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SENATE BILL NO. 127—COMMITTEE ON COMMERCE AND LABOR  
(ON BEHALF OF SUBCOMMITTEE ON INDUSTRIAL EXPLOSIVES)

FEBRUARY 13, 2003

Referred to Committee on Natural Resources

SUMMARY—Makes various changes to provisions governing hazardous materials. (BDR 40-296)

FISCAL NOTE: Effect on Local Government: No.  
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.

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AN ACT relating to hazardous materials; authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to investigate certain accidents at regulated facilities; providing for the recovery by the Division of its costs incurred in conducting such an investigation; deleting the statutory list of highly hazardous substances; requiring the State Environmental Commission to adopt regulations designating a list of highly hazardous substances and designating specific materials that are subject to regulation as explosives; authorizing the Administrator of the Division to issue certain orders; and providing other matters properly relating thereto.

1 WHEREAS, The mission of the Division of Environmental  
2 Protection of the State Department of Conservation and Natural  
3 Resources includes the protection and enhancement of the  
4 environment of the State of Nevada consistent with the public  
5 health; and

6 WHEREAS, The Division of Environmental Protection of the  
7 State Department of Conservation and Natural Resources is  
8 responsible for administering the chemical accident prevention  
9 program for the State of Nevada; and



1 WHEREAS, The purposes of the chemical accident prevention  
2 program include protecting the health, safety and general welfare of  
3 the residents of this state from the effects of the improper handling  
4 of hazardous chemicals and explosives, ensuring that employees  
5 who work with hazardous chemicals or explosives have a safe and  
6 healthful working environment, protecting the environment of this  
7 state by preventing and mitigating accidental or unexpected releases  
8 of hazardous chemicals, and ensuring the safe and adequate  
9 handling of hazardous chemicals and explosives in this state; now,  
10 therefore,

11  
12 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
13 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:  
14

15 **Section 1.** Chapter 459 of NRS is hereby amended by adding  
16 thereto a new section to read as follows:

17 *1. The Division may investigate a chemical accident caused*  
18 *by a process that involves one or more highly hazardous*  
19 *substances at a regulated facility which results in an uncontrolled*  
20 *emission, fire or explosion and which presents an imminent and*  
21 *substantial danger to the health of the employees of the regulated*  
22 *facility, the public health or the environment, to determine the*  
23 *cause of the accident. If the Division chooses to conduct such an*  
24 *investigation, the owner or operator of the regulated facility shall,*  
25 *in a manner consistent with the safety of the employees of the*  
26 *division and the regulated facility, and without placing an undue*  
27 *burden on the operation of the regulated facility, cooperate with*  
28 *the Division by:*

29 (a) *Allowing the Division:*

30 (1) *To investigate the accident site and directly related*  
31 *facilities, including, without limitation, control rooms;*

32 (2) *To examine physical evidence; and*

33 (3) *If practicable, to inspect equipment both externally and*  
34 *internally;*

35 (b) *Providing the Division with pertinent documents; and*

36 (c) *Allowing the Division to conduct independent interviews of*  
37 *the employees of the regulated facility, subject to all rights of the*  
38 *regulated facility and the employees to be represented by legal*  
39 *counsel, management representatives and union representatives*  
40 *during the interviews.*

41 *2. To the maximum extent feasible, the Division shall*  
42 *coordinate any investigation it conducts pursuant to this section*  
43 *with investigations conducted by other agencies with jurisdiction*  
44 *over the regulated facility to minimize any adverse impact on the*  
45 *regulated facility and its employees.*



1       3. *The Division may contract for the services of a technical*  
2 *expert in conducting an investigation pursuant to this section and*  
3 *may recover its costs for such services from the owner or operator*  
4 *of the regulated facility.*

5       4. *If an investigation is conducted by the Division pursuant to*  
6 *this section, all costs incurred by the Division in conducting the*  
7 *investigation, including, without limitation, the costs of services*  
8 *provided pursuant to subsection 3, may be recovered by the*  
9 *Division from the owner or operator of the regulated facility at*  
10 *which the accident occurred.*

11       5. *The State Environmental Commission may adopt*  
12 *regulations setting forth the procedures governing an*  
13 *investigation conducted by the Division pursuant to this section*  
14 *and the procedures for the recovery by the Division of all costs*  
15 *incurred by the Division in conducting the investigation.*

16       **Sec. 2.** NRS 459.3802 is hereby amended to read as follows:  
17       459.3802 As used in NRS 459.380 to 459.3874, inclusive, *and*  
18 *section 1 of this act*, unless the context otherwise requires, the  
19 words and terms defined in NRS 459.3804 to 459.38125, inclusive,  
20 have the meanings ascribed to them in those sections.

21       **Sec. 3.** NRS 459.3807 is hereby amended to read as follows:

22       459.3807 **1.** "Explosive" means gunpowders, powders used  
23 for blasting, all forms of high explosives, blasting materials, fuses  
24 other than electric circuit breakers, detonators and other detonating  
25 agents, smokeless powders, other explosive or incendiary devices  
26 and any chemical compound, mechanical mixture or device that  
27 contains any oxidizing and combustible units, or other ingredients,  
28 in such proportions, quantities or packing that ignition by fire,  
29 friction, concussion, percussion, or detonation of the compound,  
30 mixture or device or any part thereof may cause an explosion.

31       **2.** The term includes ~~any~~ :

32       (a) *Any* mixture of ammonium nitrate and fuel oil ~~[-]~~; *and*

33       (b) *Any specific material designated pursuant to NRS*  
34 *459.3816 as subject to regulation as an explosive.*

35       **3.** The term does not include any ammunition, powder,  
36 percussion caps, fuses, quills, matches, primers or explosive  
37 materials specified in 18 U.S.C. § 845(a)(4)-(6).

38       **Sec. 4.** NRS 459.3808 is hereby amended to read as follows:

39       459.3808 "Hazard" means a characteristic of a:

40       1. Highly hazardous substance designated ~~[as such in NRS~~  
41 ~~459.3816 or any regulations adopted pursuant thereto;]~~ *pursuant to*  
42 *NRS 459.3816 if present in a quantity equal to or greater than the*  
43 *amount designated pursuant to NRS 459.3816;*

44       2. System involving the use of such a highly hazardous  
45 substance;



1 3. Manufacturing plant using or producing a highly hazardous  
2 substance;

3 4. Regulated facility that manufactures explosives for sale; or

4 5. Process relating to a highly hazardous substance,  
5 which makes possible a chemical accident or explosion.

