

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.

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 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; revising the provisions relating to the regulation of facilities and the disclosure of records and information of facilities involved in the use, production, storage or handling of highly hazardous substances or in the manufacture of explosives; requiring the Commission to adopt certain regulations concerning such facilities; authorizing the Administrator of the Division to issue certain orders; and providing other matters properly relating thereto.

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



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

3 1. *The Division may investigate an accident occurring in*
4 *connection with a process that involves one or more highly*
5 *hazardous substances or explosives at a facility which results in an*
6 *uncontrolled emission, fire or explosion and which presented an*
7 *imminent and substantial danger to the health of the employees of*
8 *the facility, the public health or the environment, to determine the*
9 *cause of the accident if the owner or operator of the facility:*

10 (a) *Is unwilling to commence and has not commenced an*
11 *investigation in a timely manner; or*

12 (b) *Is not capable of and has not retained expertise capable of*
13 *conducting an investigation.*

14 2. *If the Division chooses to conduct such an investigation,*
15 *the owner or operator of the facility shall, in a manner consistent*
16 *with the safety of the employees of the Division and the facility,*
17 *and without placing an undue burden on the operation of the*
18 *facility, cooperate with the Division by:*

19 (a) *Allowing the Division:*

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

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

23 (3) *If practicable, to inspect equipment both externally and*
24 *internally;*

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

26 (c) *Allowing the Division to conduct independent interviews of*
27 *the employees of the facility, subject to all rights of the facility and*
28 *the employees to be represented by legal counsel, management*
29 *representatives and union representatives during the interviews.*

30 3. *To the maximum extent feasible, the Division shall*
31 *coordinate any investigation it conducts pursuant to this section*
32 *with investigations conducted by other agencies with jurisdiction*
33 *over the facility to minimize any adverse impact on the facility and*
34 *its employees.*

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

39 5. *If an investigation is conducted by the Division pursuant to*
40 *this section, all costs incurred by the Division in conducting the*
41 *investigation, including, without limitation, the costs of services*
42 *provided pursuant to subsection 4, may be recovered by the*
43 *Division from the owner or operator of the facility at which the*
44 *accident occurred.*



1 **6. The State Environmental Commission may adopt**
2 **regulations setting forth the procedures governing an**
3 **investigation conducted by the Division pursuant to this section**
4 **and the procedures for the recovery by the Division of all costs**
5 **incurred by the Division in conducting the investigation.**

6 **Sec. 2.** NRS 459.3802 is hereby amended to read as follows:
7 459.3802 As used in NRS 459.380 to 459.3874, inclusive, **and**
8 **section 1 of this act**, unless the context otherwise requires, the
9 words and terms defined in NRS ~~[459.3804]~~ **459.3806** to
10 459.38125, inclusive, have the meanings ascribed to them in those
11 sections.

12 **Sec. 3.** NRS 459.3809 is hereby amended to read as follows:
13 459.3809 "Process" means:

14 1. Any activity that involves a **highly hazardous** substance
15 ~~[listed in NRS 459.3816 or in a regulation of the Division adopted~~
16 ~~pursuant to NRS 459.3833, and includes,] or explosive, including,~~
17 without limitation, the use, storage, manufacture, handling or on-site
18 movement, ~~[of the substance,]~~ or any combination thereof ~~[.]~~ **of the**
19 **substance or explosive.**

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

- 22 (a) Interconnected; or
- 23 (b) Separate, but located in such a manner ~~[which makes~~
24 ~~possible the release of a substance.]~~ **that a highly hazardous**
25 **substance or explosive could potentially be released, including,**
26 **without limitation, the release, fire or explosion in one vessel that**
27 **could cause a release, fire or explosion in another vessel.**

28 3. As used in this section:

- 29 (a) "Explosive" means any material designated as subject to
30 regulation as an explosive pursuant to NRS 459.3816; and
- 31 (b) "Highly hazardous substance" means a substance
32 designated as highly hazardous pursuant to NRS 459.3816.

33 **Sec. 4.** NRS 459.381 is hereby amended to read as follows:
34 459.381 ~~["Regulated facility"]~~ **"Facility"** means a building,
35 equipment and contiguous area where:

- 36 1. Highly hazardous substances are produced, used, stored or
37 handled; or
- 38 2. Explosives are manufactured for sale.

39 **Sec. 5.** NRS 459.3813 is hereby amended to read as follows:

40 459.3813 1. Except as otherwise provided in this section and
41 NRS 459.3814, the provisions of NRS 459.380 to 459.3874,
42 inclusive, **and section 1 of this act and any regulations adopted**
43 **pursuant thereto**, apply to a ~~[regulated facility that:~~
44 ~~—(a) Produces, uses, stores or handles]~~ **facility:**



1 (a) *That is constructing or operating a process which involves*
2 a highly hazardous substance in a quantity:
3 (1) Equal to or greater than the amount ~~[set forth in]~~
4 *designated pursuant to* NRS 459.3816; or
5 (2) Less than the amount ~~[set forth in]~~ *designated pursuant*
6 *to* NRS 459.3816 if there are two or more releases from the
7 ~~[regulated]~~ facility of the same or different highly hazardous
8 substances during any 12-month period and:
9 (I) The release of the highly hazardous substances is
10 reportable pursuant to 40 C.F.R. Part 302; or
11 (II) Each quantity released is equal to or greater than a
12 maximum quantity allowable as established by regulation of the
13 State Environmental Commission; or
14 (b) ~~[Manufactures]~~ *Where* explosives *are manufactured* for
15 sale.
16 2. *The owner or operator of a facility that is constructing or*
17 *operating a process described in subsection 1 shall ensure that*
18 *each process constructed or operated by the facility complies with*
19 *the provisions of NRS 459.380 to 459.3874, inclusive, and section*
20 *1 of this act and any regulations adopted pursuant thereto.*
21 3. A ~~[regulated]~~ facility described in subparagraph (2) of
22 paragraph (a) of subsection 1 is exempt from ~~[complying with]~~ the
23 provisions of NRS 459.380 to 459.3874, inclusive, *and section 1 of*
24 *this act and any regulations adopted pursuant thereto* if:
25 (a) The Division determines that the ~~[regulated facility has:~~
26 ~~— (1) Carried out the detailed plan to abate hazards~~
27 ~~recommended pursuant to subsection 3 of NRS 459.3852; and~~
28 ~~— (2) Complied]~~ *owner or operator of the facility has*
29 *complied* with such ~~[other]~~ provisions of NRS 459.380 to 459.3874,
30 inclusive, *and section 1 of this act* and the regulations adopted
31 pursuant thereto, as the Division requires; and
32 (b) The ~~[regulated]~~ *owner or operator of the* facility obtains an
33 exemption from the State Environmental Commission. The State
34 Environmental Commission shall adopt by regulation the procedures
35 for obtaining such an exemption.
36 ~~[3-]~~ 4. As used in this section ~~[, “highly”]~~ :
37 (a) *“Explosive”* means any ~~[substance]~~ *material* designated as
38 ~~[such in NRS 459.3816 or any regulations adopted pursuant~~
39 ~~thereto.]~~ *subject to regulation as an explosive pursuant to NRS*
40 *459.3816.*
41 (b) *“Highly hazardous substance”* *means a substance*
42 *designated as highly hazardous pursuant to NRS 459.3816.*
43 **Sec. 6.** NRS 459.3814 is hereby amended to read as follows:
44 459.3814 The provisions of NRS 459.380 to 459.3874,
45 inclusive, *and section 1 of this act* do not apply to:



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

4 2. Any final use of anhydrous ammonia for an agricultural
5 purpose, including storage of the substance on the premises of a
6 farm.

