ADOPTED REGULATION OF THE

STATE ENVIRONMENTAL COMMISSION

LCB File No. R019-07

Effective October 31, 2007

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

AUTHORITY: §1, NRS 459.3816 and 459.3818.

A REGULATION relating to hazardous materials; designating mercury as a highly hazardous substance; and providing other matters properly relating thereto.

Section 1. NAC 459.9533 is hereby amended to read as follows:

459.9533 1. The following table sets forth the list of highly hazardous substances and the parameters associated with carrying out C.A.P.P.:

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Acetaldehyde	Ethanal		75-07-0	2,500	1,000	1	F	
Acetylene	Ethyne		74-86-2	10,000	1,000	3	F	
Acrolein	2-Propenol		107-02-8	150	1	1 & 2	T	0.0011
Acrylonitrile	2-Propenenitrile		107-13-1	20,000	100	1 & 2	T	0.076
Acrylyl chloride	2-Propenoyl chloride		814-68-6	250	100	2	T	0.00090
Alkylaluminums				5,000	50*	3		
Allyl alcohol	2-Propen-1-ol		107-18-6	15,000	100	1 & 2	T	0.036
Allyl chloride	3-chloropropene		107-05-1	1,000	100	3	T	0.1252
Allylamine	2-Propen-1-amine		107-11-9	1,000	500	2	T	0.0032
Ammonia	Anhydrous Ammonia	Anhydrous	7664-41-7	5,000	100	1 & 2	T	0.14

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Ammonia	Ammonia solution Ammonium hydroxide	20 wt% to 44 wt%	7664-41-7	20,000 note 2	1,000	1	T	0.14
Ammonia	Ammonia solution Ammonium hydroxide	concentration greater than 44% ammonia by weight	7664-41-7	10,000 note 2	1,000	1	T	0.14
Ammonium perchlorate			7790-98-9	7,500	75*	3		
Ammonium permanganate			7787-36-2	7,500	75*	3		
Arsenous trichloride			7784-34-1	15,000	1	1 & 2	T	0.010
Arsine	Arsenic Hydride		7784-42-1	100	10	3	T	0.0019
bis(Chloromethyl) Ether	Chloromethyl Ether		542-88-1	100	10	1 & 2	T	0.00025
Boron trichloride			10294-34-5	2,500	100	3	T	0.010
Boron trifluoride			7637-07-2	250	25	3	T	0.028
Boron trifluoride w/Methyl Ether		1:1 ratio	353-42-4	15,000	1,000	2	T	0.023
Bromine			7726-95-6	1,500	500	2	T	0.0065
Bromine chloride			13863-41-7	1,500	10	3	T	0.00472
Bromine pentafluoride			7789-30-2	2,500	100	3	T	0.00715
Bromine trifluoride			7787-71-5	15,000	1000	3	T	0.0025
Bromotrifluor-ethylene			598-73-2	10,000	1,000	3	F	
1,3-Butadiene			106-99-0	10,000	10	1	F	
Butane			106-97-8	10,000	1,000	3	F	
1-Butene			106-98-9	10,000	1,000	3	F	
2-Butene			107-01-7	10,000	1,000	3	F	
Butene			25167-67-3	10,000	1,000	3	F	
2-Butene-cis			590-18-1	10,000	1,000	3	F	
2-Butene-trans			624-64-6	10,000	1,000	3	F	
Butyl hydroperoxide (Tertiary)			75-91-2	5,000	50*	3		
Butyl perbenzoate (Tertiary)			614-45-9	7,500	75*	3		
Carbon disulfide			75-15-0	20,000	100	1 & 2	T	0.16
Carbon oxysulfide	Carbon Oxide Sulfide		463-58-1	10,000	100	1	F	