6 **Sec. 5.** NRS 459.3809 is hereby amended to read as follows:

7 459.3809 "Process" means:

8 1. Any activity that involves *an explosive, a highly hazardous*  
9 substance ~~[listed-in]~~ *designated pursuant to* NRS 459.3816 *if*  
10 *present in a quantity equal to or greater than the amount*  
11 *designated pursuant to NRS 459.3816, or a hazardous substance*  
12 *listed* in a regulation of the Division adopted pursuant to NRS  
13 459.3833, and includes, without limitation, the use, storage,  
14 manufacture, handling or on-site movement of the substance ~~[ ]~~ or  
15 *explosive, or* any combination thereof.

16 2. A group of vessels that are used in connection with such an  
17 activity, including vessels that are:

18 (a) Interconnected; or

19 (b) Separate, but located in such a manner which makes possible  
20 the release of a substance ~~[ ]~~ *or explosive.*

21 **Sec. 6.** NRS 459.3813 is hereby amended to read as follows:

22 459.3813 1. Except as otherwise provided in this section and  
23 NRS 459.3814, the provisions of NRS 459.380 to 459.3874,  
24 inclusive, *and section 1 of this act* apply to a regulated facility that:

25 (a) Produces, uses, stores or handles a highly hazardous  
26 substance in a quantity:

27 (1) Equal to or greater than the amount ~~[set-forth-in]~~  
28 *designated pursuant to* NRS 459.3816; or

29 (2) Less than the amount ~~[set-forth-in]~~ *designated pursuant*  
30 *to* NRS 459.3816 if there are two or more releases from the  
31 regulated facility of the same or different highly hazardous  
32 substances during any 12-month period and:

33 (I) The release of the highly hazardous substances is  
34 reportable pursuant to 40 C.F.R. Part 302; or

35 (II) Each quantity released is equal to or greater than a  
36 maximum quantity allowable as established by regulation of the  
37 State Environmental Commission; or

38 (b) Manufactures explosives for sale.

39 2. A regulated facility described in subparagraph (2) of  
40 paragraph (a) of subsection 1 is exempt from complying with the  
41 provisions of NRS 459.380 to 459.3874, inclusive, *and section 1 of*  
42 *this act* if:

43 (a) The Division determines that the regulated facility has:

44 (1) Carried out the detailed plan to abate hazards  
45 recommended pursuant to subsection 3 of NRS 459.3852; and



1 (2) Complied with such other provisions of NRS 459.380 to  
2 459.3874, inclusive, *and section 1 of this act* and the regulations  
3 adopted pursuant thereto, as the Division requires; and

4 (b) The regulated facility obtains an exemption from the State  
5 Environmental Commission. The State Environmental Commission  
6 shall adopt by regulation the procedures for obtaining such an  
7 exemption.

8 3. As used in this section, "highly hazardous substance" means  
9 any substance designated as such ~~[in NRS 459.3816 or any  
10 regulations adopted pursuant thereto.] pursuant to NRS 459.3816.~~

11 **Sec. 7.** NRS 459.3814 is hereby amended to read as follows:

12 459.3814 The provisions of NRS 459.380 to 459.3874,  
13 inclusive, *and section 1 of this act* do not apply to:

14 1. The transportation of any hazardous substances within or  
15 through this state which is regulated by the State or the United  
16 States Department of Transportation.

17 2. Any final use of anhydrous ammonia for an agricultural  
18 purpose, including storage of the substance on the premises of a  
19 farm.

20 3. Activities which are regulated pursuant to both 30 U.S.C. §§  
21 801 et seq. and 42 U.S.C. § 7412(r).

22 **Sec. 8.** NRS 459.3816 is hereby amended to read as follows:

23 459.3816 1. ~~[The following substances are designated as  
24 highly hazardous, if present in the quantity designated after each  
25 substance or a greater quantity:~~

<del>Chemical Name of Substance</del>	<del>Number Assigned by Chemical Abstract Service</del>	<del>Quantity (In pounds)</del>
<del>Acetaldehyde .....</del>	<del>75 07 0</del>	<del>2500</del>
<del>Acrolein (2 Propenal) .....</del>	<del>107 02 8</del>	<del>150</del>
<del>Acrylyl Chloride .....</del>	<del>814 68 6</del>	<del>250</del>
<del>Allyl Chloride .....</del>	<del>107 05 1</del>	<del>1000</del>
<del>Allylamine .....</del>	<del>107 11 9</del>	<del>1000</del>
<del>Alkylaluminums .....</del>	<del>None</del>	<del>5000</del>
<del>Ammonia, Anhydrous .....</del>	<del>7664 41 7</del>	<del>5000</del>
<del>Ammonia solutions (concentration greater than 44% ammonia by weight) .....</del>	<del>7664 41 7</del>	<del>10000</del>
<del>Ammonium Perchlorate .....</del>	<del>7790 98 9</del>	<del>7500</del>
<del>Ammonium Permanganate .....</del>	<del>7787 36 2</del>	<del>7500</del>
<del>Arsine (also called Arsenic Hydride) .....</del>	<del>7784 42 1</del>	<del>100</del>
<del>Bis (Chloromethyl) Ether .....</del>	<del>542 88 1</del>	<del>100</del>
<del>Boron Trichloride .....</del>	<del>10294 34 5</del>	<del>2500</del>



