting hazardous waste from a very small quantity
78 generator.

79 **Section 24** of this bill requires the Commission to adopt regulations prescribing
80 the requirements for an owner or operator of a municipal solid waste landfill or
81 solid waste management facility to demonstrate financial responsibility.

82 **Section 29** of this bill provides that certain requirements for a permit relating to
83 standards of care and financial responsibility may be satisfied by a plan for
84 reclamation under certain circumstances.

85 **Section 25** of this bill provides that the Division or solid waste management
86 authority may lien all real and personal property associated with a municipal solid
87 waste landfill or solid waste management facility of an owner or operator of the
88 municipal solid waste landfill or solid waste management facility.

89 **Section 26** of this bill applies the definitions in existing law and **section 22**
90 governing the collection and disposal of solid waste to the provisions of **sections**
91 **22-25**.

92 Existing law establishes provisions governing the disposal of hazardous waste
93 through the management of hazardous waste, which is defined as the systematic
94 control of the generation, collection, storage, transportation, processing, treatment,
95 recovery and disposal of hazardous waste. (NRS 459.400-459.600) **Section 39** of



96 this bill revises: (1) the definition of the management of hazardous waste to mean
97 the systematic control of the generation, collection, storage, transportation,
98 recycling, processing, treatment, recovery or disposal of hazardous waste; and as a
99 result: (2) expands the applicability of these requirements governing hazardous
100 waste to include recycling as a method for the disposal of hazardous waste and any
101 systematic control of the generation, collection, storage, transportation, recycling,
102 processing, treatment, recovery or disposal of hazardous waste.

103 **Sections 36, 40, 44, 46-51, 52 and 53** of this bill remove references to specific
104 activities constituting the management of hazardous waste. **Sections 37.5, 38.5 and**
105 **40-41** of this bill revise certain definitions relating to the disposal of hazardous
106 waste.

107 **Sections 46, 53 and 54** of this bill apply certain existing criminal and civil
108 penalties and disciplinary actions to the management of hazardous waste.

109 **Section 34** of this bill defines the term "recycling" to mean the processing of
110 hazardous waste to recover materials or produce a usable product. **Section 36**
111 establishes that an additional purpose of the provisions of existing law governing
112 the disposal of hazardous waste includes conserving resources of material and
113 energy through the recycling or recovery of hazardous waste.

114 **Section 35** of this bill provides that the Department may lien all real and
115 personal property associated with a facility for the management of hazardous waste
116 of the owner, operator or holder of a permit of the facility.

117 **Section 37** of this bill applies the definitions in existing law and **section 34**
118 governing the disposal of hazardous waste to the provisions of **sections 34 and 35**.

119 Existing law requires the Commission, through the Department, to develop a
120 program to encourage the minimization of hazardous waste and the recycling or
121 reuse of hazardous waste. (NRS 459.485) **Section 43** of this bill removes the
122 requirement that the program include the reuse of hazardous waste.

123 Existing law prohibits a person from constructing, substantially altering or
124 operating a facility for the treatment, storage or disposal of hazardous waste or
125 treating, storing or disposing of hazardous waste unless the person has first
126 obtained a permit from the Department. (NRS 459.515) **Section 46** provides that
127 the person must only obtain a permit if the Commission has required by regulation
128 that type of facility to obtain a permit. **Section 47** requires the Commission to adopt
129 regulations establishing the types of facilities for the management of hazardous
130 waste which must obtain a permit.

131 Existing law requires the Commission to adopt regulations requiring the owner
132 or operator of any facility for the treatment, storage or disposal of hazardous waste
133 to show his or her financial responsibility for the undertaking. (NRS 459.525)
134 **Section 48** requires the Commission to adopt regulations establishing the types of
135 facilities for the management of hazardous waste which must show financial
136 responsibility.

137 Existing law provides that certain provisions of existing law authorizing any
138 authorized representative or employee of the Commission or Department to
139 conduct certain inspections relating to hazardous substances and authorizing the
140 Department to issue certain orders relating to hazardous substances do not apply in
141 a county whose population is less than 55,000 (currently all counties except Clark
142 County, Washoe County, Lyon County and Carson City). (NRS 459.558) **Section**
143 **51.5** of this bill removes this exemption.

144 Existing law prohibits a person from transporting hazardous waste to a facility
145 that has not been issued a permit to treat, store or dispose of hazardous waste. (NRS
146 459.590) **Section 54.5** of this bill instead prohibits a person from transporting
147 hazardous waste to a facility that has not been authorized to accept hazardous waste
148 in accordance with certain regulations adopted by the Commission.



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

1 **Section 1.** Chapter 519A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 11, inclusive,
3 of this act.

4 **Sec. 2.** *“Beneficiation” means the dressing or processing of*
5 *ores to:*

6 1. *Regulate the size of a desired product;*

7 2. *Remove unwanted constituents; and*

8 3. *Improve the quality, purity or assay grade of a desired*
9 *product.*

10 **Sec. 3.** *“Discharge” has the meaning ascribed to it in*
11 *NRS 445A.345.*

12 **Sec. 4.** *“Facility” means all portions of a mining operation,*
13 *including, without limitation, the mine, waste rock piles, ore piles,*
14 *process components for beneficiation, processed ore disposal sites,*
15 *and all associated buildings and structures. The term does not*
16 *include any process component or non-process component that is*
17 *not used for mining or mineral production and has not been used*
18 *in the past for mining or mineral production.*

19 **Sec. 5.** *“Fluid management system” means the portion of a*
20 *facility constructed to contain or transport process fluids.*

21 **Sec. 6.** *“Point source” means any discernible, confined and*
22 *discrete conveyance from which pollutants are or may be*
23 *discharged, including, without limitation, any pipe, ditch, channel,*
24 *conduit, well, discrete fissure, container, rolling stock,*
25 *concentrated animal feeding operation, wheeled, track, stationary*
26 *or floating equipment used for earth-moving activities or vessel or*
27 *other floating craft. The term does not include return flows from*
28 *irrigated agriculture.*

29 **Sec. 7.** *“Process component” means the distinct portion of a*
30 *constructed facility which is a point source.*

31 **Sec. 8.** *“Process fluid” means any liquid, including, without*
32 *limitation, meteoric waters, which are intentionally or*
33 *unintentionally introduced into any part of a process component*
34 *for beneficiation.*

35 **Sec. 9.** *“Stabilize” means the condition in which a*
36 *contaminant in a material or process fluid is bound, contained or*
37 *treated so that the contaminant does not exhibit a potential to*
38 *adversely impact human health, public safety or the environment.*

39 **Sec. 10.** 1. *If the Division has reasonable cause to believe,*
40 *based on evidence satisfactory to the Division, that a holder of a*
41 *permit is violating or is about to violate the provisions of NRS*
42 *519A.010 to 519A.280, inclusive, and sections 2 to 11, inclusive, of*



1 *this act, or a regulation adopted or order issued pursuant thereto,*
2 *or any term or condition of a permit issued pursuant to NRS*
3 *519A.180 or 519A.200 pertaining to the stabilization of process*
4 *fluids, and that the violation will pose imminent danger to human*
5 *health, public safety or the environment, the Division may, without*
6 *prior hearing, issue an order against the holder of the permit,*
7 *which:*

8 (a) *Temporarily suspends all or part of the permit issued under*
9 *NRS 519A.180 or 519A.200;*

10 (b) *Requires the holder of the permit to ensure all equipment*
11 *necessary to stabilize process fluids remain at the facility; and*

12 (c) *Authorizes the Division to enter the facility and stabilize the*
13 *process fluids at the facility.*

14 2. *The order issued pursuant to subsection 1 must specify:*

15 (a) *The provision of NRS 519A.010 to 519A.280, inclusive,*
16 *and sections 2 to 11, inclusive, of this act or a regulation adopted*
17 *or order issued pursuant thereto, or the term or condition of a*
18 *permit issued pursuant to NRS 519A.180 or 519A.200 which the*
19 *Division reasonably believes is being or is about to be violated and*
20 *any facts supporting this belief;*

21 (b) *The parts of the permit that are being suspended, if only*
22 *parts of the permit are suspended; and*

23 (c) *The actions the holder of the permit must take to correct*
24 *the violation.*

25 3. *An order issued by the Division pursuant to this section is*
26 *effective immediately and remains in effect until the Division*
27 *issues a decision pursuant to subsection 5.*

28 4. *The Division shall serve an order issued pursuant to*
29 *subsection 1 personally or by mail with delivery on the next*
30 *business day to the holder of the permit at his or her address as*
31 *shown on the records of the Division.*

32 5. *Unless otherwise agreed upon by the holder of the permit*
33 *and the Division, the Division shall hold a hearing not later than*
34 *10 business days after issuing the order. The Division shall issue a*
35 *decision not later than 5 business days after the hearing.*

36 6. *Unless otherwise authorized in writing by the Division, the*
37 *permit or parts thereof must remain suspended until the violation*
38 *is corrected and any costs of the Division for the stabilization of*
39 *the process fluids while the permit is suspended pursuant to*
40 *subsection 1 are compensated from the bond or other surety*
41 *required pursuant to NRS 519A.190 or 519A.210, as applicable, or*
42 *otherwise repaid to the Division.*

43 **Sec. 11.** 1. *The Division may lien all real and personal*
44 *property, tangible and intangible, associated with a facility of a*
45 *holder of a permit under NRS 519A.180 or 519A.200 for:*



1 (a) *The costs incurred by the Division pursuant to section 10*
2 *of this act to stabilize process fluids that pose an imminent danger*
3 *to human health, public safety or the environment; and*

4 (b) *The amount of any deficiency in a bond or surety required*
5 *by NRS 519A.190 or 519A.210 and identified in a notice of*
6 *noncompliance issued pursuant to NRS 519A.270.*