7 3. Activities which are regulated pursuant to both 30 U.S.C. §§
8 801 et seq. and 42 U.S.C. § 7412(r).

9 **Sec. 7.** NRS 459.3816 is hereby amended to read as follows:

10 459.3816 1. ~~[The following substances are designated as~~
11 ~~highly hazardous, if present in the quantity designated after each~~
12 ~~substance or a greater quantity:~~

Chemical Name of Substance	Number Assigned by Chemical Abstract Service	Quantity (In pounds)
Acetaldehyde	75 07 0	2500
Aerolein (2 Propenal)	107 02 8	150
Acrylyl Chloride	814 68 6	250
Allyl Chloride	107 05 1	1000
Allylamine	107 11 9	1000
Alkylaluminums	None	5000
Ammonia, Anhydrous	7664 41 7	5000
Ammonia solutions (concentration greater than 44% ammonia by weight)	7664 41 7	10000
Ammonium Perchlorate	7790 98 9	7500
Ammonium Permanganate	7787 36 2	7500
Arsine (also called Arsenic Hydride)	7784 42 1	100
Bis (Chloromethyl) Ether	542 88 1	100
Boron Trichloride	10294 34 5	2500
Boron Trifluoride	7637 07 2	250
Bromine	7726 95 6	1500
Bromine Chloride	13863 41 7	1500
Bromine Pentafluoride	7789 30 2	2500
Bromine Trifluoride	7787 71 5	15000
3-Bromopropyne (also called Propargyl Bromide)	106 96 7	100
Butyl Hydroperoxide (Tertiary)	75 91 2	5000
Butyl Perbenzoate (Tertiary)	614 45 9	7500
Carbonyl Chloride (see Phosgene)	75 44 5	100
Carbonyl Fluoride	353 50 4	2500
Cellulose Nitrate (concentration greater than 12.6% Nitrogen)	9004 70 0	2500



1	Chlorine	7782 50 5	1500
2	Chlorine Dioxide	10049 04 4	1000
3	Chlorine Pentafluoride	13637 63 3	1000
4	Chlorine Trifluoride	7790 91 2	1000
5	Chlorodiethylaluminum (also		
6	called Diethylaluminum Chloride)	96 10 6	5000
7	1-Chloro 2,4 Dinitrobenzene	97 00 7	5000
8	Chloromethyl Methyl Ether	107 30 2	500
9	Chloropicrin	76 06 2	500
10	Chloropicrin and Methyl Bromide		
11	mixture	None	1500
12	Chloropicrin and Methyl Chloride		
13	mixture	None	1500
14	Cumene Hydroperoxide	80 15 9	5000
15	Cyanogen	460 19 5	2500
16	Cyanogen Chloride	506 77 4	500
17	Cyanuric Fluoride	675 14 9	100
18	Diacetyl Peroxide (concentration		
19	greater than 70%)	110 22 5	5000
20	Diazomethane	334 88 3	500
21	Dibenzoyl Peroxide	94 36 0	7500
22	Diborane	19287 45 7	100
23	Dibutyl Peroxide (Tertiary)	110 05 4	5000
24	Dichloro Acetylene	7572 29 4	250
25	Dichlorosilane	4109 96 0	2500
26	Diethylzinc	557 20 0	10000
27	Diisopropyl Peroxydicarbonate	105 64 6	7500
28	Dilauroyl Peroxide	105 74 8	7500
29	Dimethyl Sulfide	75 18 3	100
30	Dimethyldichlorosilane	75 78 5	1000
31	Dimethylhydrazine, 1.1	57 14 7	1000
32	Dimethylamine, Anhydrous	124 40 3	2500
33	2, 4 Dinitroaniline	97 02 9	5000
34	Ethyl Methyl Ketone Peroxide		
35	(also Methyl Ethyl Ketone		
36	Peroxide; concentration greater		
37	than 60%)	1338 23 4	5000
38	Ethyl Nitrite	109 95 5	5000
39	Ethylamine	75 04 7	7500
40	Ethylene Fluorohydrin	371 62 0	100
41	Ethylene Oxide	75 21 8	5000
42	Ethyleneimine	151 56 4	1000
43	Fluorine	7782 41 4	100
44	Formaldehyde (concentration 37%		
45	or greater byweight)	50 00 0	1000



1	Furan.....	110 00 9	500
2	Hexafluoroacetone.....	684 16 2	5000
3	Hydrochloric Acid, Anhydrous.....	7647 01 0	5000
4	Hydrofluoric Acid, Anhydrous.....	7664 39 3	1000
5	Hydrogen Bromide.....	10035 10 6	5000
6	Hydrogen Chloride.....	7647 01 0	5000
7	Hydrogen Cyanide, Anhydrous.....	74 90 8	1000
8	Hydrogen Fluoride.....	7664 39 3	1000
9	Hydrogen Peroxide (concentration		
10	52% greater by weight).....	7722 84 1	7500
11	Hydrogen Selenide.....	7783 07 5	150
12	Hydrogen Sulfide.....	7783 06 4	1500
13	Hydroxylamine.....	7803 49 8	2500
14	Iron, Pentacarbonyl.....	13463 40 6	250
15	Isopropyl Formate.....	625 55 8	500
16	Isopropylamine.....	75 31 0	5000
17	Ketene.....	463 51 4	100
18	Methacrylaldehyde.....	78 85 3	1000
19	Methacryloyl Chloride.....	920 46 7	150
20	Methacryloyloxyethyl Isocyanate.....	30674 80 7	100
21	Methyl Acrylonitrile.....	126 98 7	250
22	Methylamine, Anhydrous.....	74 89 5	1000
23	Methyl Bromide.....	74 83 9	2500
24	Methyl Chloride.....	74 87 3	15000
25	Methyl Chloroformate.....	79 22 1	500
26	Methyl Disulfide.....	624 92 0	100
27	Methyl Ethyl Ketone Peroxide		
28	(also Ethyl Methyl Ketone		
29	Peroxide; concentration greater		
30	than 60%).....	1338 23 4	5000
31	Methyl Fluoroacetate.....	453 18 9	100
32	Methyl Fluorosulfate.....	421 20 5	100
33	Methyl Hydrazine.....	60 34 4	100
34	Methyl Iodide.....	74 88 4	7500
35	Methyl Isocyanate.....	624 83 9	250
36	Methyl Mercaptan.....	74 93 1	5000
37	Methyl Vinyl Ketone.....	78 94 4	100
38	Methyltrichlorosilane.....	75 79 6	500
39	Nickel Carbonyl (Nickel		
40	Tetracarbonyl).....	13463 39 3	150
41	Nitric Acid (concentration 94.5%		
42	or greater by weight).....	7697 37 2	500
43	Nitric Oxide.....	10102 43 9	250
44	Nitroaniline (para Nitroaniline).....	100 01 6	5000
45	Nitromethane.....	75 52 5	2500