1	Boron Trifluoride.....	7637 07 2	250
2	Bromine.....	7726 95 6	1500
3	Bromine Chloride.....	13863 41 7	1500
4	Bromine Pentafluoride.....	7789 30 2	2500
5	Bromine Trifluoride.....	7787 71 5	15000
6	3-Bromopropyne (also called		
7	Propargyl Bromide).....	106 96 7	100
8	Butyl Hydroperoxide (Tertiary).....	75 91 2	5000
9	Butyl Perbenzoate (Tertiary).....	614 45 9	7500
10	Carbonyl Chloride (see Phosgene).....	75 44 5	100
11	Carbonyl Fluoride.....	353 50 4	2500
12	Cellulose Nitrate (concentration		
13	greater than 12.6% Nitrogen).....	9004 70 0	2500
14	Chlorine.....	7782 50 5	1500
15	Chlorine Dioxide.....	10049 04 4	1000
16	Chlorine Pentafluoride.....	13637 63 3	1000
17	Chlorine Trifluoride.....	7790 91 2	1000
18	Chlorodiethylaluminum (also		
19	called Diethylaluminum Chloride).....	96 10 6	5000
20	1-Chloro 2,4-Dinitrobenzene.....	97 00 7	5000
21	Chloromethyl Methyl Ether.....	107 30 2	500
22	Chloropierin.....	76 06 2	500
23	Chloropierin and Methyl Bromide		
24	mixture.....	None	1500
25	Chloropierin and Methyl Chloride		
26	mixture.....	None	1500
27	Cumene Hydroperoxide.....	80 15 9	5000
28	Cyanogen.....	460 19 5	2500
29	Cyanogen Chloride.....	506 77 4	500
30	Cyanuric Fluoride.....	675 14 9	100
31	Diacetyl Peroxide (concentration		
32	greater than 70%).....	110 22 5	5000
33	Diazomethane.....	334 88 3	500
34	Dibenzoyl Peroxide.....	94 36 0	7500
35	Diborane.....	19287 45 7	100
36	Dibutyl Peroxide (Tertiary).....	110 05 4	5000
37	Dichloro Acetylene.....	7572 29 4	250
38	Dichlorosilane.....	4109 96 0	2500
39	Diethylzinc.....	557 20 0	10000
40	Diisopropyl Peroxydicarbonate.....	105 64 6	7500
41	Dilauroyl Peroxide.....	105 74 8	7500
42	Dimethyl Sulfide.....	75 18 3	100
43	Dimethyldichlorosilane.....	75 78 5	1000
44	Dimethylhydrazine, 1.1.....	57 14 7	1000
45	Dimethylamine, Anhydrous.....	124 40 3	2500



1	<del>2, 4 Dinitroaniline.....</del>	<del>97 02 9</del>	<del>5000</del>
2	<del>Ethyl Methyl Ketone Peroxide</del>		
3	<del>(also Methyl Ethyl Ketone</del>		
4	<del>Peroxide; concentration greater</del>		
5	<del>than 60%).....</del>	<del>1338 23 4</del>	<del>5000</del>
6	<del>Ethyl Nitrite.....</del>	<del>109 95 5</del>	<del>5000</del>
7	<del>Ethylamine.....</del>	<del>75 04 7</del>	<del>7500</del>
8	<del>Ethylene Fluorohydrin.....</del>	<del>371 62 0</del>	<del>100</del>
9	<del>Ethylene Oxide.....</del>	<del>75 21 8</del>	<del>5000</del>
10	<del>Ethyleneimine.....</del>	<del>151 56 4</del>	<del>1000</del>
11	<del>Fluorine.....</del>	<del>7782 41 4</del>	<del>100</del>
12	<del>Formaldehyde (concentration 37%</del>		
13	<del>or greater by weight).....</del>	<del>50 00 0</del>	<del>1000</del>
14	<del>Furan.....</del>	<del>110 00 9</del>	<del>500</del>
15	<del>Hexafluoroacetone.....</del>	<del>684 16 2</del>	<del>5000</del>
16	<del>Hydrochloric Acid, Anhydrous.....</del>	<del>7647 01 0</del>	<del>5000</del>
17	<del>Hydrofluoric Acid, Anhydrous.....</del>	<del>7664 39 3</del>	<del>1000</del>
18	<del>Hydrogen Bromide.....</del>	<del>10035 10 6</del>	<del>5000</del>
19	<del>Hydrogen Chloride.....</del>	<del>7647 01 0</del>	<del>5000</del>
20	<del>Hydrogen Cyanide, Anhydrous.....</del>	<del>74 90 8</del>	<del>1000</del>
21	<del>Hydrogen Fluoride.....</del>	<del>7664 39 3</del>	<del>1000</del>
22	<del>Hydrogen Peroxide (concentration</del>		
23	<del>52% greater by weight).....</del>	<del>7722 84 1</del>	<del>7500</del>
24	<del>Hydrogen Selenide.....</del>	<del>7783 07 5</del>	<del>150</del>
25	<del>Hydrogen Sulfide.....</del>	<del>7783 06 4</del>	<del>1500</del>
26	<del>Hydroxylamine.....</del>	<del>7803 49 8</del>	<del>2500</del>
27	<del>Iron, Pentacarbonyl.....</del>	<del>13463 40 6</del>	<del>250</del>
28	<del>Isopropyl Formate.....</del>	<del>625 55 8</del>	<del>500</del>
29	<del>Isopropylamine.....</del>	<del>75 31 0</del>	<del>5000</del>
30	<del>Ketene.....</del>	<del>463 51 4</del>	<del>100</del>
31	<del>Methacrylaldehyde.....</del>	<del>78 85 3</del>	<del>1000</del>
32	<del>Methacryloyl Chloride.....</del>	<del>920 46 7</del>	<del>150</del>
33	<del>Methacryloyloxyethyl Isoocyanate.....</del>	<del>30674 80 7</del>	<del>100</del>
34	<del>Methyl Acrylonitrile.....</del>	<del>126 98 7</del>	<del>250</del>
35	<del>Methylamine, Anhydrous.....</del>	<del>74 89 5</del>	<del>1000</del>
36	<del>Methyl Bromide.....</del>	<del>74 83 9</del>	<del>2500</del>
37	<del>Methyl Chloride.....</del>	<del>74 87 3</del>	<del>15000</del>
38	<del>Methyl Chloroformate.....</del>	<del>79 22 1</del>	<del>500</del>
39	<del>Methyl Disulfide.....</del>	<del>624 92 0</del>	<del>100</del>
40	<del>Methyl Ethyl Ketone Peroxide</del>		
41	<del>(also Ethyl Methyl Ketone</del>		
42	<del>Peroxide; concentration greater</del>		
43	<del>than 60%).....</del>	<del>1338 23 4</del>	<del>5000</del>
44	<del>Methyl Fluoroacetate.....</del>	<del>453 18 9</del>	<del>100</del>
45	<del>Methyl Fluorosulfate.....</del>	<del>421 20 5</del>	<del>100</del>