7 2. *To perfect a lien held pursuant to subsection 1, the*
8 *Division shall:*

9 (a) *Provide notice of intent to lien to the holder of the permit*
10 *by certified or registered mail;*

11 (b) *Not later than 30 days after providing notice of intent to*
12 *lien pursuant to paragraph (a), provide notice of the lien to the*
13 *holder of the permit by certified or registered mail; and*

14 (c) *File notice of the lien, which must set forth, without*
15 *limitation, the amount of the lien:*

16 (1) *If on real property, in the office of the county recorder*
17 *of the county where the real property is located.*

18 (2) *If on personal property, in the Office of the Secretary of*
19 *State. If the notice is filed in the Office of the Secretary of State,*
20 *the notice must be marked, held and indexed in accordance with*
21 *the provisions of NRS 104.9519 as if the notice were a financing*
22 *statement within the meaning of the Uniform Commercial Code.*

23 3. *The Division shall file an amended notice of the lien which*
24 *must set forth, without limitation, the amount of the lien:*

25 (a) *Not later than 30 days after the amount of the lien*
26 *decreases due to payment, reimbursement or any other partial lien*
27 *satisfaction; and*

28 (b) *Not later than 90 days after the first day of any month in*
29 *which the amount of the lien increases due to the accrual of*
30 *unrecovered costs or a deficiency in a bond or other surety*
31 *identified in a notice of noncompliance issued pursuant to*
32 *NRS 519A.270.*

33 4. *The amount of the lien held pursuant to subsection 1 must*
34 *not exceed:*

35 (a) *The costs of the Division for reclamation and any*
36 *deficiency in a bond or other surety; or*

37 (b) *The proceeds from the sale of the real or personal property*
38 *associated with the facility of the holder of the permit after any*
39 *previously perfected security interests or judgment liens are*
40 *satisfied.*

41 5. *A security interest or judgment lien that is perfected before*
42 *notice of the lien is filed pursuant to subsection 2 has priority over*
43 *a lien perfected pursuant to this section. A perfected lien held*
44 *pursuant to this section has priority over all other liens and*
45 *encumbrances that have an interest in the:*



1 (a) *Proceeds of a bond or other surety required by NRS*
2 *519A.190 or 519A.210; or*

3 (b) *Increase in the fair market value of the real or personal*
4 *property associated with the facility that is attributable to*
5 *reclamation performed by the Division, which must be measured*
6 *at the time of the sale or other disposition of the real or personal*
7 *property.*

8 6. *The Division shall release the lien pursuant to subsection 7*
9 *if:*

10 (a) *The costs of reclamation incurred by the Division are*
11 *repaid or reimbursed;*

12 (b) *The holder of the permit resolves the deficiency in the bond*
13 *or other surety identified in a notice of noncompliance issued*
14 *pursuant to NRS 519A.270; or*

15 (c) *The lien is satisfied by sale or other means.*

16 7. *As soon as practicable but not more than 30 days after a*
17 *lien is satisfied pursuant to subsection 6, the Division shall file a*
18 *notice of lien release:*

19 (a) *If on real property, in the office of the county recorder of*
20 *the county where the real property is located.*

21 (b) *If on personal property, in the Office of the Secretary of*
22 *State. If the notice is filed in the Office of the Secretary of State,*
23 *the notice must be marked, held and indexed in accordance with*
24 *the provisions of NRS 104.9519 as if the notice were a financing*
25 *statement within the meaning of the Uniform Commercial Code.*

26 8. *The Attorney General may, on behalf of the Division,*
27 *foreclose on a perfected lien in a suit brought in district court in*
28 *the same manner as a suit for the foreclosure of any other lien.*

29 9. *Nothing in this section shall be construed to limit the right*
30 *of the Division to bring an action to recover any costs and*
31 *damages for which a person is liable under the provisions of this*
32 *chapter.*

33 **Sec. 12.** NRS 519A.020 is hereby amended to read as follows:

34 519A.020 As used in this chapter, unless the context otherwise
35 requires, the words and terms defined in NRS 519A.030 to
36 519A.130, inclusive, *and sections 2 to 9, inclusive, of this act* have
37 the meanings ascribed to them in those sections.

38 **Sec. 13.** NRS 519A.100 is hereby amended to read as follows:

39 519A.100 "Reclamation" means actions performed during or
40 after an exploration project or mining operation to **[shape,]**:

41 1. *Shape*, stabilize, revegetate or otherwise treat the land in
42 order to return it to a safe, stable condition consistent with the
43 establishment of a productive postmining use of the land and the
44 abandonment of a facility in a manner which ensures the public



1 safety, as well as the encouragement of techniques which minimize
2 the adverse visual effects ~~{}~~; or

3 **2. Stabilize process fluids.**

4 **Sec. 14.** NRS 519A.130 is hereby amended to read as follows:

5 519A.130 "Surety" means, but is not limited to, a trust fund,
6 surety bonds that guarantee performance or payment into a trust
7 fund ~~{}~~ or an account held by or for the benefit of the Division,
8 letters of credit, insurance ~~{, corporate or other guarantees of~~
9 ~~performance,}~~ or any combination of these or other forms of security
10 approved by the Director of the State Department of Conservation
11 and Natural Resources and used to ensure that reclamation will be
12 completed.

13 **Sec. 15.** NRS 519A.170 is hereby amended to read as follows:

14 519A.170 All fees collected by the Division pursuant to this
15 chapter, including, without limitation, the fees for an application for
16 and the issuance of a permit, must be deposited with the State
17 Treasurer for credit to the appropriate account of the Division and
18 must be used in the administration of NRS 519A.010 to 519A.280,
19 inclusive ~~{}~~, and sections 2 to 11, inclusive, of this act. All interest
20 earned on the money credited pursuant to this section must be
21 credited to the account to which the money was credited.

22 **Sec. 16.** NRS 519A.220 is hereby amended to read as follows:

23 519A.220 The Division shall develop a checklist to be
24 completed by applicants for a permit to engage in a mining
25 operation. The information requested by the checklist must include:

26 1. Information relating to the plan for reclamation, including:

27 (a) The proposed subsequent use of the land after the mining
28 operation is completed;

29 (b) The proposed schedule of reclamation that will be followed;

30 (c) The proposed topography of the land after the mining
31 operation is completed;

32 (d) The treatment of slopes created or affected by the mining
33 operation;

34 (e) The proposed use of impoundments;

35 (f) The kinds of access roads to be built and the manner of
36 reclamation of road sites;

37 (g) The methods of drainage that will be used during the mining
38 operation and reclamation;

39 (h) The revegetation of the land;

40 (i) The monitoring and maintenance of the reclaimed land that
41 will be performed by the operator;

42 (j) The reclamation that will be necessary as a result of instream
43 mining;

44 (k) The effect that reclamation will have on future mining in that
45 area; ~~{and}~~



1 (l) The effect of the reclamation on public safety ~~§~~; and
2 (m) *A manual for the operation and maintenance of the fluid*
3 *management system.*

4 2. Information relating to the mining operation and maps of the
5 area which is required by the regulations adopted by the
6 Commission pursuant to NRS 519A.160.

7 3. Other information as requested by the Administrator which
8 the Administrator determines is pertinent to the reclamation
9 activities of the mining operation.

10 **Sec. 17.** NRS 519A.230 is hereby amended to read as follows:
11 519A.230 1. A plan for reclamation must provide:

12 (a) That reclamation activities, particularly those relating to the
13 control of erosion, must be conducted simultaneously with the
14 mining operation to the extent practicable, and otherwise must be
15 initiated promptly upon the completion or abandonment of the
16 mining operation in any area that will not be subject to further
17 disturbance. Reclamation activities must be completed within the
18 time set by the regulations adopted by the Commission pursuant to
19 NRS 519A.160.

20 (b) For vegetative cover if appropriate to the future use of the
21 land.

22 (c) For the reclamation of all land disturbed by the exploration
23 project or mining operation to a stability comparable to that of
24 adjacent areas.

25 (d) *For the stabilization of process fluids.*

26 2. The operator may request the Division to grant an exception
27 for open pits and rock faces which may not be feasible to reclaim. If
28 an exception is granted, other than for a pit lake for which public
29 access is provided in a plan for reclamation pursuant to subsection
30 3, the Division shall require the operator to take sufficient measures
31 to ensure public safety.

32 3. Except as otherwise provided in this subsection, for a pit
33 lake that will have a predicted filled surface area of more than 200
34 acres, a plan for reclamation must provide, in consultation with the
35 operator and each landowner, including any federal land manager,
36 and, if feasible, for at least one point of public nonmotorized access
37 to the water level of the pit lake when the pit in which the pit lake is
38 located reaches at least 90 percent of its predicted maximum
39 capacity. This subsection:

40 (a) Must not be construed to impede the ability of any
41 landowner, including any federal land manager, of any premises on
42 which a pit lake is located to determine the final and ultimate use of
43 those premises;



1 (b) Does not require any landowner, including any federal land
2 manager, who is consulted pursuant to this subsection to agree to
3 allow access to any pit lake; and

4 (c) Does not alter any contract or agreement entered into before
5 October 1, 2013, between an operator and a landowner, including
6 any federal land manager.

7 4. A protected person with respect to any premises for which
8 public access to a pit lake is provided in a plan for reclamation
9 pursuant to subsection 3 owes no duty to keep the premises,
10 including, without limitation, the access area and the pit lake and its
11 surroundings, safe for entry or use by any other person for
12 participation in any activity, or to give a warning of any hazardous
13 condition, activity or use of the premises to any person entering the
14 premises.