1	Nitrogen Dioxide	10102 44 0	250
2	Nitrogen Oxides (NO; NO₂; N₂O₄;		
3	N₂O₃)	10102 44 0	250
4	Nitrogen Tetroxide (also called		
5	Nitrogen Peroxide)	10544 72 6	250
6	Nitrogen Trifluoride	7783 54 2	5000
7	Nitrogen Trioxide	10544 73 7	250
8	Oleum (65% or greater by weight		
9	of sulfur trioxide; also called		
10	Fuming Sulfuric Acid)	8014 95 7	1000
11	Osmium Tetroxide	20816 12 0	100
12	Oxygen Difluoride (Fluorine		
13	Monoxide)	7783 41 7	100
14	Ozone	10028 15 6	100
15	Pentaborane	19624 22 7	100
16	Peracetic Acid (concentration		
17	greater than 60 Acetic Acid;		
18	also called Peroxyacetic Acid)	79 21 0	1000
19	Perchloric Acid (concentration		
20	greater than 60% by weight)	7601 90 3	5000
21	Perchloromethyl Mercaptan	594 42 3	150
22	Perchloryl Fluoride	7616 94 6	5000
23	Peroxyacetic Acid (concentration		
24	greater than 60% Acetic Acid;		
25	also called Peracetic Acid)	79 21 0	1000
26	Phosgene (also called Carbonyl		
27	Chloride)	75 44 5	100
28	Phosphine (Hydrogen Phosphide)	7803 51 2	100
29	Phosphorus Oxychloride (also		
30	called Phosphoryl Chloride)	10025 87 3	1000
31	Phosphorus Trichloride	7719 12 2	1000
32	Phosphoryl Chloride (also called		
33	Phosphorus Oxychloride)	10025 87 3	1000
34	Propargyl Bromide (also called 3		
35	Bromopropyne)	106 96 7	100
36	Propyl Nitrate	627 13 4	100
37	Sarin	107 44 8	100
38	Selenium Hexafluoride	7783 79 1	1000
39	Stibine (Antimony Hydride)	7803 52 3	500
40	Sulfur Dioxide (liquid)	7446 09 5	1000
41	Sulfur Pentafluoride	5714 22 7	250
42	Sulfur Tetrafluoride	7783 60 0	250
43	Sulfur Trioxide (also called		
44	Sulfuric Anhydride)	7446 11 9	1000



1	Sulfuric Anhydride (also called		
2	Sulfur Trioxide).....	7446 11 9	1000
3	Tellurium Hexafluoride	7783 80 4	250
4	Tetrafluoroethylene	116 14 3	5000
5	Tetrafluorohydrazine	10036 47 2	5000
6	Tetramethyl Lead.....	75 74 1	1000
7	Thionyl Chloride.....	7719 09 7	250
8	Titanium Tetrachloride	7550 45 0	2500
9	Trichloro (chloromethyl) Silane	1558 25 4	100
10	Trichloro (dichlorophenyl) Silane	27137 85 5	2500
11	Trichlorosilane	10025 78 2	5000
12	Trifluorochloroethylene.....	79 38 9	10000
13	Trimethoxysilane	2487 90 3	1500

14
15 ~~—2. The division, in consultation with the health districts created~~
16 ~~pursuant to NRS 439.370, the health division of the department of~~
17 ~~human resources and the division of industrial relations of the~~
18 ~~department of business and industry, shall regularly examine the~~
19 ~~sources of information available to it with regard to potentially~~
20 ~~highly hazardous substances. The division shall, by regulation, add~~
21 ~~to the list of highly hazardous substances any chemical that is~~
22 ~~identified as being used, manufactured, stored, or capable of being~~
23 ~~produced, at a facility, in sufficient quantities at a single site, that its~~
24 ~~release into the environment would produce a significant likelihood~~
25 ~~that persons exposed would suffer death or substantial bodily harm~~
26 ~~as a consequence of the exposure.] *The State Environmental*~~
27 ~~*Commission shall adopt regulations:*~~

28 ~~(a) Designating a list of highly hazardous substances,~~
29 ~~including, without limitation, any chemical, the release of which~~
30 ~~into the environment or the involvement of which in a fire or~~
31 ~~explosion would produce a significant likelihood that persons~~
32 ~~exposed would suffer death or substantial bodily harm as a~~
33 ~~consequence of the exposure; and~~

34 ~~(b) Designating for each such substance a quantity which~~
35 ~~requires the regulation of that substance pursuant to NRS 459.380~~
36 ~~to 459.3874, inclusive, and section 1 of this act and any~~
37 ~~regulations adopted pursuant thereto.~~

38 ~~2. The Division shall regularly examine sources of~~
39 ~~information available to it, including, without limitation, studies,~~
40 ~~guidelines and regulations of the Federal Government and the~~
41 ~~provisions set forth in 29 U.S.C. § 655 and 42 U.S.C. § 7412(r),~~
42 ~~and may propose that the State Environmental Commission add or~~
43 ~~delete a substance or otherwise amend the list of substances and~~
44 ~~quantities adopted pursuant to subsection 1.~~



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

6 4. *The Division shall regularly examine sources of*
7 *information available to it, including, without limitation, studies,*
8 *guidelines and regulations of the Federal Government and the*
9 *provisions set forth in 18 U.S.C. §§ 841, et seq., and shall consult*
10 *with the Division of Industrial Relations of the Department of*
11 *Business and Industry to determine materials that should be*
12 *regulated as explosives. The Division may propose that the State*
13 *Environmental Commission add or delete a material or otherwise*
14 *amend the list of materials adopted pursuant to subsection 3.*

15 **Sec. 8.** NRS 459.3818 is hereby amended to read as follows:

16 459.3818 1. ~~[The Division]~~ *In addition to the regulations*
17 *required to be adopted pursuant to NRS 459.380 to 459.3874,*
18 *inclusive, and section 1 of this act, the State Environmental*
19 *Commission shall adopt such other regulations as are necessary to*
20 *carry out the purposes and enforce the provisions of NRS 459.380 to*
21 *459.3874, inclusive [], and section 1 of this act. The regulations*
22 *must include, without limitation:*

23 (a) *Specifications for the applicability of the provisions of NRS*
24 *459.380 to 459.3874, inclusive, and section 1 of this act and any*
25 *regulations adopted pursuant thereto;*

26 (b) *The establishment of a program for the prevention of*
27 *accidental releases of chemicals that satisfies the provisions of the*
28 *chemical process safety standard set forth pursuant to 29 U.S.C. §*
29 *655;*

30 (c) *Provisions necessary to enable the Division to administer*
31 *and enforce the provisions of NRS 459.380 to 459.3874, inclusive,*
32 *and section 1 of this act and any regulations adopted pursuant*
33 *thereto;*

34 (d) *Requirements for the registration of a facility with the*
35 *Division; and*

36 (e) *Provisions to ensure that the public is involved in the*
37 *process of evaluating proposed regulatory actions that may affect*
38 *the public.*

39 2. The Division shall ~~[make]~~ :

40 (a) *Administer and enforce the provisions of NRS 459.380 to*
41 *459.3874, inclusive, and section 1 of this act and any regulations*
42 *adopted pursuant thereto; and*

43 (b) *Make every effort to involve advisory councils on hazardous*
44 *materials, where they exist, the governing bodies of local*
45 *governments and other interested persons in explaining actions*



1 taken pursuant to those sections and the regulations adopted
2 pursuant thereto.

3 *3. The State Environmental Commission must apply the*
4 *provisions of NRS 459.380 to 459.3874, inclusive, to dealers of*
5 *liquefied petroleum gas who sell, fill, refill, deliver or are*
6 *permitted to deliver any liquefied petroleum gas in a manner that*
7 *is consistent with 42 U.S.C. § 7412(r)(4)(B).*

8 *4. As used in this section, "liquefied petroleum gas" has the*
9 *meaning ascribed to it in NRS 590.475.*

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

11 459.3819 1. The Division shall enter into cooperative
12 agreements with state and local agencies to provide inspections of
13 ~~regulated~~ facilities where explosives are manufactured, or where
14 an explosive is used, processed, handled, moved on site or stored in
15 relation to its manufacture. The Division shall schedule the
16 inspections in such a manner as to provide an opportunity for
17 participation by:

18 (a) A representative of the fire-fighting agency that exercises
19 jurisdiction over the ~~regulated~~ facility;

20 (b) A representative of the law enforcement agency that
21 exercises jurisdiction over the ~~regulated~~ facility; and

22 (c) Representatives of the Division and any other state agency
23 responsible for minimizing risks to persons and property posed by
24 such ~~regulated~~ facilities.