\* S B 1 2 7 \*

1	<del>Methyl Hydrazine .....</del>	<del>60 34 4 .....</del>	<del>100</del>
2	<del>Methyl Iodide .....</del>	<del>74 88 4 .....</del>	<del>7500</del>
3	<del>Methyl Isoocyanate.....</del>	<del>624 83 9 .....</del>	<del>250</del>
4	<del>Methyl Mercaptan.....</del>	<del>74 93 1 .....</del>	<del>5000</del>
5	<del>Methyl Vinyl Ketone .....</del>	<del>78 94 4 .....</del>	<del>100</del>
6	<del>Methyltrichlorosilane.....</del>	<del>75 79 6 .....</del>	<del>500</del>
7	<del>Nickel — Carbonyl — (Nickel</del>		
8	<del>Tetracarbonyl).....</del>	<del>13463 39 3 .....</del>	<del>150</del>
9	<del>Nitric Acid (concentration 94.5%</del>		
10	<del>or greater by weight) .....</del>	<del>7697 37 2 .....</del>	<del>500</del>
11	<del>Nitric Oxide .....</del>	<del>10102 43 9 .....</del>	<del>250</del>
12	<del>Nitroaniline (para Nitroaniline).....</del>	<del>100 01 6 .....</del>	<del>5000</del>
13	<del>Nitromethane .....</del>	<del>75 52 5 .....</del>	<del>2500</del>
14	<del>Nitrogen Dioxide.....</del>	<del>10102 44 0 .....</del>	<del>250</del>
15	<del>Nitrogen Oxides (NO; NO2; N2O4;</del>		
16	<del>N2O3).....</del>	<del>10102 44 0 .....</del>	<del>250</del>
17	<del>Nitrogen Tetroxide (also called</del>		
18	<del>Nitrogen Peroxide ).....</del>	<del>10544 72 6 .....</del>	<del>250</del>
19	<del>Nitrogen Trifluoride .....</del>	<del>7783 54 2 .....</del>	<del>5000</del>
20	<del>Nitrogen Trioxide .....</del>	<del>10544 73 7 .....</del>	<del>250</del>
21	<del>Oleum (65% or greater by weight</del>		
22	<del>of sulfur trioxide; also called</del>		
23	<del>Fuming Sulfuric Acid).....</del>	<del>8014 95 7 .....</del>	<del>1000</del>
24	<del>Osmium Tetroxide.....</del>	<del>20816 12 0 .....</del>	<del>100</del>
25	<del>Oxygen — Difluoride — (Fluorine</del>		
26	<del>Monoxide).....</del>	<del>7783 41 7 .....</del>	<del>100</del>
27	<del>Ozone.....</del>	<del>10028 15 6 .....</del>	<del>100</del>
28	<del>Pentaborane .....</del>	<del>19624 22 7 .....</del>	<del>100</del>
29	<del>Peracetic Acid (concentration</del>		
30	<del>greater than 60 Acetic Acid;</del>		
31	<del>also called Peroxyacetic Acid).....</del>	<del>79 21 0 .....</del>	<del>1000</del>
32	<del>Perchloric Acid (concentration</del>		
33	<del>greater than 60% by weight) .....</del>	<del>7601 90 3 .....</del>	<del>5000</del>
34	<del>Perchloromethyl Mercaptan .....</del>	<del>594 42 3 .....</del>	<del>150</del>
35	<del>Perchloryl Fluoride.....</del>	<del>7616 94 6 .....</del>	<del>5000</del>
36	<del>Peroxyacetic Acid (concentration</del>		
37	<del>greater than 60% Acetic Acid;</del>		
38	<del>also called Peracetic Acid).....</del>	<del>79 21 0 .....</del>	<del>1000</del>
39	<del>Phosgene (also called Carbonyl</del>		
40	<del>Chloride).....</del>	<del>75 44 5 .....</del>	<del>100</del>
41	<del>Phosphine (Hydrogen Phosphide).....</del>	<del>7803 51 2 .....</del>	<del>100</del>
42	<del>Phosphorus Oxychloride (also</del>		
43	<del>called Phosphoryl Chloride).....</del>	<del>10025 87 3 .....</del>	<del>1000</del>
44	<del>Phosphorus Trichloride.....</del>	<del>7719 12 2 .....</del>	<del>1000</del>





1	<del>Phosphoryl Chloride (also called</del>		
2	<del>Phosphorus Oxychloride).....</del>	<del>10025 87 3</del>	<del>1000</del>
3	<del>Propargyl Bromide (also called 3</del>		
4	<del>Bromopropyne) .....</del>	<del>106 96 7</del>	<del>100</del>
5	<del>Propyl Nitrate .....</del>	<del>627 13 4</del>	<del>100</del>
6	<del>Sarin.....</del>	<del>107 44 8</del>	<del>100</del>
7	<del>Selenium Hexafluoride .....</del>	<del>7783 79 1</del>	<del>1000</del>
8	<del>Stibine (Antimony Hydride).....</del>	<del>7803 52 3</del>	<del>500</del>
9	<del>Sulfur Dioxide (liquid) .....</del>	<del>7446 09 5</del>	<del>1000</del>
10	<del>Sulfur Pentafluoride.....</del>	<del>5714 22 7</del>	<del>250</del>
11	<del>Sulfur Tetrafluoride .....</del>	<del>7783 60 0</del>	<del>250</del>
12	<del>Sulfur Trioxide (also called</del>		
13	<del>Sulfuric Anhydride).....</del>	<del>7446 11 9</del>	<del>1000</del>
14	<del>Sulfuric Anhydride (also called</del>		
15	<del>Sulfur Trioxide).....</del>	<del>7446 11 9</del>	<del>1000</del>
16	<del>Tellurium Hexafluoride .....</del>	<del>7783 80 4</del>	<del>250</del>
17	<del>Tetrafluoroethylene .....</del>	<del>116 14 3</del>	<del>5000</del>
18	<del>Tetrafluorohydrazine .....</del>	<del>10036 47 2</del>	<del>5000</del>
19	<del>Tetramethyl Lead.....</del>	<del>75 74 1</del>	<del>1000</del>
20	<del>Thionyl Chloride.....</del>	<del>7719 09 7</del>	<del>250</del>
21	<del>Titanium Tetrachloride .....</del>	<del>7550 45 0</del>	<del>2500</del>
22	<del>Trichloro (chloromethyl) Silane .....</del>	<del>1558 25 4</del>	<del>100</del>
23	<del>Trichloro (dichlorophenyl) Silane .....</del>	<del>27137 85 5</del>	<del>2500</del>
24	<del>Trichlorosilane.....</del>	<del>10025 78 2</del>	<del>5000</del>
25	<del>Trifluorochloroethylene.....</del>	<del>79 38 9</del>	<del>10000</del>
26	<del>Trimethoxysilane.....</del>	<del>2487 90 3</del>	<del>1500</del>

