

REQUIRES TWO-THIRDS MAJORITY VOTE
(§§ 10, 38, 39, 45, 49 & NRS 459.500,
459.512, 459.537, 459.548, 459.634)

A.B. 40

ASSEMBLY BILL NO. 40—COMMITTEE ON NATURAL RESOURCES

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

PREFILED NOVEMBER 19, 2024

Referred to Committee on Natural Resources

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

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

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

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



Legislative Counsel's Digest:

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

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

12 **Section 11** of this bill provides that, upon the issuance of a notice of
13 noncompliance or a summary order to a person holding a permit for an exploration
14 project or mining operation, the Division has a lien on all real and personal property
15 of the person.

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

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

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

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

28 Existing law provides that if an exploration project or a mining operation are
29 conducted on: (1) land administered by a federal agency, an approved federal plan
30 of operations and surety that are consistent with certain requirements supersedes
31 certain requirements for a permit and bond or other surety; or (2) both public land
32 and privately owned land, compliance with the approved federal plan of operations
33 is sufficient if that plan substantially provides for the reclamation and bond or other
34 surety required by existing law. (NRS 519A.240) **Section 18** of this bill requires the
35 Division to approve: (1) any parts of a federal plan of operations and surety
36 approved by a federal agency for an exploration project or a mining operation
37 conducted on land administered by a federal agency that include the stabilization of
38 process fluids; and (2) a federal plan of operations and surety approved by a federal
39 agency for an exploration project or a mining operation conducted on a site that
40 includes both public and privately owned land.

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

43 Existing law requires the owner or operator of a municipal solid waste landfill
44 to obtain a permit from a solid waste management authority before constructing or
45 operating the municipal solid waste landfill. The permit must be conditioned upon
46 all requirements necessary to ensure compliance with certain federal laws
47 governing solid waste, including financial requirements for the owners and
48 operators of municipal solid waste landfills. (NRS 444.465, 444.556) **Section 28** of
49 this bill revises the definition of the term "municipal solid waste landfill" to
50 exclude a landfill that receives waste from a very small quantity generator. **Section**
51 **23** of this bill defines the term "very small quantity generator."

52 **Section 29** of this bill requires the owner or operator of a solid waste
53 management facility to also obtain a permit from a solid waste management



54 authority. **Sections 30-32** of this bill apply certain other requirements in existing
55 law governing municipal solid waste landfills to solid waste management facilities.

56 **Section 22** of this bill defines the term “solid waste management facility” to
57 mean a facility or location that engages in any activity related to a solid waste
58 management system. **Section 27** of this bill revises the definition of the term
59 “disposal site” to include a solid waste management facility.

60 **Section 24** of this bill requires the State Environmental Commission to adopt
61 regulations prescribing the requirements for an owner or operator of a municipal
62 solid waste landfill or solid waste management facility to demonstrate financial
63 responsibility.

64 **Section 29** also provides that certain requirements for a permit relating to
65 standards of care and financial responsibility may be satisfied by a plan for
66 reclamation under certain circumstances.

67 **Section 25** of this bill provides that, upon the issuance of an order or action
68 taken by a solid waste management authority under existing law, the Division or
69 solid waste management authority has a lien on all real and personal property of the
70 person who is the subject of the order or action.

71 **Section 26** of this bill applies the definitions in existing law and **sections 22**
72 **and 23** governing the collection and disposal of solid waste to the provisions of
73 **sections 22-25**.

74 Existing law establishes provisions governing the disposal of hazardous waste
75 through the generation, collection, storage, transportation, processing, treatment,
76 recovery and disposal of hazardous waste. (NRS 459.400-459.600) **Sections 36,**
77 **38-45 and 47-52** of this bill expand the applicability of these requirements
78 governing hazardous waste to include recycling as a method for the disposal of
79 hazardous waste. **Sections 46 and 53-55** of this bill apply certain existing criminal
80 and civil penalties and disciplinary actions to the recycling of hazardous waste. As
81 a result of the inclusion of recycling, certain existing fees and reimbursements
82 relating to the management of hazardous waste also apply to the recycling of
83 hazardous waste. (NRS 459.500, 459.512, 459.537, 459.548, 459.634)

84 **Section 34** of this bill defines the term “recycling” to mean the process of using
85 hazardous waste to recover materials or produce a usable product.

86 **Section 35** of this bill provides that upon the issuance of an order under certain
87 provisions of existing law, the Department has a lien on all real and personal
88 property of the person who is the subject of the order.

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

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

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

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

- 6 *1. Regulate the size of a desired product;*
- 7 *2. Remove unwanted constituents; and*
- 8 *3. Improve the quality, purity or assay grade of a desired*
9 *product.*



1 **Sec. 3.** *“Discharge” has the meaning ascribed to it*
2 *NRS 445A.345.*

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

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

12 **Sec. 6.** *“Point source” means any discernible, confined and*
13 *discrete conveyance from which pollutants are or may be*
14 *discharged, including, without limitation, any pipe, ditch, channel,*
15 *conduit, well, discrete fissure, container, rolling stock,*
16 *concentrated animal feeding operation, wheeled, track, stationary*
17 *or floating equipment used for earth-moving activities or vessel or*
18 *other floating craft. The term does not include return flows from*
19 *irrigated agriculture.*

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

22 **Sec. 8.** *“Process fluid” means any liquid, including, without*
23 *limitation, meteoric waters, which are intentionally or*
24 *unintentionally introduced into any part of a process component*
25 *for beneficiation.*

26 **Sec. 9.** *“Stabilize” means the condition in which a*
27 *contaminant in a material or process fluid are bound, contained*
28 *or treated so that the contaminant does not exhibit a potential to*
29 *adversely impact human health, public safety or the environment.*

30 **Sec. 10.** *1. If the Division has reasonable cause to believe,*
31 *based on evidence satisfactory to the Division, that a person is*
32 *about to violate the provisions of NRS 519A.010 to 519A.280,*
33 *inclusive, and sections 2 to 11, inclusive, of this act, or a*
34 *regulation adopted or order issued pursuant thereto, or any term*
35 *or condition of a permit issued pursuant to NRS 519A.180 or*
36 *519A.200 pertaining to the stabilization of process fluids, and that*
37 *the violation will pose imminent danger to human health, public*
38 *safety or the environment, the Division may, without prior*
39 *hearing, issue a summary order against the person, which:*