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

28 3. Any inspection of a ~~regulated~~ facility conducted pursuant
29 to this section is in addition to, and not in lieu of, any other
30 inspection of the facility required or authorized by state statute *or*
31 *regulation*, or local ordinance.

32 4. Notwithstanding any provision of this section to the
33 contrary, the provisions of this section do not apply to the mining
34 industry.

35 ~~[5. Except as otherwise provided in subsection 6, as used in~~
36 ~~this section, "explosive" means gunpowders, powders used for~~
37 ~~blasting, all forms of high explosives, blasting materials, fuses other~~
38 ~~than electric circuit breakers, detonators and other detonating~~
39 ~~agents, smokeless powders, other explosive or incendiary devices~~
40 ~~and any chemical compound, mechanical mixture or device that~~
41 ~~contains any oxidizing and combustible units, or other ingredients,~~
42 ~~in such proportions, quantities or packing that ignition by fire,~~
43 ~~friction, concussion, percussion, or detonation of the compound,~~
44 ~~mixture or device or any part thereof may cause an explosion.~~



1 ~~6. For the purposes of this section, an explosive does not~~
 2 ~~include:~~
 3 ~~(a) Ammunition for small arms, or any component thereof;~~
 4 ~~(b) Black powder commercially manufactured in quantities that~~
 5 ~~do not exceed 50 pounds, percussion caps, safety and pyrotechnic~~
 6 ~~fuses, quills, quick and slow matches, and friction primers that are~~
 7 ~~intended to be used solely for sporting, recreation or cultural~~
 8 ~~purposes:~~
 9 ~~(1) In an antique firearm, as that term is defined in 18 U.S.C.~~
 10 ~~§ 921(a)(16), as that section existed on January 1, 1999; or~~
 11 ~~(2) In an antique device which is exempted from the~~
 12 ~~definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4),~~
 13 ~~as that section existed on January 1, 1999; or~~
 14 ~~(c) Any explosive that is manufactured under the regulation of a~~
 15 ~~military department of the United States, or that is distributed to, or~~
 16 ~~possessed or stored by, the military or naval service or any other~~
 17 ~~agency of the United States, or an arsenal, a navy yard, a depot or~~
 18 ~~any other establishment owned by or operated on behalf of the~~
 19 ~~United States.]~~

20 **Sec. 10.** NRS 459.382 is hereby amended to read as follows:
 21 459.382 1. The Health Division of the Department of Human
 22 Resources, the Division of Industrial Relations of the Department of
 23 Business and Industry and any other governmental entity or agency
 24 of the State responsible for minimizing risks to persons and property
 25 posed by ~~[regulated]~~ facilities and hazardous substances shall
 26 submit to the Division *of Environmental Protection* such reports as
 27 the Division deems necessary to carry out the provisions of NRS
 28 459.380 to 459.3874, inclusive ~~[]~~, *and section 1 of this act and*
 29 *any regulations adopted pursuant thereto.* The reports must be
 30 submitted at such times and contain such information as required by
 31 the Division.
 32 2. The ~~[Division]~~ *State Environmental Commission* shall
 33 adopt by regulation common reporting forms to be used by such
 34 governmental entities and agencies when reporting information
 35 related to hazardous substances and ~~[regulated]~~ facilities.
 36 3. The Division shall review the rules, regulations, standards,
 37 codes and safety orders of other governmental entities and agencies
 38 of the State responsible for minimizing risks to persons and property
 39 posed by ~~[regulated]~~ facilities and hazardous substances to ensure
 40 that they are sufficient to carry out the provisions of NRS 459.380 to
 41 459.3874, inclusive ~~[]~~, *and section 1 of this act and any*
 42 *regulations adopted pursuant thereto.*
 43 4. If the Division and any other governmental entity or agency
 44 of the State have coexisting jurisdiction over the regulation of
 45 ~~[regulated]~~ facilities or hazardous substances located at such



1 facilities, the Division has the final authority to take such actions as
2 are necessary to carry out the provisions of NRS 459.380 to
3 459.3874, inclusive ~~[]~~, and *section 1 of this act and any*
4 *regulations adopted pursuant thereto.*

5 **Sec. 11.** NRS 459.3822 is hereby amended to read as follows:

6 459.3822 1. ~~[Any]~~ *The owner or operator of a facility shall,*
7 *upon request, submit any records, reports or other information to*
8 *the Division that the Division deems necessary to administer and*
9 *enforce the provisions of NRS 459.380 to 459.3874, inclusive, and*
10 *section 1 of this act and any regulations adopted pursuant thereto.*

11 2. *Except as otherwise provided in this section, any records,*
12 *reports or other information obtained pursuant to NRS 459.380 to*
13 *459.3874, inclusive, and section 1 of this act or any regulation*
14 *adopted pursuant thereto must be made available to the public for*
15 *inspection and copying. ~~If protection of a trade secret pursuant to~~*
16 *~~NRS 459.3846 requires a deletion, the deletion must be limited to~~*
17 *~~that information essential for compliance. In the event of deletion,~~*
18 *~~the Division shall substitute language generally describing what was~~*
19 *~~deleted, without revealing the trade secret, so that the information~~*
20 *~~contained in the record or report is comprehensible.~~*

21 ~~—2.]~~ 3. *The Division shall protect the confidentiality of any*
22 *information obtained by the Division, including, without*
23 *limitation, any information obtained through an observation made*
24 *by the Division during a visit to a facility if:*

25 (a) *The owner or operator of the facility from which the*
26 *information was obtained or which was visited requests such*
27 *protection; and*

28 (b) *The information satisfies the conditions for protection as a*
29 *trade secret pursuant to subsection 4.*

30 4. *Information is entitled to protection as a trade secret under*
31 *this section only if:*

32 (a) *The information has not been disclosed to any other*
33 *person, other than a member of a local emergency planning*
34 *committee, an officer or employee of the United States or a state or*
35 *local government, an employee of such a person, or a person who*
36 *is bound by an agreement of confidentiality, and the owner or*
37 *operator of the facility has taken reasonable measures to protect*
38 *the confidentiality of the information and intends to continue to*
39 *take such measures;*

40 (b) *The information is not required to be disclosed, or*
41 *otherwise made available, to the public under any other federal or*
42 *state law;*

43 (c) *Disclosure of the information is likely to cause substantial*
44 *harm to the competitive position of the owner or operator of the*
45 *facility; and*



1 *(d) The chemical identity of a substance, if that is the*
2 *information, is not readily discoverable through analysis of the*
3 *product containing it or scientific knowledge of how such a*
4 *product must be made.*

5 *5. The State Environmental Commission shall adopt*
6 *regulations for the protection of the confidentiality of information*
7 *entitled to protection as a trade secret pursuant to this section.*

8 *6. The person requesting the copy or copies of the public*
9 *records, shall tender or pay to the Division such fee as may be*
10 *prescribed for the service of copying.*

11 **Sec. 12.** NRS 459.3824 is hereby amended to read as follows:

12 459.3824 1. The owner *or operator* of a ~~regulated~~ facility
13 shall pay to the Division an annual fee based on the fiscal year. The
14 annual fee for each facility is the sum of a base fee set by the State
15 Environmental Commission and any additional fee imposed by the
16 Commission pursuant to subsection 2. The annual fee must be
17 prorated and may not be refunded.