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Carbonyl fluoride			353-50-4	2,500	10	3	T	0.00972
Cellulose nitrate		concentration greater than 12.6% nitrogen	9004-70-0	2,500	25*	3		
Chlorine			7782-50-5	1,500	10	1 & 2	T	0.0087
Chlorine dioxide			10049-04-4	1,000	100	3	T	0.0028
Chlorine monoxide			7791-21-1	10,000	1,000	3	F	
Chlorine pentafluoride			13637-63-3	1,000	10	3	T	0.003
Chlorine trifluoride			7790-91-2	1,000	100	3	T	0.0038
Chlorodiethyl-aluminum	Diethyl-aluminum Chloride		96-10-6	5,000	50*	3		
1-Chloro-2,4-Dinitrobenzene			97-00-7	5,000	50*	3		
Chloroform			67-66-3	20,000	10	1 & 2	T	0.49
Chloromethyl methyl ether			107-30-2	500	10	1 & 2	T	0.0018
Chloropicrin			76-06-2	500	50	3	T	0.00134
Chloropicrin/ Methylbromide mix				1,500	500	3	T	0.00078
Chloropicrin/ Methylchloride mix				1,500	500	3	T	
1-Chloropropylene			590-21-6	10,000	1,000	3	F	
2-Chloropropylene			557-98-2	10,000	1,000	3	F	
Crotonaldehyde	2-Butenal		4170-30-3	20,000	100	1 & 2	T	0.029
Crotonaldehyde, (E)-	2-Butenal, (E)-		123-73-9	20,000	100	1 & 2	T	0.029
Cumene Hydroperoxide			80-15-9	5,000	10	1		
Cyanogen	Ethanedinitrile		460-19-5	2,500	100	1	F	
Cyanogen chloride			506-77-4	500	10	1	T	0.030
Cyanuric fluoride			675-14-9	100	10	3	T	0.00017
Cyclohexylamine	Cyclohex-animine		108-91-8	15,000	1,000	2	T	0.16
Cyclopropane			75-19-4	10,000	1,000	3	F	
Diacetyl peroxide		concentration greater than 70%	110-22-5	5,000 note 2	50*	3		
Diazomethane			334-88-3	500	10	3		
Dibenzoyl peroxide			94-36-0	7,500	75*	3		

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Diborane			19287-45-7	100	10	3	T	0.0011
Dibutyl peroxide (tertiary)			110-05-4	5,000	50*	3		
Dichloro acetylene			7572-29-4	250	10	3		
Dichlorosilane			4109-96-0	2,500	100	3	F	
Diethylzinc			557-20-0	10,000	100*	3		
Difluoroethane			75-37-6	10,000	1,000	3	F	
Diisopropyl peroxydicarbonate			105-64-6	7,500	75*	3		
Dilauroyl peroxide			105-74-8	7,500	75*	3		
Dimethyl sulfide			75-18-3	100	10	3	T	1.27
Dimethylamine		anhydrous	124-40-3	2,500	1,000	1	F	
Dimethyl-dichlorosilane			75-78-5	1,000	500	2	T	0.026
1,1-Dimethylhydrazine			57-14-7	1,000	10	1 & 2	T	0.012
2,2-Dimethylpropane			463-82-1	10,000	1,000	3	F	
2,4-Dinitroanaline			97-02-9	5,000	50*	3		
Epichlorohydrin			106-89-8	20,000	100	1 & 2	T	0.076
Ethane			74-84-0	10,000	1,000	3	F	
Ethyl acetylene	1-Butyne		107-00-6	10,000	1,000	3	F	
Ethyl chloride			75-00-3	10,000	100	1	F	
Ethyl ether			60-29-7	10,000	100	1	F	
Ethyl mercaptan	Ethanethiol		75-08-1	10,000	1,000	3	F	
Ethyl nitrite			109-95-5	5,000	50*	3	F	
Ethylamine	Ethanamine		75-04-7	7,500	100	1	F	
Ethylene	Ethene		74-85-1	10,000	1,000	3	F	
Ethylene fluorohydrin			371-62-0	100	10	2	T	0.0008
Ethylene oxide	Oxirane		75-21-8	5,000	10	1 & 2	T	0.090
Ethylenediamine			107-15-3	20,000	5,000	1 & 2	T	0.49
Ethyleneimine	Aziridine		151-56-4	1,000	1	1 & 2	T	0.018
Fluorine			7782-41-4	100	10	1 & 2	T	0.0039
Formaldehyde		concentration of 37% or greater by weight	50-00-0	1,000 note 2	100	1 & 2	T	0.012
Furan			110-00-9	500	100	1 & 2	T	0.0012