40 *(a) Suspends a permit issued under NRS 519A.180 or*
41 *519A.200;*

42 *(b) Requires the person to ensure all equipment necessary to*
43 *stabilize process fluids remain at the facility; and*

44 *(c) Authorizes the Division to enter the facility and continue*
45 *stabilizing the process fluids at the facility.*



1 2. *The summary order issued pursuant to subsection 1 must*
2 *specify the provision of NRS 519A.010 to 519A.280, inclusive, and*
3 *sections 2 to 11, inclusive, of this act or a regulation adopted or*
4 *order issued pursuant thereto, or the term or condition of a permit*
5 *issued pursuant to NRS 519A.180 or 519A.200 which the Division*
6 *reasonably believes is about to be violated.*

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

10 4. *The Division shall serve a summary order issued pursuant*
11 *to subsection 1 personally or by mail with delivery on the next*
12 *business day to the holder of the permit at his or her address as*
13 *shown on the records of the Division.*

14 5. *Unless otherwise agreed upon by the holder of the permit*
15 *and the Division, the Division shall hold a hearing not later than*
16 *10 business days after issuing the summary order. The Division*
17 *shall issue a decision not later than 5 business days after the*
18 *hearing.*

19 6. *The Division shall not reinstate the permit until any costs*
20 *of the Division for the management of the process fluids while the*
21 *permit is suspended pursuant to subsection 1 are compensated*
22 *from the bond or other surety required pursuant to NRS 519A.190*
23 *or 519A.210, as applicable, or otherwise repaid to the Division.*

24 **Sec. 11. 1.** *Upon the issuance of a notice of noncompliance*
25 *pursuant to NRS 519A.270 or a summary order pursuant to*
26 *section 10 of this act to a holder of a permit under NRS 519A.180*
27 *or 519A.200, the Division has a lien on all real and personal*
28 *property, tangible and intangible, of the holder.*

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

31 (a) *Provide notice of the lien to the holder of the permit by*
32 *certified or registered mail; and*

33 (b) *File notice of the lien:*

34 (1) *If on real property, in the office of the county recorder*
35 *of the county where the real property is located; and*

36 (2) *If on personal property, in the Office of the Secretary of*
37 *State.*

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

40 (a) *The unrecovered costs incurred by the Division for*
41 *performing reclamation; or*

42 (b) *If the property is marketable because of reclamation*
43 *performed by the Division, the difference between the fair market*
44 *value of the property at the time of the disposition of the property*



1 *and the fair market value of the property before reclamation was*
2 *performed by the Division.*

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

9 *(a) Held in trust or as part of a bond in accordance with the*
10 *requirements for a bond or other surety set forth in NRS 519A.190*
11 *or 519A.210; or*

12 *(b) Marketable due to reclamation performed by the Division.*

13 *5. The lien perfected pursuant to subsection 2 continues as a*
14 *lien against the property of the holder of the permit until:*

15 *(a) The notice of noncompliance is resolved or the permit is*
16 *reinstated and the costs of reclamation incurred by the Division*
17 *are repaid; or*

18 *(b) The Division releases the lien.*

19 *6. The Division may recover the lienable amount in an action*
20 *brought in the First Judicial District Court or in the district court*
21 *in the county in which the reclamation costs were incurred.*

22 *7. Nothing in this section shall be construed to limit the right*
23 *of the Division to bring an action to recover any costs and*
24 *damages for which a person is liable under the provisions of this*
25 *chapter.*

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

27 519A.020 As used in this chapter, unless the context otherwise
28 requires, the words and terms defined in NRS 519A.030 to
29 519A.130, inclusive, *and sections 2 to 11, inclusive, of this act*
30 have the meanings ascribed to them in those sections.

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

32 519A.100 "Reclamation" means actions performed during or
33 after an exploration project or mining operation to ~~[shape,]~~:

34 *1. Shape*, stabilize, revegetate or otherwise treat the land in
35 order to return it to a safe, stable condition consistent with the
36 establishment of a productive postmining use of the land and the
37 abandonment of a facility in a manner which ensures the public
38 safety, as well as the encouragement of techniques which minimize
39 the adverse visual effects ~~[]~~; *or*

40 *2. Stabilize process fluids.*

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

42 519A.130 "Surety" means, but is not limited to, a trust fund,
43 surety bonds that guarantee performance or payment into a trust
44 fund ~~[]~~ *or an account held by or for the benefit of the Division,*
45 letters of credit, insurance, ~~[corporate or other guarantees of~~



1 ~~performance,]~~ or any combination of these or other forms of security
2 approved by the Director of the State Department of Conservation
3 and Natural Resources and used to ensure that reclamation will be
4 completed.

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

6 519A.170 All fees collected by the Division pursuant to this
7 chapter, including, without limitation, the fees for an application for
8 and the issuance of a permit, must be deposited with the State
9 Treasurer for credit to the appropriate account of the Division and
10 must be used in the administration of NRS 519A.010 to 519A.280,
11 inclusive ~~[,]~~, *and sections 2 to 11, inclusive, of this act.* All interest
12 earned on the money credited pursuant to this section must be
13 credited to the account to which the money was credited.

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

15 519A.220 The Division shall develop a checklist to be
16 completed by applicants for a permit to engage in a mining
17 operation. The information requested by the checklist must include:

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

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

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

22 (c) The proposed topography of the land after the mining
23 operation is completed;

24 (d) The treatment of slopes created or affected by the mining
25 operation;

26 (e) The proposed use of impoundments;

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

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

31 (h) The revegetation of the land;

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

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

36 (k) The effect that reclamation will have on future mining in that
37 area; ~~[and]~~

38 (l) The effect of the reclamation on public safety ~~[,]~~; *and*

39 *(m) A manual for the operation and maintenance of the fluid
40 management system.*

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



1 3. Other information as requested by the Administrator which
2 the Administrator determines is pertinent to the reclamation
3 activities of the mining operation.