15 5. If a protected person gives permission to another person to
16 access or engage in any activity with respect to any premises
17 specified in subsection 4, the protected person does not thereby
18 extend any assurance that the premises are safe for that activity or
19 any other purpose or assume responsibility for or incur any liability
20 for any injury to any person or property caused by any act of a
21 person to whom the permission is granted. The provisions of this
22 subsection do not confer any liability upon a protected person for
23 any injury to any other person or property, whether actual or
24 implied, or create a duty of care or ground of liability for any injury
25 to any person or property.

26 6. Except in the case of an emergency, an operator shall not
27 depart from an approved plan for reclamation without prior written
28 approval from the Division.

29 7. Reclamation activities must be economically and
30 technologically practicable in achieving a safe and stable condition
31 suitable for the use of the land.

32 8. As used in this section:

33 (a) "Pit lake" means a body of water that has resulted, after the
34 completion of an exploration project or mining operation, from an
35 open pit that has penetrated the water table of the area in which the
36 pit is located.

37 (b) "Protected person" means any past or present:

38 (1) Owner of any estate or interest in any premises for which
39 public access to a pit lake is provided in a plan for reclamation
40 pursuant to subsection 3;

41 (2) Operator of all or any part of the premises, including,
42 without limitation, any entity that has conducted or is conducting a
43 mining operation or any reclamation activity with respect to the
44 premises;

45 (3) Lessee or occupant of all or any part of the premises; or



1 (4) Contractor, subcontractor, employee or agent of any such
2 owner, operator, lessee or occupant.

3 **Sec. 18.** NRS 519A.240 is hereby amended to read as follows:

4 519A.240 *1.* If a mining operation or exploration project is
5 conducted *, in whole or in part,* on land administered by a federal
6 agency, ~~an approved~~ *a* federal plan of operations and a surety
7 *approved by the federal agency* that are consistent with the
8 requirements of this chapter supersede *, if wholly conducted on*
9 *land administered by the federal agency, or substitute, if partly*
10 *conducted on land administered by the federal agency,* the
11 requirements for a permit and bond or other surety otherwise
12 required by this chapter ~~[. If the mining operation or exploration~~
13 ~~project is conducted on a site which includes both public land and~~
14 ~~privately owned land, compliance with the federal plan suffices if~~
15 ~~that plan substantially provides for the reclamation and bond or~~
16 ~~other surety required by this chapter.]~~ *if the applicant:*

17 *(a) Submits to the Division the federal plan of operations*
18 *determined by the federal agency to be administratively complete*
19 *and an estimate of the costs of reclamation of the mining*
20 *operation or exploration project, and any modifications thereto;*
21 *and*

22 *(b) Remedies any inconsistencies between the federal plan of*
23 *operations and the requirements of this chapter and any*
24 *regulations adopted pursuant thereto that are identified by the*
25 *Division.*

26 **2.** Nothing in this section affects the requirement ~~for~~ *to*
27 *obtain* a permit set forth in NRS 519A.180 or 519A.200 or the
28 required payment of fees set forth in NRS 519A.160 or 519A.260.

29 **Sec. 19.** NRS 519A.270 is hereby amended to read as follows:

30 519A.270 If the Division has reason to believe that any
31 provision of NRS 519A.010 to 519A.280, inclusive, *and sections 2*
32 *to 11, inclusive, of this act,* a plan for reclamation, any condition
33 placed on a plan for reclamation or any regulation adopted by the
34 Commission pursuant to NRS 519A.160, has been violated, the
35 Division shall serve a notice of noncompliance upon the holder of
36 the permit. The notice must:

37 1. Be served personally or by registered mail addressed to the
38 holder of the permit at his or her address as shown on the records of
39 the Division;

40 2. Specify each violation; and

41 3. Set a date and time for a hearing and inform the person that
42 the person's permit may be suspended or revoked and the person's
43 bond or other surety forfeited upon completion of the hearing or if
44 the person fails to attend the hearing.



1 **Sec. 20.** NRS 519A.280 is hereby amended to read as follows:
2 519A.280 1. Except as otherwise provided in NRS 445C.010
3 to 445C.120, inclusive, a person who violates any provision of NRS
4 519A.010 to 519A.280, inclusive, *and sections 2 to 11, inclusive, of*
5 *this act*, or any regulation adopted by the Commission pursuant to
6 NRS 519A.160, is guilty of a misdemeanor and, in addition to any
7 criminal penalty, is subject to a civil penalty imposed by the
8 Division at a hearing for which notice has been given, in an amount
9 determined pursuant to the schedule adopted by the Commission
10 pursuant to NRS 519A.160.

11 2. Any money received by the Division pursuant to subsection
12 1 must be deposited with the State Treasurer for credit to
13 the appropriate account of the Division. All interest earned on the
14 money credited pursuant to this section must be credited to the
15 account to which the money was credited.

16 3. In addition to any other remedy provided by this chapter, the
17 Division may compel compliance with any provision of NRS
18 519A.010 to 519A.280, inclusive, *and sections 2 to 11, inclusive, of*
19 *this act*, or of any regulation adopted or permit or order issued
20 pursuant to those sections, by injunction or other appropriate
21 remedy. The Division may institute and maintain in the name of the
22 State of Nevada any such enforcement proceedings.

23 **Sec. 21.** Chapter 444 of NRS is hereby amended by adding
24 thereto the provisions set forth as sections 22 to 25, inclusive, of this
25 act.

26 **Sec. 22.** *“Solid waste management facility” means any place*
27 *that engages in any activity related to a solid waste management*
28 *system. The term includes, without limitation, a disposal site.*

29 **Sec. 23.** (Deleted by amendment.)

30 **Sec. 23.5.** *The State Environmental Commission may adopt*
31 *regulations establishing activities that are related to a solid waste*
32 *management system. Such regulations may, without limitation,*
33 *establish places that constitute solid waste management facilities*
34 *because, as determined by the Commission, the activities*
35 *performed at the place present a significant hazard to human*
36 *health, public safety or the environment if solid waste at the place*
37 *is managed improperly. The determination of the Commission*
38 *may be based upon, without limitation, the size of the activity,*
39 *throughput of the activity, location of the place or any other*
40 *relevant factor determined by the State Environmental*
41 *Commission.*

42 **Sec. 24.** 1. *The State Environmental Commission shall*
43 *adopt regulations prescribing the requirements for an owner or*
44 *operator of a municipal solid waste landfill or solid waste*
45 *management facility to demonstrate that the owner or operator is*



1 *financially responsible for the municipal solid waste landfill or*
2 *solid waste management facility in accordance with subsection 4*
3 *of NRS 444.556. Such regulations must require the owner or*
4 *operator to provide:*

5 (a) *Evidence that the owner or operator has a policy of liability*
6 *insurance in an amount which the State Department of*
7 *Conservation and Natural Resources has determined is necessary*
8 *for the protection of human health, public safety and the*
9 *environment;*

10 (b) *Evidence of security, in a form and amount which the State*
11 *Department of Conservation and Natural Resources deems*
12 *necessary, to ensure that at the time of any abandonment,*
13 *cessation or interruption of the service provided by the municipal*
14 *solid waste landfill or solid waste management facility, and*
15 *thereafter, all appropriate measures will be taken to prevent*
16 *damage to human health, public safety and the environment; and*

17 (c) *Any other evidence of financial responsibility which the*
18 *State Environmental Commission finds necessary for those*
19 *purposes.*

20 2. *Requirements established pursuant to this section may not*
21 *exceed those requirements for financial responsibility established*
22 *pursuant to the Resource Conservation and Recovery Act of 1976,*
23 *42 U.S.C. §§ 6901 et seq.*

24 3. *Any claim arising from conduct for which evidence of*
25 *financial responsibility is required may be asserted directly against*
26 *the insurer, guarantor, surety or other person providing such*
27 *evidence if the owner or operator:*

28 (a) *Has filed a petition in bankruptcy, or is the object of an*
29 *involuntary petition;*

30 (b) *Cannot respond in damages in the event a judgment is*
31 *entered against the owner or operator; or*

32 (c) *Is not subject to the personal jurisdiction of any courts of*
33 *this or any other state, or of the United States, or cannot, with due*
34 *diligence, be served with process.*

35 4. *If a claim is asserted directly against a person providing*
36 *evidence of financial responsibility, that person may assert any*
37 *right or defense which:*

38 (a) *The person might have asserted in any action against him*
39 *or her by the owner or operator; or*

40 (b) *The owner or operator might have asserted, had the claim*
41 *been made against him or her.*

42 **Sec. 25.** 1. *The Division of Environmental Protection of the*
43 *State Department of Conservation and Natural Resources or the*
44 *solid waste management authority may lien all real and personal*
45 *property, tangible and intangible, associated with a municipal*



1 *solid waste landfill or solid waste management facility of the*
2 *owner or operator of a municipal solid waste landfill or solid*
3 *waste management facility for:*

4 (a) *The costs incurred by the Division of Environmental*
5 *Protection or solid waste management authority to reduce or*
6 *eliminate an imminent threat to human health, public safety or the*
7 *environment relating to the management of hazardous waste at a*
8 *municipal solid waste landfill or solid waste management facility*
9 *of the owner or operator pursuant to subsection 1 of NRS 459.537;*
10 *and*

11 (b) *The amount of any deficiency in a security or other type of*
12 *financial responsibility required in accordance with the*
13 *regulations adopted pursuant to section 24 of this act or the*
14 *Resource Conservation and Recovery Act of 1976, Subtitle D, §§*
15 *42 U.S.C. 6941 et seq., and any regulations adopted pursuant*
16 *thereto and identified in an order issued pursuant to NRS 444.592.*

17 2. *To perfect a lien held pursuant to subsection 1, the*
18 *Division of Environmental Protection or solid waste management*
19 *authority shall:*