18 2. The State Environmental Commission may impose an
19 additional fee upon the owner *or operator* of a ~~regulated~~ facility in
20 an amount determined by the Commission to be necessary to enable
21 the Division to carry out its duties pursuant to NRS 459.380 to
22 459.3874, inclusive ~~[-]~~, *and section 1 of this act and any*
23 *regulations adopted pursuant thereto.* The additional fee must be
24 based on a graduated schedule adopted by the Commission which
25 takes into consideration the quantity of hazardous substances
26 located at each facility.

27 3. After the payment of the initial annual fee, the Division shall
28 send the owner *or operator* of a ~~regulated~~ facility a bill in July for
29 the annual fee for the fiscal year then beginning which is based on
30 the applicable reports for the preceding year.

31 4. *The State Environmental Commission may modify the*
32 *amount of the annual fee required pursuant to this section and the*
33 *timing for payment of the annual fee:*

34 *(a) To include consideration of any fee paid to the Division for*
35 *a permit to construct a new process or commence operation of a*
36 *new process pursuant to NRS 459.3829; and*

37 *(b) If any regulations adopted pursuant to NRS 459.380 to*
38 *459.3874, inclusive, and section 1 of this act require such a*
39 *modification.*

40 5. The owner *or operator* of a ~~regulated~~ facility shall submit,
41 with any payment required by this section, the number assigned by
42 the Department of Taxation, for the imposition and collection of
43 taxes pursuant to chapter 364A of NRS, to the business for which
44 the payment is made.



1 ~~[5.]~~ 6. All fees ~~[collected pursuant to this section and]~~ fines,
 2 penalties *and other money* collected pursuant to NRS ~~[459.3833,~~
 3 ~~459.3834 and 459.3874, and any interest earned thereon.]~~ *459.380*
 4 *to 459.3874, inclusive, and section 1 of this act and any*
 5 *regulations adopted pursuant thereto, other than a fine collected*
 6 *pursuant to subsection 3 of NRS 459.3834,* must be deposited with
 7 the State Treasurer for credit to the Fund for Precaution Against
 8 Chemical Accidents, which is hereby created as a special revenue
 9 fund. *All interest earned on the money in the Fund must be*
 10 *credited to the Fund.*

11 **Sec. 13.** NRS 459.3829 is hereby amended to read as follows:
 12 459.3829 1. No owner or operator of a ~~[regulated]~~ facility
 13 may commence construction or operation of any new process *that*
 14 *will be* subject to regulation pursuant to NRS 459.380 to 459.3874,
 15 inclusive, *and section 1 of this act or any regulation adopted*
 16 *pursuant thereto,* unless he first obtains all appropriate permits
 17 from the Division to construct the new process ~~[or]~~ *and* commence
 18 operation of the new process . ~~[, or both.]~~ Before issuing any such
 19 permits, the Division *of Environmental Protection* shall consult
 20 with the Division of Industrial Relations of the Department of
 21 Business and Industry.

22 2. An application for such a permit must be submitted on a
 23 form prescribed by the Division ~~[-~~

24 ~~3. The Division may require the applicant to] of~~
 25 *Environmental Protection.*

26 3. *The State Environmental Commission shall adopt*
 27 *regulations establishing the requirements for the issuance of a*
 28 *permit pursuant to this section. An applicant shall* comply with
 29 requirements that ~~[it]~~ *the State Environmental Commission*
 30 *establishes by regulation for the issuance of a permit* before
 31 ~~[issuing any permits]~~ *the applicant may receive a permit from the*
 32 *Division for the* construction and operation of the process.

33 4. The Division may charge and collect a fee for the issuance
 34 of such a permit. ~~[All fees collected pursuant to this section and any~~
 35 ~~interest earned thereon must be deposited with the State Treasurer~~
 36 ~~for credit to the Fund for Precaution Against Chemical Accidents~~
 37 ~~created pursuant to NRS 459.3824.]~~

38 **Sec. 14.** NRS 459.3832 is hereby amended to read as follows:

39 459.3832 1. ~~[All forms for registration, reports on safety and~~
 40 ~~reports on the assessment of risk through analysis of hazards must~~
 41 ~~contain a certification in one of the following two forms:~~

42 ~~—(a) “I certify under penalty of law that the information provided~~
 43 ~~in this document is true, accurate and complete. I am aware that~~
 44 ~~there are significant civil and criminal penalties for submitting false,~~



1 ~~inaccurate or incomplete information, including fines or~~
2 ~~imprisonment, or both."~~

3 ~~—(b) "I certify under penalty of law that I have personally~~
4 ~~examined and am familiar with the information submitted in this~~
5 ~~document and all attached documents and that based on my inquiry~~
6 ~~of the natural persons immediately responsible for obtaining the~~
7 ~~information, I believe that the submitted information is true,~~
8 ~~accurate and complete. I am aware that there are significant civil~~
9 ~~and criminal penalties for submitting false information, including~~
10 ~~the possibility of fines or imprisonment, or both."~~

11 ~~—2.]~~ *The State Environmental Commission shall adopt*
12 *regulations setting forth:*

13 *(a) The records, reports and information submitted to the*
14 *Division which must contain a certification; and*

15 *(b) The requirements of such certifications.*

16 *2. Each* certification must be signed by the sole proprietor of
17 the facility, the highest ranking corporate officer or partner at the
18 facility, the manager of the facility, or a person designated by any
19 one of those persons to sign the certification.

20 **Sec. 15.** NRS 459.3833 is hereby amended to read as follows:

21 459.3833 1. The State Department of Conservation and
22 Natural Resources may, in accordance with the authority granted to
23 it pursuant to NRS 445B.205, apply for and accept any delegation of
24 authority and any grant of money from the Federal Government for
25 the purpose of establishing and carrying out a program to prevent
26 and minimize the consequences of the accidental release of
27 hazardous substances in accordance with the provisions of 42
28 U.S.C. § 7412(r).

29 2. The State Environmental Commission may ~~[adopt such~~
30 ~~regulations as it determines are]~~ *adopt regulations* necessary to
31 establish and carry out such a program. ~~[The regulations must:~~

32 ~~—(a) Establish a list of hazardous substances and the quantities~~
33 ~~thereof that will be regulated pursuant to the program.~~

34 ~~—(b) Provide that the provisions of NRS 459.3824, 459.3826 and~~
35 ~~459.3828 apply to all facilities regulated pursuant to the program.~~

36 ~~—(c) Provide that a person who violates any such regulation or the~~
37 ~~provisions of NRS 459.3824, 459.3826 or 459.3828 is, in addition~~
38 ~~to any penalty that may apply pursuant to NRS 459.3834, subject to~~
39 ~~a civil administrative penalty not to exceed \$10,000 per day of the~~
40 ~~violation, and that each day on which the violation continues~~
41 ~~constitutes a separate and distinct violation. Any penalty imposed~~
42 ~~pursuant to this paragraph may be recovered with costs in a~~
43 ~~summary proceeding by the Attorney General.~~

44 ~~—3. The Division:~~

45 ~~—(a) Shall carry out and enforce the provisions of the program.~~



1 ~~—(b) May enter into cooperative agreements with other agencies~~
2 ~~of this state for the enforcement of specific provisions of the~~
3 ~~program.~~