27  
28 ~~—2. The division, in consultation with the health districts created~~  
29 ~~pursuant to NRS 439.370, the health division of the department of~~  
30 ~~human resources and the division of industrial relations of the~~  
31 ~~department of business and industry, shall regularly examine the~~  
32 ~~sources of information available to it with regard to potentially~~  
33 ~~highly hazardous substances. The division shall, by regulation, add~~  
34 ~~to the list of highly hazardous substances any chemical that is~~  
35 ~~identified as being used, manufactured, stored, or capable of being~~  
36 ~~produced, at a facility, in sufficient quantities at a single site, that its~~  
37 ~~release into the environment would produce a significant likelihood~~  
38 ~~that persons exposed would suffer death or substantial bodily harm~~  
39 ~~as a consequence of the exposure.] *The State Environmental*~~  
40 ~~*Commission shall adopt regulations:*~~

41 ~~(a) *Designating a list of highly hazardous substances,*~~  
42 ~~*including, without limitation, any chemical:*~~

43 ~~(1) *That is identified as being used, manufactured, stored*~~  
44 ~~*or capable of being produced at a facility; and*~~



1           (2) *The release of which into the environment or the*  
2 *involvement of which in a fire or explosion would produce a*  
3 *significant likelihood that persons exposed would suffer death or*  
4 *substantial bodily harm as a consequence of the exposure; and*

5           (b) *Designating for each such substance a quantity which*  
6 *requires the regulation of that substance pursuant to NRS 459.380*  
7 *to 459.3874, inclusive, and section 1 of this act and any*  
8 *regulations adopted pursuant thereto.*

9           2. *The Division shall regularly examine sources of*  
10 *information available to it, including, without limitation, studies,*  
11 *guidelines and regulations of the Federal Government, and may*  
12 *propose that the State Environmental Commission add or delete a*  
13 *substance or otherwise amend the list of substances and quantities*  
14 *adopted pursuant to subsection 1.*

15           3. *The State Environmental Commission shall adopt*  
16 *regulations designating specific materials that are subject to*  
17 *regulation as explosives pursuant to NRS 459.380 to 459.3874,*  
18 *inclusive, and section 1 of this act and any regulations adopted*  
19 *pursuant thereto.*

20           4. *The Division shall regularly examine sources of*  
21 *information available to it, including, without limitation, studies,*  
22 *guidelines and regulations of the Federal Government, and shall*  
23 *consult with the Division of Industrial Relations of the*  
24 *Department of Business and Industry to determine materials that*  
25 *should be regulated as explosives. The Division may propose that*  
26 *the State Environmental Commission add or delete a material or*  
27 *otherwise amend the list of materials adopted pursuant to*  
28 *subsection 3.*

29           **Sec. 9.** NRS 459.3819 is hereby amended to read as follows:

30           459.3819 1. The Division shall enter into cooperative  
31 agreements with state and local agencies to provide inspections of  
32 regulated facilities where explosives are manufactured, or where an  
33 explosive is used, processed, handled, moved on site or stored in  
34 relation to its manufacture. The Division shall schedule the  
35 inspections in such a manner as to provide an opportunity for  
36 participation by:

37           (a) A representative of the fire-fighting agency that exercises  
38 jurisdiction over the regulated facility;

39           (b) A representative of the law enforcement agency that  
40 exercises jurisdiction over the regulated facility; and

41           (c) Representatives of the Division and any other state agency  
42 responsible for minimizing risks to persons and property posed by  
43 such regulated facilities.



1 2. The owner or operator of such a regulated facility shall make  
2 the facility available for the inspections required by this section at  
3 such times as are designated by the Division.

4 3. Any inspection of a regulated facility conducted pursuant to  
5 this section is in addition to, and not in lieu of, any other inspection  
6 of the facility required or authorized by state statute or local  
7 ordinance.

8 4. Notwithstanding any provision of this section to the  
9 contrary, the provisions of this section do not apply to the mining  
10 industry.

11 ~~[5. Except as otherwise provided in subsection 6, as used in  
12 this section, "explosive" means gunpowders, powders used for  
13 blasting, all forms of high explosives, blasting materials, fuses other  
14 than electric circuit breakers, detonators and other detonating  
15 agents, smokeless powders, other explosive or incendiary devices  
16 and any chemical compound, mechanical mixture or device that  
17 contains any oxidizing and combustible units, or other ingredients,  
18 in such proportions, quantities or packing that ignition by fire,  
19 friction, concussion, percussion, or detonation of the compound,  
20 mixture or device or any part thereof may cause an explosion.~~

21 ~~—6. For the purposes of this section, an explosive does not  
22 include:~~

23 ~~—(a) Ammunition for small arms, or any component thereof;~~

24 ~~—(b) Black powder commercially manufactured in quantities that  
25 do not exceed 50 pounds, percussion caps, safety and pyrotechnic  
26 fuses, quills, quick and slow matches, and friction primers that are  
27 intended to be used solely for sporting, recreation or cultural  
28 purposes:~~

29 ~~—(1) In an antique firearm, as that term is defined in 18 U.S.C.  
30 § 921(a)(16), as that section existed on January 1, 1999; or~~