4 **Sec. 17.** NRS 519A.230 is hereby amended to read as follows:

5 519A.230 1. A plan for reclamation must provide:

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

14 (b) For vegetative cover if appropriate to the future use of the
15 land.

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

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

20 2. The operator may request the Division to grant an exception
21 for open pits and rock faces which may not be feasible to reclaim. If
22 an exception is granted, other than for a pit lake for which public
23 access is provided in a plan for reclamation pursuant to subsection
24 3, the Division shall require the operator to take sufficient measures
25 to ensure public safety.

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

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

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

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

44 4. A protected person with respect to any premises for which
45 public access to a pit lake is provided in a plan for reclamation



1 pursuant to subsection 3 owes no duty to keep the premises,
2 including, without limitation, the access area and the pit lake and its
3 surroundings, safe for entry or use by any other person for
4 participation in any activity, or to give a warning of any hazardous
5 condition, activity or use of the premises to any person entering the
6 premises.

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

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

21 7. Reclamation activities must be economically and
22 technologically practicable in achieving a safe and stable condition
23 suitable for the use of the land.

24 8. As used in this section:

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

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

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

33 (2) Operator of all or any part of the premises, including,
34 without limitation, any entity that has conducted or is conducting a
35 mining operation or any reclamation activity with respect to the
36 premises;

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

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

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

41 519A.240 ~~¶~~ *1. Except as otherwise provided in this*
42 *subsection, if* a mining operation or exploration project is conducted
43 on land administered by a federal agency, ~~an approved~~ *a* federal
44 plan of operations and a surety *approved by the federal agency* that
45 are consistent with the requirements of this chapter supersede the



1 requirements for a permit and bond or other surety otherwise
2 required by this chapter. *If the federal plan of operations and*
3 *surety approved by the federal agency includes the stabilization of*
4 *process fluids, the plan of operations and surety relating to the*
5 *stabilization of process fluids must also be approved by the*
6 *Division.*

7 2. If the mining operation or exploration project is conducted
8 on a site which includes both public land and privately owned land,
9 ~~[compliance with] the [federal]~~ *federally approved* plan ~~[suffices if~~
10 ~~that plan substantially provides for the reclamation]~~ *of operations*
11 *and surety must also be approved by the Division to satisfy the*
12 *requirements for a permit* and bond or other surety required by this
13 chapter.

14 3. Nothing in this section affects the requirement ~~[for]~~ *to*
15 *obtain* a permit set forth in NRS 519A.180 or 519A.200 or the
16 required payment of fees set forth in NRS 519A.160 or 519A.260.

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

18 519A.270 If the Division has reason to believe that an
19 provision of NRS 519A.010 to 519A.280, inclusive, *and sections 2*
20 *to 11, inclusive, of this act*, a plan for reclamation, any condition
21 placed on a plan for reclamation or any regulation adopted by the
22 Commission pursuant to NRS 519A.160, has been violated, the
23 Division shall serve a notice of noncompliance upon the holder of
24 the permit. The notice must:

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

28 2. Specify each violation; and

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

33 **Sec. 20.** NRS 519A.280 is hereby amended to read as follows:

34 519A.280 1. Except as otherwise provided in NRS 445C.010
35 to 445C.120, inclusive, a person who violates any provision of NRS
36 519A.010 to 519A.280, inclusive, *and sections 2 to 11, inclusive, of*
37 *this act*, or any regulation adopted by the Commission pursuant to
38 NRS 519A.160, is guilty of a misdemeanor and, in addition to any
39 criminal penalty, is subject to a civil penalty imposed by the
40 Division at a hearing for which notice has been given, in an amount
41 determined pursuant to the schedule adopted by the Commission
42 pursuant to NRS 519A.160.

43 2. Any money received by the Division pursuant to subsection
44 1 must be deposited with the State Treasurer for credit to the
45 appropriate account of the Division. All interest earned on the



1 money credited pursuant to this section must be credited to the
2 account to which the money was credited.

3 3. In addition to any other remedy provided by this chapter, the
4 Division may compel compliance with any provision of NRS
5 519A.010 to 519A.280, inclusive, *and sections 2 to 11, inclusive, of*
6 *this act*, or of any regulation adopted or permit or order issued
7 pursuant to those sections, by injunction or other appropriate
8 remedy. The Division may institute and maintain in the name of the
9 State of Nevada any such enforcement proceedings.

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

13 **Sec. 22.** *“Solid waste management facility” means a facility*
14 *or location that engages in any activity related to a solid waste*
15 *management system.*

16 **Sec. 23.** *“Very small quantity generator” has the meaning*
17 *ascribed to it in 40 C.F.R. § 260.10.*

18 **Sec. 24. 1.** *The State Environmental Commission shall*
19 *adopt regulations prescribing the requirements for an owner or*
20 *operator of a municipal solid waste landfill or solid waste*
21 *management facility to demonstrate that the owner or operator is*
22 *financially responsible for the municipal solid waste landfill or*
23 *solid waste management facility in accordance with subsection 4*
24 *of NRS 444.556. Such regulations must require the owner or*
25 *operator to provide:*

26 *(a) Evidence that the owner or operator has a policy of liability*
27 *insurance in an amount which the State Department of*
28 *Conservation and Natural Resources has determined is necessary*
29 *for the protection of human health, public safety and the*
30 *environment;*

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

38 *(c) Any other evidence of financial responsibility which the*
39 *State Environmental Commission finds necessary for those*
40 *purposes.*

41 **2.** *Requirements established pursuant to this section may not*
42 *exceed those requirements for financial responsibility established*
43 *pursuant to the Resource Conservation and Recovery Act of 1976,*
44 *42 U.S.C. §§ 6901 et seq.*



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

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

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

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

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

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

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

19 **Sec. 25. 1.** Upon the issuance of an order or other action
20 taken pursuant to NRS 444.592 to a person, owner or operator
21 holding a permit under NRS 444.505, 444.553 or 444.556, the
22 Division of Environmental Protection of the State Department of
23 Conservation and Natural Resources or the solid waste
24 management authority have a lien on all real and personal
25 property, tangible and intangible, of the person who is the subject
26 of the order or action.