4 ~~—4. The Division may compromise and settle any claim for any~~
5 ~~penalty under this section in such amount in the discretion of the~~
6 ~~Division as may appear appropriate and equitable under all of~~
7 ~~the circumstances, including the posting of a performance bond by~~
8 ~~the violator. If a violator is subject to the imposition of more than~~
9 ~~one civil administrative penalty for the same violation, the Division~~
10 ~~shall compromise and settle the claim for the penalty under this~~
11 ~~section in such amount as to avoid the duplication of penalties.~~

12 ~~—5. If a person violates any regulation adopted pursuant to~~
13 ~~subsection 2, or the provisions of NRS 459.3824, 459.3826 or~~
14 ~~459.3828, the Division may institute a civil action in a court of~~
15 ~~competent jurisdiction for injunctive or any other appropriate relief~~
16 ~~to prohibit and prevent the violation and the court may proceed in~~
17 ~~the action in a summary manner.]~~

18 **Sec. 16.** NRS 459.3834 is hereby amended to read as follows:
19 459.3834 1. A person ~~[subject to the regulations adopted by~~
20 ~~the State Environmental Commission pursuant to NRS 459.3833]~~
21 shall not knowingly:

22 (a) Violate any ~~[such regulation or the provisions of NRS~~
23 ~~459.3824, 459.3826 or 459.3828;]~~ *provision of NRS 459.380 to*
24 *459.3874, inclusive, and section 1 of this act or any regulation*
25 *adopted pursuant thereto;*

26 (b) Make any false material statement, representation or
27 certification in any required form, notice or report; or

28 (c) Render inaccurate any required monitoring device or
29 method.

30 2. ~~[A]~~ *Except as otherwise provided in subsection 3, a person*
31 *who violates subsection 1 shall be punished by a fine of not more*
32 *than ~~[\$10,000] \$25,000~~ per day of the violation, and each day on*
33 *which the violation continues constitutes a separate and distinct*
34 *violation.*

35 3. *A person who violates subsection 1 in a manner that*
36 *contributes to the substantial bodily harm or death of any person*
37 *is guilty of a category D felony and shall be punished as provided*
38 *in NRS 193.130, or by a fine of not more than \$50,000 for each*
39 *day of the violation, or by both fine and the punishment provided*
40 *in NRS 193.130.*

41 **Sec. 17.** NRS 459.3866 is hereby amended to read as follows:
42 459.3866 1. After giving reasonable notice to the facility it
43 oversees and after making arrangements to ensure that the normal
44 operations of the facility will not be disrupted, a committee is
45 entitled to receive from the facility such records and documents as



1 the committee demonstrates are required to carry out its duties. The
2 committee is entitled to receive only those records and documents
3 which cannot be obtained from the Division.

4 2. A committee is entitled to receive from any governmental
5 entity or agency records, documents and other materials relevant to
6 the committee's review and evaluation of the facility to carry out its
7 duties.

8 3. In carrying out its duties a committee and the Attorney
9 General may, by subpoena, require the attendance and testimony of
10 witnesses and the production of reports, papers, documents and
11 other evidence which they deem necessary. Before obtaining such a
12 subpoena, the committee or the Attorney General shall request the
13 attendance of the witness or the production of the reports, papers,
14 documents or other evidence. If the person to whom the request is
15 made fails or refuses to attend or produce the reports, documents or
16 other evidence, the committee and the Attorney General may obtain
17 the subpoena requiring him to do so.

18 4. In carrying out its duties, a committee may make informal
19 inquiry of persons or entities with knowledge relevant to the
20 committee's review and evaluation of the facility it oversees. Any
21 committee which makes such informal inquiries shall advise the
22 facility of those inquiries and of the results of the inquiries.

23 5. If the owner *or operator* of a facility claims that the
24 disclosure of information to a committee will reveal a trade secret or
25 confidential information, the owner *or operator* must specifically
26 identify such information as confidential. When such an
27 identification has been made, the ~~provisions of NRS 459.3846~~
28 ~~apply.~~ *committee shall protect the confidentiality of the trade*
29 *secret or information if the trade secret or information would be*
30 *entitled to protection pursuant to NRS 459.3822.*

31 6. A committee or its authorized representative may, to carry
32 out its duties, enter and inspect the facility overseen, its records and
33 other relevant materials. Before such an inspection is made, the
34 committee shall provide reasonable notice to the facility. The
35 inspection must be conducted in such a manner as to ensure that the
36 operations of the facility will not be disrupted.

37 7. The Attorney General is counsel and attorney to each
38 committee for the purposes of carrying out its duties and powers.

39 8. The members of a committee may make public comment
40 with regard to their review and evaluation of the facility it oversees.
41 At least 24 hours before making any formal comment, the
42 committee shall advise the facility of its intention to do so and
43 provide the facility with a summary of the comments that will be
44 made.



1 9. A committee may review and make recommendations to the
2 reviewing authority as to any applications for permits to construct,
3 substantially alter or operate submitted by a facility which has been
4 the subject of the committee's review and evaluation.

5 **Sec. 18.** NRS 459.387 is hereby amended to read as follows:

6 459.387 1. The Division may enter any facility:

7 (a) During normal business hours; and

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

12 to verify compliance with the provisions of NRS 459.380 to
13 459.3874, inclusive, *and section 1 of this act, any regulation*
14 *adopted pursuant thereto* and the quality of all work performed
15 pursuant to those sections, except that the owner or operator of a
16 facility need not employ any personnel solely to assure access to the
17 facility by the Division when this access would otherwise be
18 impossible.

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

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

26 ~~—(b) Be so designed as to prevent the destruction or alteration of~~
27 ~~information and data contained in those records.~~

28 ~~—3. Within 30 days after each anniversary of the date on which~~
29 ~~the plan to reduce accidents was first put into effect, the owner or~~
30 ~~operator of a regulated facility shall file an annual report of~~
31 ~~compliance with the Division. This annual report must include a~~
32 ~~report of progress describing in detail all actions taken to comply~~
33 ~~with the schedule of abatement set forth in the plan, including~~
34 ~~itemization of abatements accomplished and steps taken to~~
35 ~~accomplish abatements in accordance with the schedule. The annual~~
36 ~~report of compliance must be signed and certified as a report on~~
37 ~~safety and must be in a form and be accompanied by documentation~~
38 ~~showing compliance in accordance with the regulations of the~~
39 ~~Division.~~

40 ~~—4. Within 30 days after receiving the annual report of~~
41 ~~compliance, the Division shall conduct at the facility a confirmation~~
42 ~~and evaluation of the accuracy of the report and independent~~
43 ~~determination of the status of compliance with the schedule of~~
44 ~~abatement. The Division's findings must be reduced to writing and~~
45 ~~made available to the public within 60 days after the date of filing of~~