31 ~~—(2) In an antique device which is exempted from the  
32 definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4),  
33 as that section existed on January 1, 1999; or~~

34 ~~—(c) Any explosive that is manufactured under the regulation of a  
35 military department of the United States, or that is distributed to, or  
36 possessed or stored by, the military or naval service or any other  
37 agency of the United States, or an arsenal, a navy yard, a depot or  
38 any other establishment owned by or operated on behalf of the  
39 United States.]~~

40 **Sec. 10.** NRS 459.3824 is hereby amended to read as follows:

41 459.3824 1. The owner of a regulated facility shall pay to the  
42 Division an annual fee based on the fiscal year. The annual fee for  
43 each *regulated* facility is the sum of a base fee set by the State  
44 Environmental Commission and any additional fee imposed by the



1 Commission pursuant to subsection 2. The annual fee must be  
2 prorated and may not be refunded.

3 2. The State Environmental Commission may impose an  
4 additional fee upon the owner of a regulated facility in an amount  
5 determined by the Commission to be necessary to enable the  
6 Division to carry out its duties pursuant to NRS 459.380 to  
7 459.3874, inclusive ~~§~~, *and section 1 of this act*. The additional fee  
8 must be based on a graduated schedule adopted by the Commission  
9 which takes into consideration the quantity of hazardous substances  
10 located at each *regulated* facility.

11 3. After the payment of the initial annual fee, the Division shall  
12 send the owner of a regulated facility a bill in July for the annual fee  
13 for the fiscal year then beginning which is based on the applicable  
14 reports for the preceding year.

15 4. The owner of a regulated facility shall submit, with any  
16 payment required by this section, the number assigned by the  
17 Department of Taxation, for the imposition and collection of taxes  
18 pursuant to chapter 364A of NRS, to the business for which the  
19 payment is made.

20 5. All fees collected pursuant to this section and penalties  
21 collected pursuant to NRS 459.3833, 459.3834 and 459.3874, and  
22 any interest earned thereon, must be deposited with the State  
23 Treasurer for credit to the Fund for Precaution Against Chemical  
24 Accidents, which is hereby created as a special revenue fund.

25 **Sec. 11.** NRS 459.387 is hereby amended to read as follows:

26 459.387 1. The Division may enter any *regulated* facility:

27 (a) During normal business hours; and

28 (b) At any other time if there is probable cause to believe that a  
29 violation of any of the provisions of NRS 459.380 to 459.3874,  
30 inclusive, *and section 1 of this act* or any regulation adopted  
31 pursuant thereto, has occurred,

32 to verify compliance with the provisions of NRS 459.380 to  
33 459.3874, inclusive, *and section 1 of this act* and the quality of all  
34 work performed pursuant to those sections, except that the owner or  
35 operator of a *regulated* facility need not employ any personnel  
36 solely to assure access to the *regulated* facility by the Division when  
37 this access would otherwise be impossible.

38 2. ~~The Division shall develop, adopt by regulation and enforce~~  
39 ~~a system of recordkeeping. The system must:~~

40 ~~—(a) Require the owner or operator of each facility registered~~  
41 ~~pursuant to NRS 459.3828 to report to the Division on all efforts to~~  
42 ~~assess and reduce risks undertaken, all continuing maintenance, all~~  
43 ~~unanticipated and unusual events, and any other information the~~  
44 ~~Division finds appropriate; and~~



1 ~~—(b) Be so designed as to prevent the destruction or alteration of~~  
2 ~~information and data contained in those records.~~  
3 ~~—3. Within 30 days after each anniversary of the date on which~~  
4 ~~the plan to reduce accidents was first put into effect, the owner or~~  
5 ~~operator of a regulated facility shall file an annual report of~~  
6 ~~compliance with the Division. This annual report must include a~~  
7 ~~report of progress describing in detail all actions taken to comply~~  
8 ~~with the schedule of abatement set forth in the plan, including~~  
9 ~~itemization of abatements accomplished and steps taken to~~  
10 ~~accomplish abatements in accordance with the schedule. The annual~~  
11 ~~report of compliance must be signed and certified as a report on~~  
12 ~~safety and must be in a form and be accompanied by documentation~~  
13 ~~showing compliance in accordance with the regulations of the~~  
14 ~~Division.~~  
15 ~~—4. Within 30 days after receiving the annual report of~~  
16 ~~compliance, the Division shall conduct at the facility a confirmation~~  
17 ~~and evaluation of the accuracy of the report and independent~~  
18 ~~determination of the status of compliance with the schedule of~~  
19 ~~abatement. The Division's findings must be reduced to writing and~~  
20 ~~made available to the public within 60 days after the date of filing of~~  
21 ~~the report.] *If the Administrator of the Division finds that any*~~  
22 ~~*person is engaging, is about to engage or has engaged in an act or*~~  
23 ~~*practice that violates any provision of NRS 459.380 to 459.3874,*~~  
24 ~~*inclusive, and section 1 of this act, any regulation adopted*~~  
25 ~~*pursuant thereto, or any term or condition of a permit issued by*~~  
26 ~~*the Division pursuant to NRS 459.380 to 459.3874, inclusive, and*~~  
27 ~~*section 1 of this act, the Administrator may issue an order:*~~  
28 ~~*(a) Specifying the provision, regulation, term or condition that*~~  
29 ~~*is alleged to have been violated or which is about to be violated;*~~  
30 ~~*(b) Setting forth the facts alleged to constitute the violation;*~~  
31 ~~*(c) Prescribing any corrective action that must be taken and a*~~  
32 ~~*reasonable time within which that action must be taken; and*~~  
33 ~~*(d) Requiring the person to whom the order is directed to*~~  
34 ~~*appear before the Division or a hearing officer to show cause why*~~  
35 ~~*the Division should not commence an action for appropriate relief.*~~  
36 ~~*3. If the Administrator finds that the handling of a highly*~~  
37 ~~*hazardous substance or explosive at a regulated facility presents*~~  
38 ~~*an imminent and substantial threat to human health or the*~~  
39 ~~*environment, the Administrator may issue an order requiring the*~~  
40 ~~*owner or operator of the regulated facility to take necessary steps*~~  
41 ~~*to prevent the act or eliminate the practice that constitutes the*~~  
42 ~~*threat.*~~  
43 **Sec. 12.** NRS 459.3872 is hereby amended to read as follows:  
44 459.3872 1. If any person violates any of the provisions of  
45 NRS 459.380 to 459.386, inclusive, *and section 1 of this act*, or



1 459.387, or any regulation or order adopted or issued pursuant  
2 thereto, the Division may institute a civil action in a court of  
3 competent jurisdiction for injunctive or any other appropriate relief  
4 to prohibit and prevent the violation and the court may proceed in  
5 the action in a summary manner.