27 2. To perfect a lien held pursuant to subsection 1, the
28 Division of Environmental Protection or solid waste management
29 authority shall:

30 (a) Provide notice of the lien to the holder of the permit by
31 certified or registered mail; and

32 (b) File notice of the lien:

33 (1) If on real property, in the office of the county recorder
34 of the county where the real property is located; and

35 (2) If on personal property, in the Office of the Secretary of
36 State.

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

39 (a) The unrecovered costs incurred by the Division of
40 Environmental Protection or solid waste management authority
41 for performing remediation; or

42 (b) If the property is marketable because of remediation
43 performed by the Division of Environmental Protection or solid
44 waste management authority, the difference between the fair
45 market value of the property at the time of the disposition of the



1 *property and the fair market value of the property before*
2 *remediation was performed.*

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

9 (a) *Held in trust or as part of a security or other evidence of*
10 *financial responsibility in accordance with the requirements*
11 *prescribed pursuant to section 24 of this act or the Resource*
12 *Conservation and Recovery Act of 1976, Subtitle D, §§ 42 U.S.C.*
13 *6941 et. seq, and any regulations adopted pursuant thereto; or*

14 (b) *Marketable due to remediation performed by the Division*
15 *of Environmental Protection or solid waste management*
16 *authority.*

17 5. *The lien perfected pursuant to subsection 2 continues as a*
18 *lien against the property of the holder of the permit until:*

19 (a) *The order or other action of the Division of Environmental*
20 *Protection or solid waste management authority is resolved;*

21 (b) *The security or other evidence of financial responsibility is*
22 *forfeited and the proceeds are available to the Division of*
23 *Environmental Protection or solid waste management authority to*
24 *pay the costs of remediation; or*

25 (c) *The Division of Environmental Protection or solid waste*
26 *management authority releases the lien.*

27 6. *The Division of Environmental Protection or solid waste*
28 *management authority may recover the lienable amount in an*
29 *action brought in the First Judicial District Court or in the district*
30 *court in the county in which the remediation costs were incurred.*

31 7. *Nothing in this section shall be construed to limit the right*
32 *of the Division of Environmental Protection or solid waste*
33 *management authority to recover any costs and damages incurred*
34 *by the Division of Environmental Protection or solid waste*
35 *management authority for which the person, owner or operator is*
36 *liable under NRS 444.598.*

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

38 444.450 As used in NRS 444.440 to 444.620, inclusive, *and*
39 *sections 22 to 25, inclusive, of this act*, unless the context otherwise
40 requires, the words and terms defined in NRS 444.460 to 444.501,
41 inclusive, *and sections 22 and 23 of this act* have the meanings
42 ascribed to them in those sections.

43 **Sec. 27.** NRS 444.460 is hereby amended to read as follows:

44 444.460 "Disposal site" means any place at which solid waste
45 is dumped, abandoned or accepted or disposed of by incineration,



1 land filling, composting or any other method. The term includes a
2 municipal solid waste landfill ~~[]~~ *and a solid waste management*
3 *facility.*

4 **Sec. 28.** NRS 444.465 is hereby amended to read as follows:

5 444.465 “Municipal solid waste landfill” has the meaning
6 ascribed to ~~[]~~ *a “municipal solid waste landfill unit”* in ~~[the~~
7 ~~Resource Conservation and Recovery Act of 1976, Subtitle D, 42~~
8 ~~U.S.C. §§ 6941 et seq., and the regulations adopted pursuant~~
9 ~~thereto.]~~ *40 C.F.R. § 258.2, except that the term does not include a*
10 *landfill that receives waste from a very small quantity generator.*

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

12 444.556 1. Before constructing or operating a municipal solid
13 waste landfill ~~[]~~ *or solid waste management facility*, the owner or
14 operator of the *municipal solid waste landfill or solid waste*
15 *management facility, as applicable*, shall obtain a permit issued by
16 the solid waste management authority.

17 2. A permit for the construction or operation of a municipal
18 solid waste landfill *or solid waste management facility* is subject to
19 the general conditions of the Resource Conservation and Recovery
20 Act of 1976, Subtitle D, 42 U.S.C. §§ 6941 et seq., and the
21 regulations adopted pursuant thereto.

22 3. Any documents submitted in connection with an application
23 for a permit, including any modifications requested by the solid
24 waste management authority that require corrective action to the
25 proposed construction or operation, are public records and must be
26 made available for public comment. The final determinations made
27 by the solid waste management authority on an application for a
28 permit are public records.

29 4. ~~[A]~~ *Except as otherwise provided in subsection 5, a permit*
30 *issued by a solid waste management authority must be conditioned*
31 *upon all requirements that are necessary to ensure continuing*
32 *compliance with:*

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

36 (1) General standards for a municipal solid waste landfill ~~[]~~
37 *or solid waste management facility;*

38 (2) Restrictions on the location of such a *municipal solid*
39 *waste landfill [] or solid waste management facility;*

40 (3) Criteria for the operation of such a *municipal solid waste*
41 *landfill [] or solid waste management facility;*

42 (4) Criteria for the design of such a *municipal solid waste*
43 *landfill [] or solid waste management facility;*

44 (5) Requirements for monitoring groundwater and standards
45 for corrective actions related thereto;



1 (6) Standards of care related to the closure of such a
2 *municipal solid waste* landfill ~~or~~ *or solid waste management*
3 *facility*; and

4 (7) Financial *responsibility* requirements for the owners or
5 operators of such *municipal solid waste* landfills ~~or~~ *or solid waste*
6 *management facilities pursuant to section 24 of this act*;

7 (b) The applicable regulations of the State Environmental
8 Commission; and

9 (c) The applicable laws of this State.

10 5. *The requirements of subparagraphs (6) and (7) of*
11 *paragraph (a) of subsection 4, may be satisfied by a plan for*
12 *reclamation that complies with NRS 519A.230 and the provisions*
13 *of the Resource Conservation and Recovery Act of 1976, Subtitle*
14 *D, 42 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant*
15 *thereto which has been approved by the Division of*
16 *Environmental Protection of the State Department of*
17 *Conservation and Natural Resources.*

18 6. A solid waste management authority may:

19 (a) Obtain, and the owner or operator of a municipal waste
20 landfill *or solid waste management facility* shall deliver upon
21 request, any information necessary to determine whether the owner
22 or operator is or has been in compliance with the terms and
23 conditions of the permit, the regulations of the State Environmental
24 Commission, the applicable laws of this State and the provisions of
25 the Resource Conservation and Recovery Act of 1976, Subtitle D,
26 42 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant
27 thereto;

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

31 (c) Enter any site or premises subject to the permit, during
32 normal business hours, on which records relevant to the municipal
33 solid waste landfill *or solid waste management facility* are kept in
34 order to inspect those records.