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Hexafluoroacetone			684-16-2	5,000	10	3	T	0.0068
Hydrazine			302-01-2	15,000	1	1 & 2	T	0.011
Hydrochloric acid		37% or greater	7647-01-0	15,000 note 2	1,000	3	T	0.030
Hydrofluoric acid		50% or greater	7664-39-3	1,000 note 2	100	1	T	0.016
Hydrogen			1333-74-0	10,000	1,000	3	F	
Hydrogen bromide			10035-10-6	5,000	10	3	T	0.01
Hydrogen chloride		Anhydrous	7647-01-0	5,000	100	3	T	0.030
Hydrogen cyanide	Hydrocyanic acid	Anhydrous	74-90-8	1,000	10	1 & 2	T	0.011
Hydrogen fluoride		Anhydrous	7664-39-3	1,000	100	1 & 2	T	0.016
Hydrogen peroxide		concentration of 52% or greater by weight	7722-84-1	7,500 note 2	1,000	2		
Hydrogen selenide			7783-07-5	150	10	2	T	0.00066
Hydrogen sulfide			7783-06-4	1,500	100	1 & 2	T	0.042
Hydroxylamine			7803-49-8	2,500	25*	3		
Iron, pentacarbonyl			13463-40-6	250	100	2	T	0.00044
Isobutane	1,1-dimethyl ethane		75-28-5	10,000	1,000	3	F	
Isobutyronitrile			78-82-0	20,000	1,000	2	T	0.14
Isopentane			78-78-4	10,000	1,000	3	F	
Isoprene			78-79-5	10,000	100	1	F	
Isopropyl chloride	2 - chloropropane		75-29-6	10,000	1,000	3	F	
Isopropyl chloroformate			108-23-6	15,000	1,000	2	T	0.10
Isopropyl formate			625-55-8	500	100	3	T	0.0014
Isopropylamine			75-31-0	5,000	1,000	3	F	
Ketene			463-51-4	100	10	3	T	0.18
Mercury			***7439-97-6***	***200,000***	***5,000***	***3***	***T***	***0.0021***
Methacrylaldehyde			78-85-3	1,000	500	3	T	0.007
Methacryloyl chloride			920-46-7	150	100	2	T	0.0006
Methacryloyloxyethyl isocyanate			30674-80-7	100	10	3	T	0.00063
Methane			74-82-8	10,000	1,000	3	F	

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Methyl acrylonitrile	Meth-acrylonitrile		126-98-7	250	25	3	T	0.0027
Methyl bromide			74-83-9	2,500	500	3	T	0.194
3-Methyl-1-butene	Isopentene		563-45-1	10,000	1,000	3	F	
2-Methyl-1-butene			563-46-2	10,000	1,000	3	F	
Methyl chloride			74-87-3	15,000	100	1	T	0.82
Methyl chloroformate			79-22-1	500	100	3	T	0.0019
Methyl disulfide			624-92-0	100	10	3	T	0.19
Methyl ether			115-10-6	10,000	1,000	3	F	
Methyl ethyl ketone peroxide	Ethyl methyl ketone peroxide	concentration greater than 60%	1338-23-4	5,000 note 2	10	1		
Methyl fluoroacetate			453-18-9	100	10	3	T	0.00025
Methyl fluorosulfate			421-20-5	100	10	3	T	0.00023
Methyl formate			107-31-3	10,000	1,000	3	F	
Methyl hydrazine			60-34-4	100	10	1 & 2	T	0.0094
Methyl iodide			74-88-4	7,500	100	1	T	0.29
Methyl isocyanate			624-83-9	250	10	1 & 2	T	0.0012
Methyl mercaptan			74-93-1	5,000	100	1 & 2	T	0.049
Methyl thiocyanate			556-64-9	20,000	10,000	2	T	0.085
Methyl vinyl ketone			78-94-4	100	10	2	T	0.00007
Methylamine	Methanamine	Anhydrous	74-89-5	1,000	100	1	F	
2-Methylpropene			115-11-7	10,000	1,000	3	F	
Methyltrichlorosilane			75-79-6	500	50	3	T	0.018
Nickel carbonyl			13463-39-3	150	10	1 & 2	T	0.00067
Nitric acid		80% or greater	7697-37-2	15,000 note 2	1,000	1 & 2	T	0.026
Nitric acid		concentration of 94.5% or greater by weight	7697-37-2	500 note 2	50	3	T	0.026
Nitric oxide	Nitrogen oxide		10102-43-9	250	10	1 & 2	T	0.031
Nitroaniline	para Nitroaniline		100-01-6	5,000	50*	3		
Nitrogen dioxide			10102-44-0	250	10	1 & 2	T	0.0282
Nitrogen oxides		NO; NO_2; N_2O_4; N_2O_3	10102-44-0	250	10	3	T	0.0282
Nitrogen tetroxide			10544-72-6	250	10	1	T	0.0564