6 2. Except as otherwise provided in NRS 445C.010 to  
7 445C.120, inclusive, a person who violates a provision of NRS  
8 459.380 to 459.386, inclusive, *and section 1 of this act*, or 459.387,  
9 or any regulation or order adopted pursuant thereto, is liable to a  
10 civil administrative penalty as set forth in NRS 459.3874. If the  
11 violation is of a continuing nature, each day during which it  
12 continues constitutes an additional, separate and distinct offense. No  
13 civil administrative penalty may be levied until after notification to  
14 the violator by certified mail or personal service. The notice must  
15 include a reference to the section of the statute, regulation, order or  
16 condition of a permit violated, a concise statement of the facts  
17 alleged to constitute the violation, a statement of the amount of the  
18 civil penalties to be imposed ~~+~~ and a statement of the violator's  
19 right to a hearing. The violator has 20 days after receipt of the notice  
20 within which to deliver to the Division a written request for a  
21 hearing. After the hearing if requested, and upon a finding that a  
22 violation has occurred, the Administrator of the Division may issue  
23 a final order after assessing the amount of the fine specified in the  
24 notice. If no hearing is requested, the notice becomes a final order  
25 upon the expiration of the 20-day period. Payment of the penalty is  
26 due when a final order is issued or when the notice becomes a final  
27 order. The authority to levy a civil administrative penalty is in  
28 addition to all other provisions for enforcement of NRS 459.380 to  
29 459.387, inclusive, *and section 1 of this act*, and the payment of a  
30 civil administrative penalty does not affect the availability of any  
31 other provision for enforcement in connection with the violation for  
32 which the penalty is levied.

33 **Sec. 13.** NRS 459.3874 is hereby amended to read as follows:

34 459.3874 1. The civil administrative penalties are:

<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
37	
38 A. Failure to register a new or	
39 existing regulated facility: .....	\$25,000 plus \$2,000 per day
40	from the due date
41 B. Failure to pay the fee required	
42 pursuant to NRS 459.3824: .....	75 percent of the fee
43 C. Failure to submit a safety report: .....	\$10,000 plus \$1,000 per day
44	from the due date



- 1 D. Failure to conduct an
- 2 assessment of risk through
- 3 analysis of hazards pursuant to
- 4 the conditions set forth in
- 5 NRS 459.3844: ..... \$25,000
- 6 E. Failure to put into effect plan: ..... \$50,000
- 7 F. Failure to comply with plan to
- 8 reduce accidents and schedule
- 9 of compliance: ..... up to \$5,000
- 10 G. Failure to comply with approved
- 11 plan to reduce accidents, each
- 12 requirement:..... up to \$10,000
- 13 H. Failure to provide information
- 14 requested by the Division: ..... \$25,000
- 15 I. Failure to grant access to
- 16 employees or agents of Division
- 17 for inspections: ..... \$25,000
- 18 J. Failure to provide information
- 19 or grant access to employees or
- 20 agents of Division during an
- 21 emergency: ..... \$50,000
- 22 K. Falsification of information
- 23 submitted to Division: ..... up to \$10,000 per incident
- 24 L. Failure to obtain a permit for the
- 25 construction of a new regulated
- 26 facility:..... \$25,000

27  
 28 The civil administrative penalty prescribed in category L may be  
 29 assessed against a contractor who is constructing the regulated  
 30 facility only if the contractor is contractually responsible for  
 31 obtaining all appropriate permits for the construction of the  
 32 regulated facility and the contractor knows or has reason to know  
 33 the planned use of the regulated facility.

34 2. The Division may compromise and settle any claim for any  
 35 penalty as set forth in this section in such amount in the discretion of  
 36 the Division as may appear appropriate and equitable under all  
 37 of the circumstances, including the posting of a performance bond  
 38 by the violator. If a violator is subject to the imposition of more than  
 39 one civil administrative penalty for the same violation, the Division  
 40 shall compromise and settle the claim for the penalty as set forth in  
 41 this section in such amount as to avoid the duplication of penalties.

42 3. No penalty may be imposed pursuant to this section for the  
 43 failure to perform a required act within the time required if the delay  
 44 was caused by a natural disaster or other circumstances which are  
 45 beyond the control of the violator.



1 4. Any person who violates any of the provisions of NRS  
2 459.380 to 459.386, inclusive, *and section 1 of this act*, or 459.387,  
3 or any regulation or order adopted or issued pursuant thereto, or an  
4 administrative order issued pursuant to subsection 2 of NRS  
5 459.3872 or a court order issued pursuant to subsection 1 of NRS  
6 459.3872, or who fails to pay a civil administrative penalty in full is  
7 subject, upon order of the court, to a civil penalty not to exceed  
8 \$10,000 per day of the violation, and each day's continuance of the  
9 violation constitutes a separate and distinct violation. Any penalty  
10 imposed pursuant to this subsection may be recovered with costs in  
11 a summary proceeding by the Attorney General.

12 **Sec. 14.** NRS 278.147 is hereby amended to read as follows:

13 278.147 1. No person may commence operation in this state  
14 of a facility where an explosive, ~~or~~ a *highly hazardous* substance  
15 ~~[listed in NRS 459.3816, the regulations adopted pursuant thereto]~~  
16 *designated pursuant to NRS 459.3816 if present in a quantity*  
17 *equal to or greater than the amount designated pursuant to NRS*  
18 *459.3816, or a hazardous substance listed in* the regulations  
19 adopted pursuant to NRS 459.3833 ~~is~~ will be used, manufactured,  
20 processed, transferred or stored without first obtaining a conditional  
21 use permit therefor from the governing body of the city or county in  
22 which the facility is to be located. Each governing body shall  
23 establish by local ordinance, in accordance with the provisions of  
24 this section, the procedures for obtaining such a permit.