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

36 444.557 1. A solid waste management authority shall
37 establish a program to monitor the compliance of a municipal solid
38 waste landfill *or solid waste management facility* with the terms
39 and conditions of the permit issued for that *municipal solid waste*
40 landfill ~~or~~ *or solid waste management facility*, the regulations of
41 the State Environmental Commission, the applicable laws of this
42 state and the provisions of the Resource Conservation and Recovery
43 Act of 1976, Subtitle D, 42 U.S.C. §§ 6941 et seq., and the
44 regulations adopted pursuant thereto. The program must include
45 procedures to:



1 (a) Verify the accuracy of any information submitted by the
2 owner or operator of the *municipal solid waste landfill or solid*
3 *waste management facility* to the authority;

4 (b) Verify the adequacy of sampling procedures and analytical
5 methods used by the owner or operator of the *municipal solid waste*
6 landfill ~~or~~ *or solid waste management facility*; and

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

9 2. The solid waste management authority shall receive and give
10 appropriate consideration to any information submitted by members
11 of the public regarding the continuing compliance of an owner or
12 operator with the permit issued by the *solid waste management*
13 authority.

14 3. In the administration of any permit issued by a solid waste
15 management authority, the authority shall establish procedures that
16 permit intervention pursuant to Rule 24 of the Nevada Rules of Civil
17 Procedure. The authority shall not oppose intervention on the
18 ground that the applicant's interest is adequately represented by the
19 *solid waste management* authority.

20 **Sec. 31.** NRS 444.558 is hereby amended to read as follows:

21 444.558 1. The State Environmental Commission and the
22 district board of health of a health district created pursuant to NRS
23 439.362 or 439.370 shall, in a timely manner, adopt all regulations
24 that are necessary to establish and carry out a program of issuing
25 permits for municipal solid waste landfills ~~or~~ *and solid waste*
26 *management facilities*. The program must ensure compliance with
27 the Resource Conservation and Recovery Act of 1976, Subtitle D,
28 42 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant
29 thereto, and carry out the purpose and intent of this section.

30 2. The regulations adopted by a district board of health
31 pursuant to this section must not conflict with regulations adopted
32 by the State Environmental Commission.

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

34 444.559 A municipal solid waste landfill *or a solid waste*
35 *management facility* shall accept a recreational vehicle for disposal
36 if:

37 1. The person disposing of the recreational vehicle pays any
38 applicable fee and provides the title to the recreational vehicle,
39 indicating that he or she is the owner.

40 2. Accepting the recreational vehicle for disposal does not
41 violate any applicable federal or state law or regulation relating to
42 the operation of the municipal solid waste landfill ~~or~~ *or solid waste*
43 *management facility*.



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

3 **Sec. 34.** *“Recycling” means the process of using hazardous*
4 *waste to recover materials or produce a usable product.*

5 **Sec. 35.** 1. *Upon the issuance of an order pursuant to NRS*
6 *459.565 or 459.570, the Department has a lien on all real and*
7 *personal property, tangible and intangible, of the person who is*
8 *the subject of the order.*

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

11 (a) *Provide notice of the lien to the holder of the permit by*
12 *certified or registered mail; and*

13 (b) *File notice of the lien:*

14 (1) *If on real property, in the office of the county recorder*
15 *of the county where the real property is located; and*

16 (2) *If on personal property, in the Office of the Secretary of*
17 *State.*

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

20 (a) *The unrecovered costs incurred by the Department for*
21 *performing remediation; or*

22 (b) *If the property is marketable because of remediation*
23 *performed by the Department, the difference between the fair*
24 *market value of the property at the time of the disposition of the*
25 *property and the fair market value of the property before the*
26 *remediation was performed by the Department.*

27 4. *A security interest or judgment lien that is perfected before*
28 *notice of the lien is filed pursuant to subsection 2 has priority over*
29 *a lien perfected pursuant to this section. A perfected lien held*
30 *pursuant to this section has priority over all other liens and*
31 *encumbrances that have an interest in the property if the property*
32 *is:*

33 (a) *Held in trust or as part of a security or other evidence of*
34 *financial responsibility established pursuant to NRS 459.525; or*

35 (b) *Marketable due to remediation performed by the*
36 *Department.*

37 5. *The lien perfected pursuant to subsection 2 continues as a*
38 *lien against the property of the holder of the permit until:*

39 (a) *The order of the Department is resolved;*

40 (b) *The security or other evidence of financial responsibility is*
41 *forfeited and the proceeds are available to the Department to pay*
42 *the costs of remediation; or*

43 (c) *The Department releases the lien.*



1 **6. The Department may recover the lienable amount in an**
2 **action brought in the First Judicial District Court or in the district**
3 **court in the county in which the remediation costs were incurred.**

4 **7. Nothing in this section shall be construed to limit the right**
5 **of the Department to recover any costs and damages for which a**
6 **person is liable under the provisions of this chapter.**

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

8 459.400 The purposes of NRS 459.400 to 459.600, inclusive,
9 **and sections 34 and 35 of this act** are to:

10 1. Protect human health, public safety and the environment
11 from the effects of improper, inadequate or unsound management of
12 hazardous waste;

13 2. Establish a program for regulation of the storage, generation,
14 transportation, treatment and disposal **or recycling** of hazardous
15 waste; and

16 3. Ensure safe and adequate management of hazardous waste.

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

18 459.405 As used in NRS 459.400 to 459.600, inclusive, **and**
19 **sections 34 and 35 of this act**, unless the context otherwise requires,
20 the words and terms defined in NRS 459.410 to 459.455, inclusive,
21 **and section 34 of this act** have the meanings ascribed to them in
22 those sections.