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Nitrogen trifluoride			7783-54-2	5,000	1,000	3	T	0.29
Nitrogen trioxide			10544-73-7	250	10	3	T	0.016
Nitromethane			75-52-5	2,500	25*	3		
Oleum	Fuming sulfuric acid	65 wt% or greater of SO_3	8014-95-7	1,000	500	3	T	0.010
Osmium tetroxide			20816-12-0	100	10	3	T	0.001
Oxygen difluoride	Fluorine monoxide		7783-41-7	100	10	3		
Ozone			10028-15-6	100	10	3		
Pentaborane			19624-22-7	100	10	3	T	0.00026
1,3-Pentadinene			504-60-9	10,000	100	1	F	
Pentane			109-66-0	10,000	1,000	3	F	
1-Pentene			109-67-1	10,000	1,000	3	F	
2-Pentene, (E)-			646-04-8	10,000	1,000	3	F	
2-Pentene, (Z)-			627-20-3	10,000	1,000	3	F	
Peracetic acid	Peroxyacetic acid	concentration greater than 60% acetic acid	79-21-0	1,000 note 2	500	2	T	0.0045
Perchloric acid		concentration greater than 60% by weight	7601-90-3	5,000 note 2	50*	3		
Perchloromethyl mercaptan			594-42-3	150	100	1 & 2	T	0.0076
Perchloryl fluoride			7616-94-6	5,000	100	3	T	0.042
Phosgene	Carbonyl chloride		75-44-5	100	10	1 & 2	T	0.00081
Phosphine	Hydrogen phosphide		7803-51-2	100	10	3	T	0.0035
Phosphorus oxychloride	Phosphoryl chloride		10025-87-3	1,000	500	3	T	0.0030
Phosphorus trichloride			7719-12-2	1,000	500	3	T	0.028
Piperidine			110-89-4	15,000	1,000	2	T	0.022
Propadiene	1,2 Propadiene		463-49-0	10,000	1,000	3	F	
Propane			74-98-6	10,000	1,000	3	F	
Propargyl bromide	3-Bromopropyne		106-96-7	100	10	2	T	0.00003
Propionitrile			107-12-0	10,000	10	1 & 2	T	0.0037
Propyl chloroformate			109-61-5	15,000	500	2	T	0.010