1 ~~the report.]~~ *The State Environmental Commission shall adopt*
2 *regulations establishing requirements for:*
3 *(a) The inspection of a facility; and*
4 *(b) The report of a record of inspection.*
5 *3. If the Administrator of the Division finds that any person is*
6 *engaging, is about to engage or has engaged in an act or practice*
7 *that violates any provision of NRS 459.380 to 459.3874, inclusive,*
8 *and section 1 of this act, any regulation adopted pursuant thereto,*
9 *or any term or condition of a permit issued by the Division*
10 *pursuant to NRS 459.380 to 459.3874, inclusive, and section 1 of*
11 *this act, the Administrator may issue an order:*
12 *(a) Specifying the provision, regulation, term or condition that*
13 *is alleged to have been violated or which is about to be violated;*
14 *(b) Setting forth the facts alleged to constitute the violation;*
15 *(c) Prescribing any corrective action that must be taken and a*
16 *reasonable time within which that action must be taken; and*
17 *(d) Requiring the person to whom the order is directed to*
18 *appear before the Administrator or a hearing officer to show*
19 *cause why the Division should not commence an action for*
20 *appropriate relief.*
21 *4. If the Administrator finds that the handling of a highly*
22 *hazardous substance or explosive at a facility presents an*
23 *imminent and substantial threat to human health or the*
24 *environment, the Administrator may, after the Division has*
25 *inspected the site and after the Administrator has had a*
26 *consultation with the owner or operator of the facility and the*
27 *owner or operator fails to correct the threat, issue an order*
28 *requiring the owner or operator of the facility to take necessary*
29 *steps to prevent the act or eliminate the practice that constitutes*
30 *the threat.*
31 **Sec. 19.** NRS 459.3872 is hereby amended to read as follows:
32 459.3872 1. If any person violates any of the provisions of
33 NRS 459.380 to ~~459.386,]~~ *459.3834, inclusive, and section 1 of*
34 *this act,* or 459.387, or any regulation or order adopted or issued
35 pursuant thereto, the Division may institute a civil action in a court
36 of competent jurisdiction for injunctive or any other appropriate
37 relief to prohibit and prevent the violation and the court may
38 proceed in the action in a summary manner.
39 2. Except as otherwise provided in NRS 445C.010 to
40 445C.120, inclusive, a person who violates a provision of NRS
41 459.380 to ~~459.396,]~~ *459.3834, inclusive, and section 1 of this act,*
42 *or 459.387, or any regulation or order adopted pursuant thereto , is*
43 *liable to a civil administrative penalty as set forth in NRS 459.3874.*
44 *If the violation is of a continuing nature, each day during which it*
45 *continues constitutes an additional, separate and distinct offense. No*



1 civil administrative penalty may be levied until after notification to
 2 the violator by certified mail or personal service. The notice must
 3 include a reference to the section of the statute, regulation, order or
 4 condition of a permit violated, a concise statement of the facts
 5 alleged to constitute the violation, a statement of the amount of the
 6 civil penalties to be imposed ~~{}~~ and a statement of the violator's
 7 right to a hearing. The violator has 20 days after receipt of the notice
 8 within which to deliver to the Division a written request for a
 9 hearing. After the hearing if requested, and upon a finding that a
 10 violation has occurred, the Administrator of the Division may issue
 11 a final order ~~{after assessing}~~ *and assess* the amount of the fine .
 12 ~~{specified in the notice.}~~ If no hearing is requested, the notice
 13 becomes a final order upon the expiration of the 20-day period.
 14 Payment of the penalty is due when a final order is issued or when
 15 the notice becomes a final order. The authority to levy a civil
 16 administrative penalty is in addition to all other provisions for
 17 enforcement of NRS 459.380 to 459.387, inclusive, *and section 1 of*
 18 *this act*, and the payment of a civil administrative penalty does not
 19 affect the availability of any other provision for enforcement in
 20 connection with the violation for which the penalty is levied.

21 **Sec. 20.** NRS 459.3874 is hereby amended to read as follows:
 22 459.3874 1. The civil administrative penalties are:

<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
A. Failure to register a new or existing {regulated} facility:.....	\$25,000 plus \$2,000 per day from the due date
B. Failure to pay the fee required pursuant to NRS 459.3824:	75 percent of the fee
C. {Failure to submit a safety report:	\$10,000 plus \$1,000 per day from the due date
D. Failure to conduct an assessment of risk through analysis of hazards pursuant to the conditions set forth in NRS 459.3844:	\$25,000
E. Failure to put into effect plan:	\$50,000



- 1 ~~F.~~ Failure to comply with
- 2 ~~plan to reduce accidents~~
- 3 ~~and schedule of~~
- 4 ~~compliance:..... up to \$5,000~~
- 5 ~~G.~~ Failure to comply with
- 6 ~~approved plan to reduce~~
- 7 ~~accidents, each~~
- 8 ~~requirement:..... up to \$10,000~~
- 9 ~~H.]~~ Failure to provide
- 10 information requested by
- 11 the Division: \$25,000
- 12 ~~[H.]~~ *D.* Failure to grant
- 13 access to employees or
- 14 agents of *the* Division
- 15 for inspections: \$25,000
- 16 ~~[H.]~~ *E.* Failure to provide
- 17 information or grant
- 18 access to employees or
- 19 agents of *the* Division
- 20 during an emergency: \$50,000
- 21 ~~[K.]~~ *F.* Falsification of
- 22 information submitted to
- 23 *the* Division: up to \$10,000 per incident
- 24 ~~[L.]~~ *G.* Failure to obtain a
- 25 permit for the
- 26 construction of a new
- 27 ~~[regulated]~~ facility: \$25,000
- 28 *H. Failure to comply with a*
- 29 *regulation adopted*
- 30 *pursuant to NRS*
- 31 *459.380 to 459.3874,*
- 32 *inclusive, and section 1*
- 33 *of this act, other than a*
- 34 *regulation for which a*
- 35 *civil administrative*
- 36 *penalty is set forth in*
- 37 *category A to G,*
- 38 *inclusive:\$10,000 per incident*
- 39

40 *The civil administrative penalty prescribed in category H may be*
 41 *assessed for each regulatory provision that is violated.* The civil
 42 administrative penalty prescribed in category ~~[L.]~~ *G* may be assessed
 43 against a contractor who is constructing the ~~[regulated]~~ facility only
 44 if the contractor is contractually responsible for obtaining all
 45 appropriate permits for the construction of the ~~[regulated]~~ facility



1 and the contractor knows or has reason to know the planned use of
2 the ~~regulated~~ facility.

3 2. The Division may compromise and settle any claim for any
4 penalty as set forth in this section in such amount in the discretion of
5 the Division as may appear appropriate and equitable under all
6 of the circumstances, including the posting of a performance bond
7 by the violator. If a violator is subject to the imposition of more than
8 one civil administrative penalty for the same violation, the Division
9 shall compromise and settle the claim for the penalty as set forth in
10 this section in such amount as to avoid the duplication of penalties.

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

15 4. Any person who violates any of the provisions of NRS
16 459.380 to ~~459.386,~~ 459.3834, inclusive, *and section 1 of this act,*
17 or 459.387, or any regulation or order adopted or issued pursuant
18 thereto, or an administrative order issued pursuant to subsection 2 of
19 NRS 459.3872 or a court order issued pursuant to subsection 1 of
20 NRS 459.3872, or who fails to pay a civil administrative penalty in
21 full is subject, upon order of the court, to a civil penalty not to
22 exceed \$10,000 per day of the violation, and each day's continuance
23 of the violation constitutes a separate and distinct violation. Any
24 penalty imposed pursuant to this subsection may be recovered with
25 costs in a summary proceeding by the Attorney General.

26 **Sec. 21.** NRS 278.147 is hereby amended to read as follows:

27 278.147 1. No person may commence operation in this state
28 of a facility where an explosive, ~~or~~ a *highly hazardous* substance
29 ~~listed in NRS 459.3816, the regulations adopted pursuant thereto~~
30 *designated pursuant to NRS 459.3816 if present in a quantity*
31 *equal to or greater than the amount designated pursuant to NRS*
32 *459.3816, or a hazardous substance listed in* the regulations
33 adopted pursuant to NRS 459.3833 ~~it~~ will be used, manufactured,
34 processed, transferred or stored without first obtaining a conditional
35 use permit therefor from the governing body of the city or county in
36 which the facility is to be located. Each governing body shall
37 establish by local ordinance, in accordance with the provisions of
38 this section, the procedures for obtaining such a permit.