23 **Sec. 38.** NRS 459.430 is hereby amended to read as follows:

24 459.430 "Hazardous waste" means any waste or combination
25 of wastes, including, without limitation, solids, semisolids, liquids
26 or contained gases, except household waste, which:

27 1. Because of its quantity or concentration or its physical,
28 chemical or infectious characteristics may:

29 (a) Cause or significantly contribute to an increase in mortality
30 or serious irreversible or incapacitating illness; or

31 (b) Pose a substantial hazard or potential hazard to human
32 health, public safety or the environment when it is given improper
33 treatment, storage, transportation, disposal, **recycling** or other
34 management.

35 2. Is identified as hazardous by the Department as a result of
36 studies undertaken for the purpose of identifying hazardous wastes.

37 ➤ The term includes, among other wastes, toxins, corrosives,
38 flammable materials, irritants, strong sensitizers and materials which
39 generate pressure by decomposition, heat or otherwise.

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

41 459.435 "Management of hazardous waste" means the
42 systematic control of the generation, collection, storage,
43 transportation, processing, treatment, recovery and disposal **or**
44 **recycling** of hazardous waste.



1 **Sec. 40.** NRS 459.440 is hereby amended to read as follows:
2 459.440 “Manifest” means a document used to identify
3 hazardous waste during its transportation from between any two of
4 the points of generation, storage, treatment and disposal ~~[]~~ **or**
5 **recycling**, and specifying the quantity, composition, origin, route
6 and destination of the waste.

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

14 **Sec. 42.** NRS 459.475 is hereby amended to read as follows:
15 459.475 The Department shall:

16 1. Except as otherwise provided in NRS 459.480, enforce the
17 Commission’s regulations on hazardous waste;

18 2. Develop and publish a plan of management of hazardous
19 waste in this State, including among other things, descriptions of:

20 (a) Sources of hazardous waste, including information on the
21 types and quantities of the waste;

22 (b) Current practices and costs in the management of hazardous
23 waste, including treatment, storage and disposal ~~[]~~ **or recycling**;
24 and

25 (c) The hazards associated with the use by a consumer of a
26 commercial product in a manner contrary to the directions for use,
27 cautions or warnings appearing on the label of the product, if the
28 Department determines that such a description is necessary; and

29 3. Cooperate with other states to bring about improved
30 management of hazardous waste, encourage the enactment of
31 uniform state laws relating to hazardous waste, and develop
32 compacts between this and other states which are designed to
33 provide for improved management of hazardous waste.

34 **Sec. 43.** NRS 459.485 is hereby amended to read as follows:
35 459.485 The Commission shall:

36 1. Adopt regulations ~~[governing systems of hazardous waste~~
37 ~~management,]~~ **to carry out the provisions of NRS 459.400 to**
38 **459.600, inclusive, and sections 34 and 35 of this act**, including the
39 plan for management of hazardous waste in the entire State; and

40 2. Through the Department:

41 (a) Advise, consult and cooperate with other agencies of the
42 State, other states, the Federal Government, municipalities and other
43 persons on matters relating to formulation of plans for managing
44 hazardous waste.



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

3 (c) Develop a program to encourage the minimization of
4 hazardous waste and the recycling or reuse of hazardous waste by
5 persons who generate hazardous waste within Nevada. The program
6 may include grants or other financial incentives.

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

8 459.490 Regulations adopted by the Commission pursuant to
9 NRS 459.485 must be based upon studies, guidelines and
10 regulations of the Federal Government and must:

11 1. Set out mechanisms for determining whether any waste is
12 hazardous;

13 2. Govern combinations of wastes which are not compatible
14 and may not be stored, treated , ~~for~~ disposed of *or recycled*
15 together;

16 3. Govern generation, storage, treatment and disposal *or*
17 *recycling* of hazardous waste;

18 4. Govern operation and maintenance of facilities for the
19 treatment, storage and disposal *or recycling* of hazardous waste,
20 including the qualifications and requirements for ownership,
21 continuity of operation, closure and care after closing;

22 5. Provide standards for location, design and construction of
23 facilities for treatment, storage and disposal *or recycling* of
24 hazardous waste;

25 6. Except as otherwise provided in NRS 459.700 to 459.780,
26 inclusive, govern the transportation, packing and labeling of
27 hazardous waste in a manner consistent with regulations issued by
28 the United States Department of Transportation relating to
29 hazardous waste;

30 7. Provide procedures and requirements for the use of a
31 manifest for each shipment of hazardous waste. The procedures and
32 requirements must be applied equally to those persons who transport
33 hazardous waste generated by others and those who transport
34 hazardous waste which they have generated themselves; and

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

37 **Sec. 45.** NRS 459.500 is hereby amended to read as follows:

38 459.500 1. Except as otherwise provided in NRS 459.700 to
39 459.780, inclusive, or 459.800 to 459.856, inclusive:

40 (a) Regulations of the Commission must provide:

41 (1) For safety in the packaging, handling, transportation and
42 disposal *or recycling* of hazardous waste;

43 (2) For the certification of consultants involved in
44 consultation regarding the response to and the clean up of leaks of
45 hazardous waste, hazardous material or a regulated substance from



1 underground storage tanks, the clean up of spills of or accidents or
2 motor vehicle crashes involving hazardous waste, hazardous
3 material or a regulated substance, or the management of hazardous
4 waste;

5 (3) That a person employed full-time by a business to act as
6 such a consultant is exempt from the requirements of certification if
7 the person:

8 (I) Meets the applicable requirements of 29 C.F.R. §
9 1910.120 to manage such waste, materials or substances; and

10 (II) Is acting in the course of that full-time employment;
11 and

12 (4) For the certification of laboratories that perform analyses
13 for the purposes of NRS 459.400 to 459.600, inclusive, *and sections*
14 *34 and 35 of this act, NRS* 459.610 to 459.658, inclusive, and
15 459.800 to 459.856, inclusive, to identify whether waste is
16 hazardous waste or to detect the presence of hazardous waste or a
17 regulated substance in soil or water.