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Propyl nitrate			627-13-4	100	25*	3		
Propylene	1 Propene		115-07-1	10,000	1,000	3	F	
Propylene oxide			75-56-9	10,000	100	1 & 2	T	0.59
Propyleneimine			75-55-8	10,000	1	1 & 2	T	0.12
Propyne	1-Propyne		74-99-7	10,000	1,000	3	F	
Sarin			107-44-8	100	10	2	T	0.00006
Selenium hexafluoride			7783-79-1	1,000	1	1	T	0.0016
Silane			7803-62-5	10,000	1,000	3	F	
Stibine	Antimony hydride		7803-52-3	500	10	3	T	0.0026
Sulfur dioxide		Anhydrous	7446-09-5	1,000	100	3	T	0.0078
Sulfur pentafluoride			5714-22-7	250	10	3	T	0.001
Sulfur tetrafluoride			7783-60-0	250	10	3	T	0.0092
Sulfur trioxide	Sulfuric Anhydride		7446-11-9	1,000	100	2	T	0.010
Tellurium hexafluoride			7783-80-4	250	10	3	T	0.0009
Tetrafluoroethylene			116-14-3	5,000	1,000	3	F	
Tetrafluorohydrazine			10036-47-2	5,000	500	3	T	0.0213
Tetramethyl Lead			75-74-1	1,000	100	2	T	0.0040
Tetramethylsilane			75-76-3	10,000	1,000	3	F	
Tetranitromethane			509-14-8	10,000	10	2	T	0.0040
Thionyl chloride			7719-09-7	250	100	3	T	0.0097
Titanium tetrachloride			7550-45-0	2,500	1,000	1 & 2	T	0.020
Toluene 2,4-diisocyanate			584-84-9	10,000	100	1 & 2	T	0.0070
Toluene 2,6-diisocyanate			91-08-7	10,000	100	1 & 2	T	0.0070
Toluene diisocyanate			26471-62-5	10,000	100	1 & 2	T	0.0070
Trichloro (chloromethyl) silane			1558-25-4	100	10	3	T	0.0003
Trichloro (dichlorophenyl) silane			27137-85-5	2,500	500	2	T	0.008
Trichlorosilane			10025-78-2	5,000	500	3	F	
Trifluoro-chloroethylene			79-38-9	10,000	500	3	F	

Chemical Name	Alternate Chemical Name	Mixture Description	CAS Number	Threshold Quantity (lbs)	Two Release Quantity (lbs)	Two Release Source note 1	Tox (T) or Flam (F)	Toxic Endpoint (mg/L)
Trimethoxysilane			2487-90-3	1,500	500	3	T	0.01
Trimethylamine			75-50-3	10,000	100	1	F	
Trimethylchlorosilane			75-77-4	10,000	500	2	T	0.050
Vinyl acetate monomer			108-05-4	15,000	1,500	3	T	0.26
Vinyl acetylene			689-97-4	10,000	1,000	3	F	
Vinyl chloride			75-01-4	10,000	1	1	F	
Vinyl ethyl ether			109-92-2	10,000	1,000	3	F	
Vinyl fluoride			75-02-5	10,000	1,000	3	F	
Vinyl methyl ether			107-25-5	10,000	1,000	3	F	
Vinylidene chloride			75-35-4	10,000	100	1	F	
Vinylidene fluoride			75-38-7	10,000	1,000	3	F	

Table Notes:

Note 1: For Two Release Source Column: 1 = RQ as listed in 40 C.F.R. Part 302; 2 = RQ as listed in 40 C.F.R. Part 355; 3 = Two Release Quantity as determined in "Technical Basis Document for C.A.P.P. Two Release Quantities and Toxic Endpoints."

Note 2: The threshold quantity must be applied to the fraction of the chemical in the actual mixture.

* These substances must be involved in a fire or explosion to qualify as a release pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NAC 459.95323.

2. Except as otherwise provided in subsection 3, a substance must be classified as an explosive if the substance is classified as division 1.1, 1.2, 1.3, 1.4 or 1.5 in column 3 of the Table of Hazardous Materials in 49 C.F.R. § 172.101, which is adopted by reference pursuant to NAC 459.95528.

3. The list of explosives as classified pursuant to subsection 2 excludes those substances described in 18 U.S.C. § 845(a).

4. If a substance:

(a) Is listed as a highly hazardous substance pursuant to subsection 1; and

(b) Is also classified as an explosive pursuant to subsection 2 which is not excluded pursuant to subsection 3,

➥ the substance must be treated as a highly hazardous substance for the purposes of NAC 459.952 to 459.95528, inclusive, if the substance is present in the process in excess of the threshold quantity set forth for the substance pursuant to subsection 1.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R019-07
Petition 2006-19

The State Environmental Commission adopted regulations assigned LCB File No. R019-07 which pertain to chapter 459 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Chemical Accident Prevention Program

This permanent regulation amends the list of highly hazardous substances found in the Chemical Accident Prevention Program (CAPP) regulations (NAC 459.952-95528).