20 (a) *Provide notice of intent to lien to the owner or operator of*
21 *the municipal solid waste landfill or solid waste management*
22 *facility by certified or registered mail;*

23 (b) *Not later than 30 days after providing notice of intent to*
24 *lien pursuant to paragraph (a), provide notice of the lien to the*
25 *owner or operator of the municipal solid waste landfill or solid*
26 *waste management facility by certified or registered mail; and*

27 (c) *File notice of the lien, which must set forth, without*
28 *limitation, the amount of the lien:*

29 (1) *If on real property, in the office of the county recorder*
30 *of the county where the real property is located.*

31 (2) *If on personal property, in the Office of the Secretary of*
32 *State. If the notice is filed in the Office of the Secretary of State,*
33 *the notice must be marked, held and indexed in accordance with*
34 *the provisions of NRS 104.9519 as if the notice were a financing*
35 *statement within the meaning of the Uniform Commercial Code.*

36 3. *The Division of Environmental Protection or solid waste*
37 *management authority shall file an amended notice of the lien*
38 *which must set forth, without limitation, the amount of the lien:*

39 (a) *Not later than 30 days after the amount of the lien*
40 *decreases due to payment, reimbursement or any other partial lien*
41 *satisfaction; and*

42 (b) *Not later than 90 days after the first day of any month in*
43 *which the amount of the lien increases due to the accrual of*
44 *unrecovered costs or a deficiency in a security or other type of*



1 *financial responsibility identified in an order issued pursuant to*
2 *NRS 444.592.*

3 *4. The amount of the lien held pursuant to subsection 1 must*
4 *not exceed:*

5 *(a) The costs of the Division of Environmental Protection or*
6 *solid waste management authority for performing remediation and*
7 *any deficiency in a security or other type of financial*
8 *responsibility; or*

9 *(b) The proceeds from the sale of the real or personal property*
10 *associated with the municipal solid waste landfill or solid waste*
11 *management facility after any previously perfected security*
12 *interests or judgment liens are satisfied.*

13 *5. A security interest or judgment lien that is perfected before*
14 *notice of the lien is filed pursuant to subsection 2 has priority over*
15 *a lien perfected pursuant to this section. A perfected lien held*
16 *pursuant to this section has priority over all other liens and*
17 *encumbrances that have an interest in the:*

18 *(a) Proceeds of a security or other type of financial*
19 *responsibility required in accordance with the requirements*
20 *prescribed pursuant to section 24 of this act or the Resource*
21 *Conservation and Recovery Act of 1976, Subtitle D, §§ 42 U.S.C.*
22 *6941 et seq., and any regulations adopted pursuant thereto; or*

23 *(b) Increase in the fair market value of the real or personal*
24 *property associated with the municipal solid waste landfill or solid*
25 *waste management facility that is attributable to remediation*
26 *performed by the Division of Environmental Protection or solid*
27 *waste management authority, which must be measured at the time*
28 *of the sale or other disposition of the real or personal property.*

29 *6. The Division of Environmental Protection or solid waste*
30 *management authority shall release the lien pursuant to*
31 *subsection 7 if:*

32 *(a) The costs of remediation of the Division of Environmental*
33 *Protection or solid waste management authority are repaid or*
34 *reimbursed;*

35 *(b) The owner or operator of the municipal solid waste landfill*
36 *or solid waste management authority resolves the deficiency in the*
37 *security or other type of financial responsibility identified in an*
38 *order issued pursuant to NRS 444.592; or*

39 *(c) The lien is satisfied by sale or other means.*

40 *7. As soon as practicable but not more than 30 days after a*
41 *lien is satisfied pursuant to subsection 6, the Division of*
42 *Environmental Protection or solid waste management authority*
43 *shall file a notice of lien release:*

44 *(a) If on real property, in the office of the county recorder of*
45 *the county where the real property is located.*



1 (b) *If on personal property, in the Office of the Secretary of*
2 *State. If the notice is filed in the Office of the Secretary of State,*
3 *the notice must be marked, held and indexed in accordance with*
4 *the provisions of NRS 104.9519 as if the notice were a financing*
5 *statement within the meaning of the Uniform Commercial Code.*

6 8. *The Attorney General or district attorney may, on behalf of*
7 *the Division of Environmental Protection or solid waste*
8 *management authority, foreclose on a perfected lien in a suit*
9 *brought in district court in the same manner as a suit for the*
10 *foreclosure of any other lien.*

11 9. *Nothing in this section shall be construed to limit the right*
12 *of the Division of Environmental Protection or solid waste*
13 *management authority to recover any costs and damages incurred*
14 *by the Division of Environmental Protection or solid waste*
15 *management authority for which the person, owner or operator is*
16 *liable under NRS 444.598.*

17 **Sec. 26.** NRS 444.450 is hereby amended to read as follows:

18 444.450 As used in NRS 444.440 to 444.620, inclusive, *and*
19 *sections 22 to 25, inclusive, of this act*, unless the context otherwise
20 requires, the words and terms defined in NRS 444.460 to 444.501,
21 inclusive, *and section 22 of this act* have the meanings ascribed to
22 them in those sections.

23 **Sec. 27.** (Deleted by amendment.)

24 **Sec. 28.** (Deleted by amendment.)

25 **Sec. 28.3.** NRS 444.500 is hereby amended to read as follows:

26 444.500 “Solid waste management system” means the entire
27 process of *the* storage, collection, transportation, processing,
28 recycling ~~and~~ *or* disposal of solid waste. The term includes plans
29 and programs for the reduction of waste and public education.

30 **Sec. 28.7.** NRS 444.553 is hereby amended to read as follows:

31 444.553 1. The solid waste management authority shall, in
32 accordance with the regulations of the State Environmental
33 Commission adopted pursuant to NRS 444.560, issue permits to
34 operate *solid waste management facilities, including, without*
35 *limitation*, disposal sites.

36 2. A person shall not operate or authorize the operation of a
37 *solid waste management facility, including, without limitation, a*
38 *disposal site*, unless the operator:

39 (a) Holds a permit to operate the *solid waste management*
40 *facility, including without limitation, a disposal site*, issued by the
41 solid waste management authority; and

42 (b) Complies with the terms and conditions of the permit.

43 **Sec. 29.** NRS 444.556 is hereby amended to read as follows:

44 444.556 1. Before constructing or operating a municipal solid
45 waste landfill, the owner or operator of the *municipal solid waste*



1 landfill shall obtain a permit issued by the solid waste management
2 authority.

3 2. A permit for the construction or operation of a municipal
4 solid waste landfill is subject to the general conditions of the
5 Resource Conservation and Recovery Act of 1976, Subtitle D, 42
6 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant thereto.

7 3. Any documents submitted in connection with an application
8 for a permit, including any modifications requested by the solid
9 waste management authority that require corrective action to the
10 proposed construction or operation, are public records and must be
11 made available for public comment. The final determinations made
12 by the solid waste management authority on an application for a
13 permit are public records.

14 4. ~~4A~~ *Except as otherwise provided in subsection 5, a* permit
15 issued by a solid waste management authority must be conditioned
16 upon all requirements that are necessary to ensure continuing
17 compliance with:

18 (a) The requirements of the Resource Conservation and
19 Recovery Act of 1976, Subtitle D, 42 U.S.C. §§ 6941 et seq., and
20 the regulations adopted pursuant thereto, which describe:

21 (1) General standards for a municipal solid waste landfill;

22 (2) Restrictions on the location of such a *municipal solid*
23 *waste* landfill;

24 (3) Criteria for the operation of such a *municipal solid waste*
25 landfill;

26 (4) Criteria for the design of such a *municipal solid waste*
27 landfill;

28 (5) Requirements for monitoring groundwater and standards
29 for corrective actions related thereto;

30 (6) Standards of care related to the closure of such a
31 *municipal solid waste* landfill; and

32 (7) Financial *responsibility* requirements for the owners or
33 operators of such *municipal solid waste* landfills ~~4B~~ *pursuant to*
34 *section 24 of this act;*

35 (b) The applicable regulations of the State Environmental
36 Commission; and

37 (c) The applicable laws of this State.

38 5. *The requirements of subparagraphs (6) and (7) of*
39 *paragraph (a) of subsection 4 may be satisfied by a plan for*
40 *reclamation:*

41 (a) *Which has been approved by the Division of*
42 *Environmental Protection of the State Department of*
43 *Conservation and Natural Resources; and*

44 (b) *Complies with NRS 519A.230 and the provisions of the*
45 *Resource Conservation and Recovery Act of 1976, Subtitle D,*



1 **42 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant**
2 **thereto.**

3 **6.** A solid waste management authority may:

4 (a) Obtain, and the owner or operator of a municipal waste
5 landfill shall deliver upon request, any information necessary to
6 determine whether the owner or operator is or has been in
7 compliance with the terms and conditions of the permit, the
8 regulations of the State Environmental Commission, the applicable
9 laws of this State and the provisions of the Resource Conservation
10 and Recovery Act of 1976, Subtitle D, 42 U.S.C. §§ 6941 et seq.,
11 and the regulations adopted pursuant thereto;

12 (b) Conduct monitoring or testing to ensure that the owner or
13 operator is or has been in compliance with the terms and conditions
14 of the permit; and

15 (c) Enter any site or premises subject to the permit, during
16 normal business hours, on which records relevant to the municipal
17 solid waste landfill are kept in order to inspect those records.