18 (b) Regulations of the Commission may:

19 (1) Provide for the licensing and other necessary regulation
20 of generators, including shippers and brokers, who cause that waste
21 to be transported into or through Nevada or for disposal in Nevada;

22 (2) Require that the person responsible for a spill, leak,
23 accident or motor vehicle crash involving hazardous waste,
24 hazardous material or a regulated substance, obtain advice on the
25 proper handling of the spill, leak, accident or motor vehicle crash
26 from a consultant certified under the regulations adopted pursuant to
27 paragraph (a); and

28 (3) Establish standards relating to the education, experience,
29 performance and financial responsibility required for the
30 certification of consultants.

31 2. The regulations may include provisions for:

32 (a) Fees to pay the cost of inspection, certification and other
33 regulation, excluding any activities conducted pursuant to NRS
34 459.7052 to 459.728, inclusive; and

35 (b) Administrative penalties of not more than \$2,500 per
36 violation or \$10,000 per shipment for violations by persons licensed
37 by the Department, and the criminal prosecution of violations of its
38 regulations by persons who are not licensed by the Department.

39 3. Designated employees of the Department and the Nevada
40 Highway Patrol Division shall enforce the regulations of the
41 Commission relating to the transport and handling of hazardous
42 waste and the leakage or spill of that waste from packages.

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

44 459.515 1. It is unlawful for any person to:



1 (a) Construct, substantially alter or operate any facility for the
2 treatment, storage, ~~for~~ disposal *or recycling* of hazardous waste; or

3 (b) Treat, store, ~~for~~ dispose of *or recycle* any hazardous waste,
4 ↪ unless the person has first obtained a permit from the Department
5 to do so.

6 2. A person who:

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

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

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

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

20 459.520 1. The Commission shall adopt regulations for the
21 granting, renewal, modification, suspension, revocation and denial
22 of permits.

23 2. If the local government within whose territory a facility for
24 the treatment, storage, ~~for~~ disposal *or recycling* of hazardous waste
25 is to be located requires that a special use permit or other
26 authorization be obtained for such a facility or activity, the
27 application to the Department for a permit to operate such a facility
28 must show that local authorization has been obtained. This
29 requirement does not apply to an application for a permit to
30 construct a utility facility that is subject to the provisions of NRS
31 704.820 to 704.900, inclusive.

32 3. Permits may contain terms and conditions which the
33 Department considers necessary and which conform to the
34 provisions of regulations adopted by the Commission.

35 4. Permits may be issued for any period of not more than 10
36 years.

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

43 6. The Department may suspend or revoke a permit pursuant to
44 the Commission's regulations if the holder of the permit fails or



1 refuses to comply with the terms of the permit or a regulation of the
2 Commission relating to hazardous waste.

3 7. A permit may not be granted, renewed or modified for a
4 facility for the disposal of hazardous waste that proposes to
5 construct or operate a landfill unless the Director determines that the
6 landfill is or will be constructed to include at least one liner and a
7 leachate collection and removal system designed to prevent the
8 migration of waste or leachate to the adjacent subsurface soils,
9 groundwater and surface water.

10 8. As used in this section:

11 (a) "Landfill" means a disposal facility or part of a facility
12 where hazardous waste is placed in or on land and which is not a
13 pile, a land-treatment facility, a surface impoundment, an
14 underground-injection well, a salt-dome formation, a salt-bed
15 formation, an underground mine or a cave.

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

19 (c) "Leachate collection and removal system" means a layer of
20 granular or synthetic materials installed above a liner and operated
21 in conjunction with drains, pipes, sumps and pumps or other means
22 designed to collect and remove leachate from a landfill.

23 (d) "Liner" means a continuous layer of artificially created
24 material installed beneath and on the sides of a landfill which
25 restricts the downward or lateral escape of hazardous waste,
26 hazardous waste constituents or leachate, and prevents the migration
27 of waste to the adjacent subsurface soils, groundwater and surface
28 water.

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

30 459.525 1. The Commission shall adopt regulations requiring
31 that the owner or operator of any facility for the treatment, storage,
32 ~~for~~ disposal *or recycling* of hazardous waste show his or her
33 financial responsibility for the undertaking by providing:

34 (a) Evidence that the owner or operator has a policy of liability
35 insurance in an amount which the Department has determined is
36 necessary for the protection of human health, public safety and the
37 environment;

38 (b) Evidence of security, in a form and amount which the
39 Department deems necessary, to ensure that at the time of any
40 abandonment, cessation or interruption of the service provided by
41 the facility, and thereafter, all appropriate measures will be taken to
42 prevent damage to human health, public safety and the environment;
43 and

44 (c) Any other evidence of financial responsibility which the
45 Commission finds necessary for those purposes.



1 2. Requirements established pursuant to this section may not
2 exceed those requirements for financial responsibility established
3 pursuant to the Resource Conservation and Recovery Act of 1976,
4 42 U.S.C. §§ 6901 et seq.

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

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

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

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

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

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

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

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

24 459.537 1. If the person responsible for a leak or spill of or
25 an accident or motor vehicle crash involving hazardous waste,
26 hazardous material or a regulated substance does not act promptly
27 and appropriately to clean and decontaminate the affected area
28 properly, and if his or her inaction presents an imminent and
29 substantial hazard to human health, public safety or the
30 environment, money from the Account for the Management of
31 Hazardous Waste may be expended to pay the costs of:

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

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

35 (c) Managing the cleaning and decontamination of an area for
36 the *treatment, storage, disposal or recycling* of hazardous waste or
37 the site of the leak, spill, accident or crash;

38 (d) Removing or contracting for the removal of hazardous
39 waste, hazardous material or a regulated substance which presents
40 an imminent danger to human health, public safety or the
41 environment; or

42 (e) Services rendered in responding to the leak, spill, accident or
43 crash, by consultants certified pursuant to regulations adopted by the
44 Commission.



1 2. Except as otherwise provided in this subsection or NRS
2 459.610 to 459.658, inclusive, the Director shall demand
3 reimbursement of the Account for money expended pursuant to
4 subsection 1 from any person who is responsible for the accident,
5 crash, leak or spill, or who owns or controls the hazardous waste,
6 hazardous material or a regulated substance, or the area used for the
7 disposal *or recycling* of the waste, material or substance. Payment
8 of the reimbursement is due within 60 days after the person receives
9 notice from the Director of the amount due. The provisions of this
10 section do not apply to a spill or leak of or an accident or motor
11 vehicle crash involving natural gas or liquefied petroleum gas while
12 it is under the responsibility of a public utility.