39 2. An application for a conditional use permit must be filed
40 with the planning commission of the city, county or region in which
41 the facility is to be located. The planning commission shall, within
42 90 days after the filing of an application, hold a public hearing to
43 consider the application. The planning commission shall, at least 30
44 days before the date of the hearing, cause notice of the time, date,
45 place and purpose of the hearing to be:



- 1 (a) Sent by mail ~~to~~ or, if requested by a party to whom notice
2 must be provided pursuant to this paragraph, by electronic means if
3 receipt of such an electronic notice can be verified, to:
- 4 (1) The applicant;
 - 5 (2) Each owner or tenant of real property located within
6 1,000 feet of the property in question;
 - 7 (3) The owner, as listed on the county assessor's records, of
8 each of the 30 separately owned parcels nearest the property in
9 question, to the extent this notice does not duplicate the notice given
10 pursuant to subparagraph (2);
 - 11 (4) If a mobile home park or multiple-unit residence is
12 located within 1,000 feet of the property in question, each tenant of
13 that mobile home park or multiple-unit residence;
 - 14 (5) Any advisory board that has been established for the
15 affected area by the governing body;
 - 16 (6) The Administrator of the Division of Environmental
17 Protection of the State Department of Conservation and Natural
18 Resources;
 - 19 (7) The State Fire Marshal; and
 - 20 (8) The Administrator of the Division of Industrial Relations
21 of the Department of Business and Industry; and
- 22 (b) Published in a newspaper of general circulation within the
23 city or county in which the property in question is located.
- 24 3. The notice required by subsection 2 must:
- 25 (a) Be written in language that is easy to understand; and
 - 26 (b) Include a physical description or map of the property in
27 question and a description of all explosives, and all substances
28 described in subsection 1, that will be located at the facility.
- 29 4. In considering the application, the planning commission
30 shall:
- 31 (a) Consult with:
 - 32 (1) Local emergency planning committees;
 - 33 (2) The Administrator of the Division of Environmental
34 Protection of the State Department of Conservation and Natural
35 Resources;
 - 36 (3) The State Fire Marshal;
 - 37 (4) The Administrator of the Division of Industrial Relations
38 of the Department of Business and Industry; and
 - 39 (5) The governing body of any other city or county that may
40 be affected by the operation of the facility; and
 - 41 (b) Consider fully the effect the facility will have on the health
42 and safety of the residents of the city, county or region.
- 43 5. The planning commission shall, within a reasonable time
44 after the public hearing, submit to the governing body its
45 recommendations for any actions to be taken on the application. If



1 the planning commission recommends that a conditional use permit
2 be granted to the applicant, ~~the~~ *the planning commission* shall
3 include in its recommendations such terms and conditions for the
4 operation of the facility as it deems necessary for the protection of
5 the health and safety of the residents of the city, county or region.

6 6. The governing body shall, within 30 days after the receipt of
7 the recommendations of the planning commission, hold a public
8 hearing to consider the application. The governing body shall:

9 (a) Cause notice of the hearing to be given in the manner
10 prescribed by subsection 2; and

11 (b) Grant or deny the conditional use permit within 30 days after
12 the public hearing.

13 7. Notwithstanding any provision of this section to the
14 contrary, the provisions of this section do not apply to the mining
15 industry.

16 8. ~~[Except as otherwise provided in subsection 9, as]~~ *As* used
17 in this section, "explosive" ~~[means gunpowders, powders used for
18 blasting, all forms of high explosives, blasting materials, fuses other
19 than electric circuit breakers, detonators and other detonating
20 agents, smokeless powders, other explosive or incendiary devices
21 and any chemical compound, mechanical mixture or device that
22 contains any oxidizing or combustible units, or other ingredients, in
23 such proportions, quantities or packing that ignition by fire, friction,
24 concussion, percussion or detonation of the compound, mixture,
25 device or any part thereof may cause an explosion.~~

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

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

29 ~~—(b) Black powder commercially manufactured in quantities that
30 do not exceed 50 pounds, percussion caps, safety and pyrotechnic
31 fuses, quills, quick and slow matches, and friction primers that are
32 intended to be used solely for sporting, recreation or cultural
33 purposes;~~

34 ~~—(1) In an antique firearm, as that term is defined in 18 U.S.C.
35 § 921(a)(16), as that section existed on January 1, 1999; or~~

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

39 ~~—(c) Any explosive that is manufactured under the regulation of a
40 military department of the United States, or that is distributed to, or
41 possessed or stored by, the military or naval service or any other
42 agency of the United States, or an arsenal, a navy yard, a depot or
43 any other establishment owned by or operated on behalf of the
44 United States.] means a material subject to regulation as an
45 explosive pursuant to NRS 459.3816.~~



1 **Sec. 22.** NRS 459.3804, 459.3807, 459.3808, 459.3812,
2 459.3826, 459.3828, 459.383, 459.3836, 459.3837, 459.384,
3 459.3842, 459.3844, 459.3846, 459.3848, 459.385, 459.3852,
4 459.3854, 459.3856, 459.3858 and 459.386 are hereby repealed.

5 **Sec. 23.** Any regulations adopted by the Division of
6 Environmental Protection of the State Department of Conservation
7 and Natural Resources pursuant to a provision of NRS which was
8 amended or repealed by this act remain in force until amended by
9 the State Environmental Commission and such regulations may be
10 enforced by the Division.

11 **Sec. 24.** Notwithstanding the amendatory provisions of section
12 7 of this act, any administrative regulations adopted pursuant to
13 NRS 459.3816 on or before October 1, 2003, remain in effect unless
14 later amended or repealed.

15 **Sec. 25.** 1. This section and section 23 of this act become
16 effective upon passage and approval.

17 2. Sections 1 to 22, inclusive, and 24 of this act become
18 effective upon passage and approval for the purpose of adopting
19 regulations and on October 1, 2003, for all other purposes.

LEADLINES OF REPEALED SECTIONS

459.3804 “Chemical accident” defined.

459.3807 “Explosive” defined.

459.3808 “Hazard” defined.

459.3812 “Risk” defined.

**459.3826 Payment of fees upon opening of new regulated
facility or registration of new highly hazardous substance or
explosive.**

**459.3828 Form for registration; contents of form; time for
filing.**

**459.383 Report on safety; contents of report; current
information required.**

**459.3836 Periodic assessments required; duties of owner or
operator of facility and person conducting assessment.**

**459.3837 Prerequisites to introduction of new highly
hazardous substance or explosive into regulated facility.**

**459.384 Designation of persons capable of performing
assessment; documentation of ability to perform assessment.**

**459.3842 Description of how assessment will be conducted;
qualifications of persons conducting assessment.**



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459.3844 Approval or rejection of persons designated to perform assessment; selection by Division; conditions for conducting assessment.

459.3846 Report of assessment; severable addendum containing trade secrets; report required pursuant to federal law sufficient; conditions for protection as trade secret.

459.3848 Contents of findings of person conducting assessment.

459.385 Contents of conclusions of person conducting assessment.

459.3852 Contents of recommendations of person conducting assessment.

459.3854 Notice of receipt of report of assessment; modifications to plan to abate hazards; effective date of plan.

459.3856 Contents of proposed modifications to plan to abate hazards; dissemination of proposed modifications.

459.3858 Hearing on proposed modifications to plan to abate hazards; notice; record of proceeding.

459.386 Issuance of decision of Division; notice of decision; effective date of plan to reduce accidents; inspection of facility to verify compliance with plan and schedule of abatement.