18 **Sec. 30.** NRS 444.557 is hereby amended to read as follows:

19 444.557 1. A solid waste management authority shall
20 establish a program to monitor the compliance of a municipal solid
21 waste landfill with the terms and conditions of the permit issued for
22 that **municipal solid waste** landfill, the regulations of the State
23 Environmental Commission, the applicable laws of this state and the
24 provisions of the Resource Conservation and Recovery Act of 1976,
25 Subtitle D, 42 U.S.C. §§ 6941 et seq., and the regulations adopted
26 pursuant thereto. The program must include procedures to:

27 (a) Verify the accuracy of any information submitted by the
28 owner or operator of the **municipal solid waste** landfill to the
29 authority;

30 (b) Verify the adequacy of sampling procedures and analytical
31 methods used by the owner or operator of the **municipal solid waste**
32 landfill; and

33 (c) Require the owner or operator to produce all evidence which
34 would be admissible in a proceeding to enforce compliance.

35 2. The solid waste management authority shall receive and give
36 appropriate consideration to any information submitted by members
37 of the public regarding the continuing compliance of an owner or
38 operator with the permit issued by the **solid waste management**
39 authority.

40 3. In the administration of any permit issued by a solid waste
41 management authority, the authority shall establish procedures that
42 permit intervention pursuant to Rule 24 of the Nevada Rules of Civil
43 Procedure. The authority shall not oppose intervention on the
44 ground that the applicant's interest is adequately represented by the
45 **solid waste management** authority.



1 **Sec. 31.** (Deleted by amendment.)

2 **Sec. 32.** NRS 444.559 is hereby amended to read as follows:

3 444.559 **1.** A municipal solid waste landfill shall accept a
4 recreational vehicle for disposal if:

5 ~~(1.)~~ **(a)** The person disposing of the recreational vehicle pays
6 any applicable fee and provides the title to the recreational vehicle,
7 indicating that he or she is the owner.

8 ~~(2.)~~ **(b)** Accepting the recreational vehicle for disposal does not
9 violate any applicable federal or state law or regulation relating to
10 the operation of the municipal solid waste landfill.

11 **2.** *A municipal solid waste landfill shall not accept hazardous*
12 *waste from a very small quantity generator for disposal.*

13 **3.** *As used in this section, "very small quantity generator" has*
14 *the meaning ascribed to it in 40 C.F.R. § 260.10.*

15 **Sec. 32.1.** NRS 444.560 is hereby amended to read as follows:

16 444.560 **1.** The State Environmental Commission shall adopt
17 regulations concerning solid waste management systems, or any part
18 thereof, including regulations establishing standards for the
19 issuance, renewal, modification, suspension, revocation and denial
20 of, and for the imposition of terms and conditions for, a permit to
21 construct or operate a *solid waste management facility, including,*
22 *without limitation, a disposal site.*

23 **2.** The State Environmental Commission may establish a
24 schedule of fees for the disposal of solid waste in areas subject to
25 the jurisdiction of the State Department of Conservation and Natural
26 Resources in accordance with NRS 444.495 or for the issuance of
27 permits or other approvals by the Department for the operation of
28 solid waste management facilities. The Department may use the
29 money collected under the schedule to defray the cost of managing
30 and regulating solid waste.

31 **3.** Notice of the intention to adopt and the adoption of any
32 regulation or schedule of fees must be given to the clerk of the
33 governing board of all municipalities in this State.

34 **4.** Within a reasonable time, as fixed by the State
35 Environmental Commission, after the adoption of any regulation, no
36 governing board of a municipality or person may operate or permit
37 an operation in violation of the regulation.

38 **Sec. 32.2.** NRS 444.570 is hereby amended to read as follows:

39 444.570 **1.** The State Department of Conservation and
40 Natural Resources shall:

41 **(a)** Advise, consult and cooperate with other agencies and
42 commissions of the State, other states, the Federal Government,
43 municipalities and persons in the formulation of plans for and the
44 establishment of any solid waste management system.



1 (b) Accept and administer loans and grants from any person that
2 may be available for the planning, construction and operation of
3 solid waste management systems.

4 (c) Enforce the provisions of NRS 444.440 to 444.560,
5 inclusive, and any regulation adopted by the State Environmental
6 Commission pursuant thereto.

7 (d) Periodically review the programs of other solid waste
8 management authorities in the State for issuing permits pursuant to
9 NRS 444.505, 444.553 and 444.556 and ensuring compliance with
10 the terms and conditions of such permits, the regulations of the State
11 Environmental Commission, the laws of this State and the
12 provisions of the Resource Conservation and Recovery Act of 1976,
13 42 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant
14 thereto. The Director of the State Department of Conservation and
15 Natural Resources shall review the adequacy of such programs in
16 accordance with the standards adopted by the United States
17 Environmental Protection Agency to review the adequacy of the
18 state program. If the Director determines that a program is
19 inadequate, the Department shall act as the solid waste management
20 authority until the deficiency is corrected. A finding by the Director
21 that a program is inadequate is not final until reviewed by the State
22 Environmental Commission. This paragraph does not limit the
23 authority or responsibility of a district board of health to issue
24 permits for *solid waste management facilities, including, without*
25 *limitation*, disposal sites , and enforce the laws of this State
26 regarding solid waste management systems.

27 (e) Make such investigations and inspections and conduct such
28 monitoring and testing as may be necessary to require compliance
29 with NRS 444.450 to 444.560, inclusive, and any regulation adopted
30 by the State Environmental Commission.

31 2. The State Environmental Commission shall:

32 (a) In cooperation with governing bodies of municipalities,
33 develop a statewide solid waste management system plan, and
34 review and revise the plan every 5 years.

35 (b) Examine and approve or disapprove plans for solid waste
36 management systems.

37 (c) Review any determination by the Director of the State
38 Department of Conservation and Natural Resources that a program
39 for issuing permits administered by a solid waste management
40 authority is inadequate. The Commission may affirm, modify or
41 reverse the findings of the Director.

42 3. Employees of the State Department of Conservation and
43 Natural Resources or its authorized representatives may, during the
44 normal hours of operation of a facility subject to the provisions of



1 NRS 444.440 to 444.620, inclusive, *and sections 22 to 25,*
2 *inclusive, of this act,* enter and inspect areas of the facility where:

3 (a) Solid waste may have been ~~generated,~~ stored, *collected,*
4 transported, ~~treated~~ *processed, recycled* or disposed; or

5 (b) Records are kept, and may inspect and copy any records,
6 reports, information or test results relating to the management of the
7 solid waste.

8 **Sec. 32.4.** NRS 444.580 is hereby amended to read as follows:

9 444.580 Except as otherwise provided in NRS 444.559:

10 1. Any district board of health created pursuant to NRS
11 439.362 or 439.370 and any governing body of a municipality may
12 adopt standards and regulations for the location, design,
13 construction, operation and maintenance of *solid waste*
14 *management facilities,* solid waste disposal sites and solid waste
15 management systems or any part thereof more restrictive than those
16 adopted by the State Environmental Commission, and any district
17 board of health may issue permits thereunder.

18 2. Any district board of health created pursuant to NRS
19 439.362 or 439.370 may adopt such other regulations as are
20 necessary to carry out the provisions of NRS 444.440 to 444.620,
21 inclusive ~~of~~ *, and sections 22 to 25, inclusive, of this act.* Such
22 regulations must not conflict with regulations adopted by the State
23 Environmental Commission.

24 **Sec. 32.6.** NRS 444.583 is hereby amended to read as follows:

25 444.583 1. Except as otherwise provided in subsection 5 and
26 NRS 444.509, it is unlawful willfully to:

27 (a) Dispose of, abandon or dump a motor vehicle battery, motor
28 vehicle tire or motor oil at any site which has not been issued a
29 permit for that purpose by the solid waste management authority;

30 (b) Dispose of, abandon or dump a motor vehicle battery, motor
31 vehicle tire or motor oil at a ~~sanitary~~ *municipal solid waste* landfill
32 or other disposal site established by a municipality which has not
33 been issued a permit for that purpose by the solid waste
34 management authority; or

35 (c) Incinerate a motor vehicle battery or motor vehicle tire as a
36 means of ultimate disposal, unless the incineration is approved by
37 the solid waste management authority for the recovery of energy or
38 other appropriate use.

39 2. A person who violates the provisions of subsection 1 is
40 guilty of a misdemeanor and except as otherwise provided in NRS
41 445C.010 to 445C.120, inclusive, shall be punished by a fine of not
42 less than \$100 per violation.

43 3. The State Department of Conservation and Natural
44 Resources shall establish a plan for the appropriate disposal of used
45 or waste motor vehicle batteries, motor vehicle tires and motor oil.



1 The plan must include the issuance of permits to approved sites or
2 facilities for the disposal of those items by the public. The plan may
3 include education of the public regarding the necessity of disposing
4 of these items properly and recycling them.

5 4. The State Department of Conservation and Natural
6 Resources shall encourage the voluntary establishment of authorized
7 sites which are open to the public for the deposit of used or waste
8 motor vehicle batteries, motor vehicle tires and motor oil.

9 5. The provisions of subsections 1 and 2 do not apply to the
10 disposal of used or waste motor vehicle batteries or motor vehicle
11 tires if the unavailability of a site that has been issued a permit by
12 the solid waste management authority makes disposal at such a site
13 impracticable. The provisions of this subsection do not exempt a
14 person from any other regulation of the solid waste management
15 authority concerning the disposal of used or waste motor vehicle
16 batteries or motor vehicle tires.