13 3. At the request of the Director, the Attorney General shall
14 initiate recovery by legal action of the amount of any unpaid
15 reimbursement plus interest at a rate determined pursuant to NRS
16 17.130 computed from the date of the incident.

17 4. As used in this section:

18 (a) "Does not act promptly and appropriately" means that the
19 person:

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

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

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

27 (4) Does not clean and decontaminate the affected area
28 properly; or

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

33 (b) "Responding" means any efforts to mitigate, attempt to
34 mitigate or assist in the mitigation of the effects of a leak or spill of
35 or an accident or motor vehicle crash involving hazardous waste,
36 hazardous material or a regulated substance, including, without
37 limitation, efforts to:

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

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

42 (3) Investigate the occurrence of the leak, spill, accident or
43 crash.



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

2 459.546 1. Except as otherwise provided in subsection 4, the
3 owner or operator of a facility for the treatment, storage, ~~for~~
4 disposal *or recycling* of hazardous waste or a person who wishes to
5 construct such a facility may apply to the Commission for a variance
6 from its applicable regulations. The Commission may grant a
7 variance only if, after a public hearing on due notice, it finds from a
8 preponderance of the evidence that:

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

12 (b) Compliance with the regulations would produce serious
13 hardship without equal or greater benefits to the environment or
14 public.

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

17 (a) The public;

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

20 (c) The applicant.

21 3. The Commission may:

22 (a) Upon granting a variance, impose certain conditions upon
23 the applicant; or

24 (b) Revoke the variance if the applicant fails to comply with
25 those conditions.

26 4. The Commission shall not grant a variance from its
27 applicable regulations that would allow a facility for the disposal of
28 hazardous waste to construct or operate a landfill in a manner that
29 fails to comply with the requirements of subsection 7 of
30 NRS 459.520.

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

32 459.550 1. The Commission shall adopt regulations which
33 require licensees to keep records and submit reports on hazardous
34 waste and which prescribe procedures for:

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

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

38 (c) Establishing and maintaining suitable records; and

39 (d) Making reports to the Department.

40 2. It is unlawful for any person to generate, store, transport,
41 treat, ~~for~~ dispose of *or recycle* hazardous waste without reporting
42 each activity to the Department in accordance with regulations
43 adopted by the Commission.



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

2 459.560 Any authorized representative or employee of the
3 Commission or the Department may, for the purpose of carrying out
4 his or her duties pursuant to NRS 459.400 to 459.600, inclusive,
5 *and sections 34 and 35 of this act*, or to enforce a regulation
6 adopted pursuant to those sections:

7 1. Enter any place where waste or a substance which the
8 Department has reason to believe may be hazardous waste or a
9 hazardous substance is or may have been generated, stored,
10 transported, treated, disposed of, *recycled* or otherwise handled;

11 2. Inspect and obtain samples of any waste or substance which
12 the Department has reason to believe may be hazardous waste or a
13 hazardous substance, including samples from any vehicle in which
14 waste or substance is being transported, and samples of containers
15 and labels; and

16 3. Inspect and copy any records, reports, information or test
17 results relating to the management of hazardous wastes or hazardous
18 substances.

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

20 459.565 1. If the Department receives information that the
21 handling, storage, transportation, treatment, ~~or~~ disposal *or*
22 *recycling* of any waste or hazardous substance may present an
23 imminent and substantial hazard to human health, public safety or
24 the environment, it may:

25 (a) Issue an order directing the owner or operator of the facility
26 for treatment, storage, ~~or~~ disposal *or recycling* of the waste or the
27 owner or operator of any site where the treatment, storage, ~~or~~
28 disposal *or recycling* of a hazardous substance has occurred or may
29 occur or any other person who has custody of the waste or
30 hazardous substance to take necessary steps to prevent the act or
31 eliminate the practice which constitutes the hazard.

32 (b) Order a site assessment to be conducted and a remediation
33 plan to be developed pursuant to regulations adopted by the
34 Commission.

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

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

41 (e) Take any other action designed to reduce or eliminate the
42 hazard.

43 2. The Department may perform inspections pursuant to NRS
44 459.560 and issue an order directing the owner or operator of the
45 facility for treatment, storage, ~~or~~ disposal *or recycling* of waste or



1 the owner or operator of any site where the treatment, storage , ~~for~~
2 disposal *or recycling* of a hazardous substance has occurred or may
3 occur or any other person who has custody of the waste or
4 hazardous substance to take any necessary steps to prevent any act
5 or eliminate any practice or effect which could constitute a hazard to
6 human health, public safety or the environment.

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

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

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

24 3. In addition to any other remedy provided by this chapter, the
25 Department may compel compliance with any provision of NRS
26 459.400 to 459.560, inclusive, *and section 34 of this act, NRS*
27 459.590 or of any regulation adopted or permit or order issued
28 pursuant to those sections, by injunction or other appropriate
29 remedy. The Department may institute and maintain in the name of
30 the State of Nevada any such enforcement proceedings.

31 **Sec. 55.** NRS 459.600 is hereby amended to read as follows:

32 459.600 A person who, intentionally or with criminal
33 negligence:

34 1. Violates NRS 459.590, subsection 1 of NRS 459.515 or any
35 term or condition of a permit issued pursuant to NRS 459.520;

36 2. Violates an order issued by the Department relating to
37 hazardous waste, if:

38 (a) The violation threatens or harms the environment or the
39 personal safety of other persons; and

40 (b) The person has not made a good faith effort to comply with
41 the order; or

42 3. Disposes of , *recycles* or discharges hazardous waste in any
43 manner not authorized by the provisions of this chapter or
44 regulations adopted thereunder,



1 ↪ is guilty of a category D felony and shall be punished as provided
2 in NRS 193.130, or by a fine of not more than \$50,000 for each day
3 of the violation, or by both fine and the punishment provided in
4 NRS 193.130.

5 **Sec. 56.** This act becomes effective upon passage and
6 approval.