This regulation was originally adopted by the State Environmental Commission (SEC) as a temporary regulation in September 2006. Following this action, the 2007 session of the Nevada Legislature enacted Senate Bill 118; this legislation directs the SEC to permanently adopt a regulation for the handling and storage of mercury, when present in a quantity of 200,000 pounds (100 tons) or more. This is the identical threshold quantity defined in the temporary regulation.

Accordingly, this permanent regulation will amend the Chemical Accident Prevention Program (CAPP) regulations NAC 459.9533. The regulation will permanently establish measures for the prevention of an accidental release to the environment from the storage and handling of mercury at storage facilities in Nevada, i.e., the Hawthorne Army Depot. The purpose of the regulation is to protect the health, safety and welfare of the residents of the State. Mercury will be added to the list of highly hazardous substances in NAC 459.9533 at the threshold level noted above.

1. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

NDEP's Bureau of Air Pollution Control held two public workshops on the above referenced regulation at the following locations.

Hawthorne	**Carson City**
Friday, July 28, 2006	**Tuesday, August 1, 2006**
10:00 am to 1:00 pm	1:30 to 3:30 pm
Mineral County Library	Legislative Counsel Bureau
First and A Street	401 South Carson Street

The workshop notice was sent by direct mail to every permitted facility in Nevada – over 600 – to all persons on the CAPP mailing list and to all interested persons on the Air Quality ground-based and electronic mailing lists. The workshop in Hawthorne was unattended; the Carson City

workshop was attended by two persons. One person requested several clarifications; no adverse comments were received.

The State Environmental Commission (SEC) held a two public hearing to consider this regulation. The first hearing was held to consider the temporary regulation. That hearing was held on September 6, 2006 at the Nevada Division of Wildlife in Reno, Nevada. The second hearing was held to consider the regulations as a permanent regulation. That hearing was held on September 07, 2007. The hearing was held in Carson City and Las Vegas through a videoconference. The meeting location in Carson City was at the Legislative Counsel Bureau Chambers in the State Legislative Building (Room 2135), 401 South Carson Street. The meeting location in Las Vegas was at the Legislative Counsel Bureau in the Grant Sawyer Building (Room 4412), 555 E. Washington Street.

The hearing agenda was posted at the following locations: the Legislative Building in Carson City, the Grant Sawyer Office Building in Las Vegas, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice, and the proposed regulation noted above were made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice for the hearing held on September 07, 2007 was published on August 14, 2007, August 21, 2007 and August 28, 2007 in the Las Vegas Review Journal and Reno Gazette Journal newspapers. Information about the regulation was also made available on the SEC website at: http://www.sec.nv.gov/main/hearing_0907.htm

2. The number persons who attended the SEC Regulatory Hearing:

(a) Attended September 7, 2007 hearing; 40
(b) Testified on this Petition at the hearing: 1 (1 NDEP Staff)
(c) Submitted to the agency written comments: -0-

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses as indicated in number 1 above. In addition to the public workshop and the SEC regulatory hearing, the NDEP held numerous meetings with representatives from the affected industry during regulation development and incorporated stakeholder comments into the regulation as it was drafted.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The State Environmental Commission adopted the regulation without change on September 7, 2006. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting and public workshop process.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry. The new regulation will have an economic impact on facilities that handle or store 100 tons or more of elemental mercury. NAC 459.95334 requires that facilities which handle or store a highly hazardous substance pay an annual fee consisting of a base fee of $5,600 plus a per unit fee of $39. The unit size for mercury is 100 tons. Thus, a minimum annual fee of $5,639 will be charged to qualifying facilities. So far, the only affected facility identified is the Hawthorne Army Depot in Hawthorne, Nevada.

Public. These proposed amendments will have no economic effect on the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

Additional costs to the agency will be minimal. There will be some costs associated with enforcement, including a nominal increase in inspection time and possibly some extra in-state travel.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulations do not overlap or duplicate any regulations of other state or government agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

There are no federal programs that regulate the handling and storage of mercury.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed amendments do address fees; see number 5 above. Any fees collected will be used to support the CAPP program.