17 **Sec. 32.8.** NRS 444.592 is hereby amended to read as follows:

18 444.592 If the solid waste management authority receives
19 information that the ~~handling,~~ storage, ~~recycling,~~ *collection,*
20 transportation, ~~treatment~~ *processing, recycling* or disposal of any
21 solid waste presents or may present a threat to human health, public
22 safety or the environment, or is in violation of a term or condition of
23 a permit issued pursuant to NRS 444.505, 444.553 or 444.556, a
24 statute, a regulation or an order issued pursuant to NRS 444.594, the
25 authority may, in addition to any other remedy provided in NRS
26 444.440 to 444.620, inclusive ~~;~~, *and sections 22 to 25, inclusive,*
27 *of this act:*

28 1. Issue an order directing the owner or operator of the *solid*
29 *waste management facility, including, without limitation, a*
30 disposal site or any other site where the ~~handling,~~ storage,
31 ~~recycling,~~ *collection,* transportation, ~~treatment~~ *processing,*
32 *recycling* or disposal has occurred or may occur, or any other person
33 who has custody of the solid waste, to take such steps as are
34 necessary to prevent the act or eliminate the practice which
35 constitutes the threat or violation.

36 2. Commence an action in a court of competent jurisdiction to
37 enjoin the act or practice which constitutes the threat or violation in
38 accordance with the provisions of NRS 444.600.

39 3. Take any other action designed to reduce or eliminate the
40 threat or violation.

41 **Sec. 33.** Chapter 459 of NRS is hereby amended by adding
42 thereto the provisions set forth as sections 34 and 35 of this act.

43 **Sec. 34.** *“Recycling” means the processing of hazardous*
44 *waste to recover materials or produce a usable product. The term*
45 *does not include the treatment or disposal of hazardous waste.*



1 **Sec. 35. 1. The Department may lien all real and personal**
2 **property, tangible and intangible, associated with a facility for the**
3 **management of hazardous waste of the owner, operator or holder**
4 **of a permit for:**

5 **(a) The costs incurred by the Department to remediate an**
6 **imminent and substantial hazard to human health, public safety or**
7 **the environment pursuant to subsection 1 of NRS 459.537; and**

8 **(b) The amount of any deficiency in a security or other type of**
9 **financial responsibility required pursuant to NRS 459.525 and**
10 **identified in an order issued pursuant to NRS 459.570.**

11 **2. To perfect a lien held pursuant to subsection 1, the**
12 **Department shall:**

13 **(a) Provide notice of intent to lien to the owner, operator or**
14 **holder of the permit by certified or registered mail;**

15 **(b) Not later than 30 days after providing notice of intent to**
16 **lien pursuant to paragraph (a), provide notice of the lien to the**
17 **owner, operator or holder of the permit by certified or registered**
18 **mail; and**

19 **(c) File notice of the lien, which must set forth, without**
20 **limitation, the amount of the lien:**

21 **(1) If on real property, in the office of the county recorder**
22 **of the county where the real property is located.**

23 **(2) If on personal property, in the Office of the Secretary of**
24 **State. If the notice is filed in the Office of the Secretary of State,**
25 **the notice must be marked, held and indexed in accordance with**
26 **the provisions of NRS 104.9519 as if the notice were a financing**
27 **statement within the meaning of the Uniform Commercial Code.**

28 **3. The Department shall file an amended notice of the lien**
29 **which must set forth, without limitation, the amount of the lien:**

30 **(a) Not later than 30 days after the amount of the lien**
31 **decreases due to payment, reimbursement or any other partial lien**
32 **satisfaction; and**

33 **(b) Not later than 90 days after the first day of any month in**
34 **which the amount of the lien increases due to the accrual of**
35 **unrecovered costs or a deficiency in a security or other type of**
36 **financial responsibility identified in an order issued pursuant to**
37 **NRS 459.570.**

38 **4. The amount of the lien held pursuant to subsection 1 must**
39 **not exceed:**

40 **(a) The costs of the Department for performing remediation**
41 **and any deficiency in a security or other type of financial**
42 **responsibility; or**

43 **(b) The proceeds from the sale of the real or personal property**
44 **associated with the facility after any previously perfected security**
45 **interests or judgment liens are satisfied.**



1 5. A security interest or judgment lien that is perfected before
2 notice of the lien is filed pursuant to subsection 2 has priority over
3 a lien perfected pursuant to this section. A perfected lien held
4 pursuant to this section has priority over all other liens and
5 encumbrances that have an interest in the:

6 (a) Proceeds of a security or other type of financial
7 responsibility required pursuant to NRS 459.525; or

8 (b) Increase in the fair market value of the real or personal
9 property associated with the facility that is attributable to
10 remediation performed by the Department, which must be
11 measured at the time of the sale or other disposition of the real or
12 personal property.

13 6. The Department shall release the lien pursuant to
14 subsection 7 if:

15 (a) The costs of remediation of the Department are repaid or
16 reimbursed;

17 (b) The owner, operator or holder of the permit resolves the
18 deficiency in the security or other type of financial responsibility
19 identified in an order issued pursuant to NRS 459.570; or

20 (c) The lien is satisfied by sale or other means.

21 7. As soon as practicable but not more than 30 days after a
22 lien is satisfied pursuant to subsection 6, the Division shall file a
23 notice of lien release:

24 (a) If on real property, in the office of the county recorder of
25 the county where the real property is located.

26 (b) If on personal property, in the Office of the Secretary of
27 State. If the notice is filed in the Office of the Secretary of State,
28 the notice must be marked, held and indexed in accordance with
29 the provisions of NRS 104.9519 as if the notice were a financing
30 statement within the meaning of the Uniform Commercial Code.

31 8. The Attorney General, on behalf of the Department, may
32 foreclose on a perfected lien in a suit brought in district court in
33 the same manner as a suit for the foreclosure of any other lien.

34 9. Nothing in this section shall be construed to limit the right
35 of the Department to recover any costs and damages for which a
36 person is liable under the provisions of this chapter.

37 **Sec. 36.** NRS 459.400 is hereby amended to read as follows:

38 459.400 The purposes of NRS 459.400 to 459.600, inclusive,
39 and sections 34 and 35 of this act are to:

40 1. Protect human health, public safety and the environment
41 from the effects of improper, inadequate or unsound management of
42 hazardous waste;

43 2. Establish a program for regulation of the ~~storage,~~
44 ~~generation, transportation, treatment and disposal]~~ management of
45 hazardous waste; ~~[and]~~



1 3. Ensure safe and adequate management of hazardous waste
2 ~~}; and~~

3 4. *Conserve resources of material and energy through the*
4 *recycling or recovery of hazardous waste.*

5 **Sec. 37.** NRS 459.405 is hereby amended to read as follows:

6 459.405 As used in NRS 459.400 to 459.600, inclusive, *and*
7 *sections 34 and 35 of this act*, unless the context otherwise requires,
8 the words and terms defined in NRS 459.410 to 459.455, inclusive,
9 *and section 34 of this act* have the meanings ascribed to them in
10 those sections.

11 **Sec. 37.5.** NRS 459.425 is hereby amended to read as follows:

12 459.425 "Disposal" means the discharge, deposit, injection,
13 dumping, spilling, leaking or placing of any hazardous waste into or
14 on any land or water in a manner which might allow the hazardous
15 waste or any ~~[part of it]~~ *constituent thereof* to enter the
16 environment, be emitted into the air or be discharged into any
17 ~~[water, including any groundwater.]~~ *waters of this State, as defined*
18 *in NRS 445A.415.*

19 **Sec. 38.** (Deleted by amendment.)

20 **Sec. 38.5.** NRS 459.432 is hereby amended to read as follows:

21 459.432 "Household waste" means waste material, including,
22 without limitation, garbage, trash and sanitary wastes in septic tanks
23 that is generated by a household, including, without limitation, a
24 single-family or multiple-unit residence, hotel, motel, bunkhouse,
25 ranger station, crew quarters, campground, picnic ground and day-
26 use recreational area. The term does not include nickel, cadmium,
27 mercuric oxide, manganese, zinc-carbon, ~~[or]~~ lead *or high-density*
28 *energy* batteries, toxic art supplies, used motor oil, kerosene,
29 solvent-based paint, paint thinner, paint solvents, fluorescent or
30 high-intensity light bulbs, ammunition, fireworks, pesticides the use
31 of which has been prohibited or restricted or any other waste
32 generated by a household that would otherwise be defined as
33 hazardous waste pursuant to subsection 2 of NRS 459.430.

34 **Sec. 39.** NRS 459.435 is hereby amended to read as follows:

35 459.435 "Management of hazardous waste" means the
36 systematic control of the generation, collection, storage,
37 transportation, *recycling*, processing, treatment, recovery ~~[and]~~ *or*
38 disposal of hazardous waste.

39 **Sec. 40.** NRS 459.440 is hereby amended to read as follows:

40 459.440 "Manifest" means a document used to identify
41 hazardous waste during its transportation from between any two of
42 the points of ~~[generation, storage, treatment and disposal,]~~
43 *management* and specifying the quantity, composition, origin, route
44 and destination of the waste.



1 **Sec. 40.5.** NRS 459.450 is hereby amended to read as follows:
2 459.450 “Storage” means the containment of hazardous waste,
3 ~~temporarily or~~ for a *temporary* period of years, ~~in a manner which~~
4 ~~does not constitute disposal.~~ *at the end of which the hazardous*
5 *waste is transported, processed, treated, recovered, disposed of or*
6 *stored elsewhere.*

7 **Sec. 41.** NRS 459.455 is hereby amended to read as follows:
8 459.455 “Treatment” means ~~any~~ *any method, technique or*
9 process, including neutralization, which is designed to change the
10 physical, chemical or biological character or composition of
11 hazardous waste so as to neutralize it or render it less hazardous,
12 nonhazardous, safer for transportation, storage and disposal,
13 amenable to recovery of resources *of material or energy* from it, or
14 reduce its volume.

15 **Sec. 42.** (Deleted by amendment.)