25 2. An application for a conditional use permit must be filed  
26 with the planning commission of the city, county or region in which  
27 the facility is to be located. The planning commission shall, within  
28 90 days after the filing of an application, hold a public hearing to  
29 consider the application. The planning commission shall, at least 30  
30 days before the date of the hearing, cause notice of the time, date,  
31 place and purpose of the hearing to be:

32 (a) Sent by mail ~~to~~ or, if requested by a party to whom notice  
33 must be provided pursuant to this paragraph, by electronic means if  
34 receipt of such an electronic notice can be verified, to:

35 (1) The applicant;

36 (2) Each owner or tenant of real property located within  
37 1,000 feet of the property in question;

38 (3) The owner, as listed on the county assessor's records, of  
39 each of the 30 separately owned parcels nearest the property in  
40 question, to the extent this notice does not duplicate the notice given  
41 pursuant to subparagraph (2);

42 (4) If a mobile home park or multiple-unit residence is  
43 located within 1,000 feet of the property in question, each tenant of  
44 that mobile home park or multiple-unit residence;





- 1 (5) Any advisory board that has been established for the  
2 affected area by the governing body;
- 3 (6) The Administrator of the Division of Environmental  
4 Protection of the State Department of Conservation and Natural  
5 Resources;
- 6 (7) The State Fire Marshal; and
- 7 (8) The Administrator of the Division of Industrial Relations  
8 of the Department of Business and Industry; and
- 9 (b) Published in a newspaper of general circulation within the  
10 city or county in which the property in question is located.
- 11 3. The notice required by subsection 2 must:
- 12 (a) Be written in language that is easy to understand; and
- 13 (b) Include a physical description or map of the property in  
14 question and a description of all explosives, and all substances  
15 described in subsection 1, that will be located at the facility.
- 16 4. In considering the application, the planning commission  
17 shall:
- 18 (a) Consult with:
- 19 (1) Local emergency planning committees;
- 20 (2) The Administrator of the Division of Environmental  
21 Protection of the State Department of Conservation and Natural  
22 Resources;
- 23 (3) The State Fire Marshal;
- 24 (4) The Administrator of the Division of Industrial Relations  
25 of the Department of Business and Industry; and
- 26 (5) The governing body of any other city or county that may  
27 be affected by the operation of the facility; and
- 28 (b) Consider fully the effect the facility will have on the health  
29 and safety of the residents of the city, county or region.
- 30 5. The planning commission shall, within a reasonable time  
31 after the public hearing, submit to the governing body its  
32 recommendations for any actions to be taken on the application. If  
33 the planning commission recommends that a conditional use permit  
34 be granted to the applicant, ~~it~~ *the planning commission* shall  
35 include in its recommendations such terms and conditions for the  
36 operation of the facility as it deems necessary for the protection of  
37 the health and safety of the residents of the city, county or region.
- 38 6. The governing body shall, within 30 days after the receipt of  
39 the recommendations of the planning commission, hold a public  
40 hearing to consider the application. The governing body shall:
- 41 (a) Cause notice of the hearing to be given in the manner  
42 prescribed by subsection 2; and
- 43 (b) Grant or deny the conditional use permit within 30 days after  
44 the public hearing.



1 7. Notwithstanding any provision of this section to the  
2 contrary, the provisions of this section do not apply to the mining  
3 industry.

4 8. ~~[Except as otherwise provided in subsection 9, as]~~ As used  
5 in this section, "explosive" ~~[means gunpowders, powders used for~~  
6 ~~blasting, all forms of high explosives, blasting materials, fuses other~~  
7 ~~than electric circuit breakers, detonators and other detonating~~  
8 ~~agents, smokeless powders, other explosive or incendiary devices~~  
9 ~~and any chemical compound, mechanical mixture or device that~~  
10 ~~contains any oxidizing or combustible units, or other ingredients, in~~  
11 ~~such proportions, quantities or packing that ignition by fire, friction,~~  
12 ~~concussion, percussion or detonation of the compound, mixture,~~  
13 ~~device or any part thereof may cause an explosion.~~

14 ~~—9. For the purposes of this section, an explosive does not~~  
15 ~~include:~~

16 ~~—(a) Ammunition for small arms, or any component thereof;~~

17 ~~—(b) Black powder commercially manufactured in quantities that~~  
18 ~~do not exceed 50 pounds, percussion caps, safety and pyrotechnic~~  
19 ~~fuses, quills, quick and slow matches, and friction primers that are~~  
20 ~~intended to be used solely for sporting, recreation or cultural~~  
21 ~~purposes:~~

22 ~~—(1) In an antique firearm, as that term is defined in 18 U.S.C.~~  
23 ~~§ 921(a)(16), as that section existed on January 1, 1999; or~~

24 ~~—(2) In an antique device which is exempted from the~~  
25 ~~definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4),~~  
26 ~~as that section existed on January 1, 1999; or~~

27 ~~—(c) Any explosive that is manufactured under the regulation of a~~  
28 ~~military department of the United States, or that is distributed to, or~~  
29 ~~possessed or stored by, the military or naval service or any other~~  
30 ~~agency of the United States, or an arsenal, a navy yard, a depot or~~  
31 ~~any other establishment owned by or operated on behalf of the~~  
32 ~~United States.] has the meaning ascribed to it in NRS 459.3807.~~

33 **Sec. 15.** Notwithstanding the amendatory provisions of section  
34 8 of this act, any administrative regulations adopted pursuant to  
35 NRS 459.3816 on or before October 1, 2003, remain in effect unless  
36 later amended or repealed.

37 **Sec. 16.** 1. This section becomes effective upon passage and  
38 approval.

39 2. Sections 1 and 8 of this act become effective upon passage  
40 and approval for the purpose of adopting regulations and on  
41 October 1, 2003, for all other purposes.

42 3. Sections 2 to 7, inclusive, and 9 to 15, inclusive, of this act  
43 become effective on October 1, 2003.