16 **Sec. 43.** NRS 459.485 is hereby amended to read as follows:
17 459.485 The Commission shall:

18 1. Adopt regulations ~~governing systems of hazardous waste~~
19 ~~management,~~ *to carry out the provisions of NRS 459.400 to*
20 *459.600, inclusive, and sections 34 and 35 of this act,* including the
21 plan for management of hazardous waste in the entire State; and

22 2. Through the Department:

23 (a) Advise, consult and cooperate with other agencies of the
24 State, other states, the Federal Government, municipalities and other
25 persons on matters relating to formulation of plans for managing
26 hazardous waste.

27 (b) Develop a plan for management of hazardous waste in the
28 entire State.

29 (c) Develop a program to encourage the minimization of
30 hazardous waste and the recycling ~~or reuse~~ of hazardous waste by
31 persons who generate hazardous waste within Nevada. The program
32 may include grants or other financial incentives.

33 **Sec. 44.** NRS 459.490 is hereby amended to read as follows:

34 459.490 Regulations adopted by the Commission pursuant to
35 NRS 459.485 must be based upon studies, guidelines and
36 regulations of the Federal Government and must:

37 1. Set out mechanisms for determining whether any waste is
38 hazardous;

39 2. Govern combinations of wastes which are not compatible
40 and may not be ~~stored, treated or disposed of~~ *managed* together;

41 3. Govern ~~generation, storage, treatment and disposal~~ *the*
42 *management* of hazardous waste;

43 4. Govern operation and maintenance of facilities for the
44 ~~treatment, storage and disposal~~ *management* of hazardous waste,



1 including the qualifications and requirements for ownership,
2 continuity of operation, closure and care after closing;

3 5. Provide standards for location, design and construction of
4 facilities for ~~[treatment, storage and disposal]~~ *the management* of
5 hazardous waste;

6 6. Except as otherwise provided in NRS 459.700 to 459.780,
7 inclusive, govern the transportation, packing and labeling of
8 hazardous waste in a manner consistent with regulations issued by
9 the United States Department of Transportation relating to
10 hazardous waste;

11 7. Provide procedures and requirements for the use of a
12 manifest for each shipment of hazardous waste. The procedures and
13 requirements must be applied equally to those persons who transport
14 hazardous waste generated by others and those who transport
15 hazardous waste which they have generated themselves; and

16 8. Take into account climatic and geologic variations and other
17 factors relevant to the management of hazardous waste.

18 **Sec. 45.** (Deleted by amendment.)

19 **Sec. 46.** NRS 459.515 is hereby amended to read as follows:

20 459.515 1. It is unlawful for any person to:

21 (a) Construct, substantially alter or operate any facility for the
22 ~~[treatment, storage or disposal]~~ *management* of hazardous waste; or

23 (b) ~~[Treat, store or dispose of]~~ *Manage* any hazardous waste,
24 ↪ unless the person has first obtained a permit from the Department
25 to do so ~~[]~~, *if a permit is required for that type of facility for the*
26 *management of hazardous waste by the regulations adopted by the*
27 *Commission pursuant to NRS 459.520.*

28 2. A person who:

29 (a) Conducts an activity for which a permit is required pursuant
30 to this section, and is doing so on the effective date of the
31 regulations establishing procedures for the system of permits; and

32 (b) Has made an application for a permit,
33 ↪ shall be deemed to have been issued a permit until his or her
34 application has been acted upon, unless a delay in that action was
35 caused by the person's failure to furnish information which was
36 reasonably requested or required for the processing of the
37 application.

38 3. The Commission may require a person who is conducting an
39 activity pursuant to subsection 2 to comply with requirements which
40 it has specified by regulation before a permit is issued.

41 **Sec. 47.** NRS 459.520 is hereby amended to read as follows:

42 459.520 1. The Commission shall adopt regulations ~~[for]~~:

43 (a) *Establishing the types of facilities for the management of*
44 *hazardous waste which must obtain a permit; and*



1 (b) For the granting, renewal, modification, suspension,
2 revocation and denial of *such* permits.

3 2. If the local government within whose territory a facility for
4 the ~~treatment, storage or disposal~~ *management* of hazardous waste
5 is to be located requires that a special use permit or other
6 authorization be obtained for such a facility or activity, the
7 application to the Department for a permit to operate such a facility
8 must show that local authorization has been obtained. This
9 requirement does not apply to an application for a permit to
10 construct a utility facility that is subject to the provisions of NRS
11 704.820 to 704.900, inclusive.

12 3. Permits may contain terms and conditions which the
13 Department considers necessary and which conform to the
14 provisions of regulations adopted by the Commission.

15 4. Permits may be issued for any period of not more than 10
16 years.

17 5. A permit may not be granted or renewed if the Director
18 determines that granting or renewing the permit is inconsistent with
19 any regulation of the Commission relating to hazardous waste or
20 with the plan for management of hazardous waste developed
21 pursuant to NRS 459.485. The provisions of this subsection do not
22 apply to a permit granted or under review before July 1, 1987.

23 6. The Department may suspend or revoke a permit pursuant to
24 the Commission's regulations if the holder of the permit fails or
25 refuses to comply with the terms of the permit or a regulation of the
26 Commission relating to hazardous waste.

27 7. A permit may not be granted, renewed or modified for a
28 facility for the disposal of hazardous waste that proposes to
29 construct or operate a landfill unless the Director determines that the
30 landfill is or will be constructed to include at least one liner and a
31 leachate collection and removal system designed to prevent the
32 migration of waste or leachate to the adjacent subsurface soils,
33 groundwater and surface water.

34 8. As used in this section:

35 (a) "Landfill" means a disposal facility or part of a facility
36 where hazardous waste is placed in or on land and which is not a
37 pile, a land-treatment facility, a surface impoundment, an
38 underground-injection well, a salt-dome formation, a salt-bed
39 formation, an underground mine or a cave.

40 (b) "Leachate" means any liquid, including any suspended
41 components in the liquid, that has percolated through or drained
42 from a landfill.

43 (c) "Leachate collection and removal system" means a layer of
44 granular or synthetic materials installed above a liner and operated



1 in conjunction with drains, pipes, sumps and pumps or other means
2 designed to collect and remove leachate from a landfill.

3 (d) "Liner" means a continuous layer of artificially created
4 material installed beneath and on the sides of a landfill which
5 restricts the downward or lateral escape of hazardous waste,
6 hazardous waste constituents or leachate, and prevents the migration
7 of waste to the adjacent subsurface soils, groundwater and surface
8 water.

9 **Sec. 48.** NRS 459.525 is hereby amended to read as follows:

10 459.525 1. The Commission shall adopt regulations
11 ~~requiring that~~ :

12 (a) *Establishing the types of facilities for the management of*
13 *hazardous waste for which* the owner or operator of ~~any~~ a facility
14 for the ~~treatment, storage or disposal~~ *management* of hazardous
15 waste *must* show his or her financial responsibility for the
16 undertaking ~~by providing~~ ; and

17 (b) *Requiring the owner or operator to provide:*

18 ~~(a)~~ (1) Evidence that the owner or operator has a policy of
19 liability insurance in an amount which the Department has
20 determined is necessary for the protection of human health, public
21 safety and the environment;

22 ~~(b)~~ (2) Evidence of security, in a form and amount which the
23 Department deems necessary, to ensure that at the time of any
24 abandonment, cessation or interruption of the service provided by
25 the facility, and thereafter, all appropriate measures will be taken to
26 prevent damage to human health, public safety and the environment;
27 and

28 ~~(c)~~ (3) Any other evidence of financial responsibility which
29 the Commission finds necessary for those purposes.

30 2. Requirements established pursuant to this section may not
31 exceed those requirements for financial responsibility established
32 pursuant to the Resource Conservation and Recovery Act of 1976,
33 42 U.S.C. §§ 6901 et seq.

34 3. Any claim arising from conduct for which evidence of
35 financial responsibility is required may be asserted directly against
36 the insurer, guarantor, surety or other person providing such
37 evidence if the owner or operator:

38 (a) Has filed a petition in bankruptcy, or is the object of an
39 involuntary petition;

40 (b) Cannot respond in damages in the event a judgment is
41 entered against the owner or operator; or

42 (c) Is not subject to the personal jurisdiction of any court of this
43 or any other state, or of the United States, or cannot, with due
44 diligence, be served with process.



1 4. If a claim is asserted directly against a person providing
2 evidence of financial responsibility, that person may assert any right
3 or defense which:

4 (a) The person might have asserted in any action against him or
5 her by the owner or operator; or

6 (b) The owner or operator might have asserted, had the claim
7 been made against him or her.

8 **Sec. 49.** NRS 459.537 is hereby amended to read as follows:

9 459.537 1. If the person responsible for a leak or spill of or
10 an accident or motor vehicle crash involving hazardous waste,
11 hazardous material or a regulated substance does not act promptly
12 and appropriately to clean and decontaminate the affected area
13 properly, and if his or her inaction presents an imminent and
14 substantial hazard to human health, public safety or the
15 environment, money from the Account for the Management of
16 Hazardous Waste may be expended to pay the costs of:

17 (a) Responding to the leak, spill, accident or crash;

18 (b) Coordinating the efforts of state, local and federal agencies
19 responding to the leak, spill, accident or crash;

20 (c) Managing the cleaning and decontamination of an area for
21 the ~~disposal~~ **management** of hazardous waste or the site of the
22 leak, spill, accident or crash;

23 (d) Removing or contracting for the removal of hazardous
24 waste, hazardous material or a regulated substance which presents
25 an imminent danger to human health, public safety or the
26 environment; or

27 (e) Services rendered in responding to the leak, spill, accident or
28 crash, by consultants certified pursuant to regulations adopted by the
29 Commission.

30 2. Except as otherwise provided in this subsection or NRS
31 459.610 to 459.658, inclusive, the Director shall demand
32 reimbursement of the Account for money expended pursuant to
33 subsection 1 from any person who is responsible for the accident,
34 crash, leak or spill, or who owns or controls the hazardous waste,
35 hazardous material or a regulated substance, or the area used for the
36 ~~disposal~~ **management** of the waste, material or substance.
37 Payment of the reimbursement is due within 60 days after the person
38 receives notice from the Director of the amount due. The provisions
39 of this section do not apply to a spill or leak of or an accident or
40 motor vehicle crash involving natural gas or liquefied petroleum gas
41 while it is under the responsibility of a public utility.

42 3. At the request of the Director, the Attorney General shall
43 initiate recovery by legal action of the amount of any unpaid
44 reimbursement plus interest at a rate determined pursuant to NRS
45 17.130 computed from the date of the incident.



1 4. As used in this section:

2 (a) "Does not act promptly and appropriately" means that the
3 person:

4 (1) Cannot be notified of the incident within 2 hours after the
5 initial attempt to contact the person;

6 (2) Does not, within 2 hours after receiving notification of
7 the incident, make an oral or written commitment to clean and
8 decontaminate the affected area properly;

9 (3) Does not act upon the commitment within 24 hours after
10 making it;

11 (4) Does not clean and decontaminate the affected area
12 properly; or

13 (5) Does not act immediately to clean and decontaminate the
14 affected area properly, if his or her inaction presents an imminent
15 and substantial hazard to human health, public safety or the
16 environment.

17 (b) "Responding" means any efforts to mitigate, attempt to
18 mitigate or assist in the mitigation of the effects of a leak or spill of
19 or an accident or motor vehicle crash involving hazardous waste,
20 hazardous material or a regulated substance, including, without
21 limitation, efforts to:

22 (1) Contain and dispose of the hazardous waste, hazardous
23 material or regulated substance.

24 (2) Clean and decontaminate the area affected by the leak,
25 spill, accident or crash.

26 (3) Investigate the occurrence of the leak, spill, accident or
27 crash.

28 **Sec. 50.** NRS 459.546 is hereby amended to read as follows:

29 459.546 1. Except as otherwise provided in subsection 4, the
30 owner or operator of a facility for the ~~[treatment, storage or~~
31 ~~disposal]~~ **management** of hazardous waste or a person who wishes
32 to construct such a facility may apply to the Commission for a
33 variance from its applicable regulations. The Commission may grant
34 a variance only if, after a public hearing on due notice, it finds from
35 a preponderance of the evidence that:

36 (a) The facility or proposed facility, under the worst adverse
37 conditions, does not or will not endanger or tend to endanger the
38 environment and human health or safety; and

39 (b) Compliance with the regulations would produce serious
40 hardship without equal or greater benefits to the environment or
41 public.

42 2. The Commission shall not grant a variance unless it has
43 considered in the following order of priority the interests of:

44 (a) The public;



1 (b) Other owners of property likely to be affected by the
2 emissions or discharge; and

3 (c) The applicant.

4 3. The Commission may:

5 (a) Upon granting a variance, impose certain conditions upon
6 the applicant; or

7 (b) Revoke the variance if the applicant fails to comply with
8 those conditions.

9 4. The Commission shall not grant a variance from its
10 applicable regulations that would allow a facility for the disposal of
11 hazardous waste to construct or operate a landfill in a manner that
12 fails to comply with the requirements of subsection 7 of
13 NRS 459.520.

14 **Sec. 51.** NRS 459.550 is hereby amended to read as follows:

15 459.550 1. The Commission shall adopt regulations which
16 require licensees to keep records and submit reports on hazardous
17 waste and which prescribe procedures for:

18 (a) Installing, calibrating, using and maintaining monitoring
19 equipment or other methods for obtaining data on hazardous wastes;

20 (b) Taking samples and performing tests and analyses;

21 (c) Establishing and maintaining suitable records; and

22 (d) Making reports to the Department.

23 2. It is unlawful for any person to ~~generate, store, transport,~~
24 ~~treat or dispose of~~ *manage* hazardous waste without reporting each
25 activity to the Department in accordance with regulations adopted
26 by the Commission.

27 **Sec. 51.5.** NRS 459.558 is hereby amended to read as follows:

28 459.558 1. The provisions of NRS 459.560 and 459.565 that
29 concern hazardous substances do not apply:

30 (a) ~~In a county whose population is less than 55,000;~~

31 ~~(b)~~ To mining or agricultural activities; or

32 ~~(c)~~ (b) To other facilities or locations where the quantity of
33 any one hazardous substance at any one facility or location does not
34 exceed 1,000 kilograms at any time.

35 2. All other provisions of NRS 459.560 and 459.565, including
36 the provisions concerning hazardous waste, apply to ~~all counties~~
37 ~~and~~ all industries without regard to volume.

38 **Sec. 52.** NRS 459.560 is hereby amended to read as follows:

39 459.560 Any authorized representative or employee of the
40 Commission or the Department may, for the purpose of carrying out
41 his or her duties pursuant to NRS 459.400 to 459.600, inclusive,
42 *and sections 34 and 35 of this act*, or to enforce a regulation
43 adopted pursuant to those sections:

44 1. Enter any place where waste or a substance which the
45 Department has reason to believe may be hazardous waste or a



1 hazardous substance is or may have been ~~generated, stored,~~
2 ~~transported, treated, disposed of~~ *managed* or otherwise handled;

3 2. Inspect and obtain samples of any waste or substance which
4 the Department has reason to believe may be hazardous waste or a
5 hazardous substance, including samples from any vehicle in which
6 waste or substance is being transported, and samples of containers
7 and labels; and

8 3. Inspect and copy any records, reports, information or test
9 results relating to the management of hazardous wastes or hazardous
10 substances.

11 **Sec. 53.** NRS 459.565 is hereby amended to read as follows:

12 459.565 1. If the Department receives information that the
13 ~~handling, storage, transportation, treatment or disposal~~ *the*
14 *management* of any waste or hazardous substance may present an
15 imminent and substantial hazard to human health, public safety or
16 the environment, it may:

17 (a) Issue an order directing the owner or operator of the facility
18 for ~~treatment, storage or disposal~~ *the management* of the waste
19 or the owner or operator of any site where the ~~treatment, storage or~~
20 ~~disposal~~ *management* of a hazardous substance has occurred or
21 may occur or any other person who has custody of the waste
22 or hazardous substance to take necessary steps to prevent the act or
23 eliminate the practice which constitutes the hazard.

24 (b) Order a site assessment to be conducted and a remediation
25 plan to be developed pursuant to regulations adopted by the
26 Commission.

27 (c) Assess costs and expenses incurred by the Department in
28 carrying out the provisions of this section or in removing, correcting
29 or terminating any hazard to human health, public safety or the
30 environment pursuant to regulations adopted by the Commission.

31 (d) Request that the Attorney General commence an action to
32 enjoin the practices or acts which constitute the hazard.

33 (e) Take any other action designed to reduce or eliminate the
34 hazard.

35 2. The Department may perform inspections pursuant to NRS
36 459.560 and issue an order directing the owner or operator of the
37 facility for ~~treatment, storage or disposal~~ *the management* of
38 waste or the owner or operator of any site where the ~~treatment,~~
39 ~~storage or disposal~~ *management* of a hazardous substance has
40 occurred or may occur or any other person who has custody of the
41 waste or hazardous substance to take any necessary steps to prevent
42 any act or eliminate any practice or effect which could constitute a
43 hazard to human health, public safety or the environment.



1 **Sec. 54.** NRS 459.585 is hereby amended to read as follows:

2 459.585 1. Any person who violates or contributes to a
3 violation of any provision of NRS 459.400 to 459.560, inclusive,
4 *and section 34 of this act, NRS* 459.590 or of any regulation
5 adopted or permit or order issued pursuant to those sections, or who
6 does not take action to correct a violation within the time specified
7 in an order, is liable to the Department for a civil penalty of not
8 more than \$25,000 for each day on which the violation occurs. This
9 penalty is in addition to any other penalty provided by NRS 459.400
10 to 459.600, inclusive ~~[.]~~ *and sections 34 and 35 of this act.*

11 2. The Department may recover, in the name of the State of
12 Nevada, actual damages which result from a violation, in addition to
13 the civil penalty provided in this section. The damages may include
14 expenses incurred by the Department in removing, correcting or
15 terminating any adverse effects which resulted from the violation
16 and compensation for any fish, aquatic life or other wildlife
17 destroyed as a result of the violation.

18 3. In addition to any other remedy provided by this chapter, the
19 Department may compel compliance with any provision of NRS
20 459.400 to 459.560, inclusive, *and section 34 of this act, NRS*
21 459.590 or of any regulation adopted or permit or order issued
22 pursuant to those sections, by injunction or other appropriate
23 remedy. The Department may institute and maintain in the name of
24 the State of Nevada any such enforcement proceedings.

25 **Sec. 54.5.** NRS 459.590 is hereby amended to read as follows:

26 459.590 It is unlawful for any person to transport hazardous
27 waste:

28 1. Without a manifest that complies with regulations adopted
29 by the Commission;

30 2. That does not conform to the description of the waste
31 specified in the manifest;

32 3. In a manner that does not conform to the manner of
33 shipment described in the manifest; or

34 4. To a facility that has not been ~~issued a permit to treat, store~~
35 ~~or dispose of~~ *authorized by the Commission to accept* the
36 hazardous waste described in the manifest ~~[.]~~ *in accordance with*
37 *the regulations adopted pursuant to NRS 459.485 and 459.490.*

38 **Sec. 55.** (Deleted by amendment.)

39 **Sec. 56.** This act becomes effective upon passage and
40 approval.



