

**ADOPTED REGULATION OF THE STATE**  
**ENVIRONMENTAL COMMISSION**

**LCB File No. R061-04**

Effective October 7, 2004

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

AUTHORITY: §§1-35 and 81, NRS 445A.425 and 445A.428; §§36-80, NRS 459.500.

A REGULATION relating to hazardous substances; revising the provisions relating to the certification of laboratories that detect the presence of hazardous waste or a regulated substance in soil or water; providing for the certification of laboratories to identify whether waste is hazardous waste or to detect the presence of hazardous waste or a regulated substance in soil or water; and providing other matters properly relating thereto.

**Section 1.** Chapter 445A of NAC is hereby amended by adding thereto a new section to read as follows:

*The Commission hereby adopts by reference Method 1600: Membrane Filter Test Method for Enterococci in Water, May 1997, EPA-821-R-97-004, in the form most recently published, unless the Commission gives notice pursuant to the provisions of NAC 445A.067 that the most recent publication is not suitable for this State. The publication is available, free of charge, by mail from the Environmental Protection Agency, National Center for Environmental Publications and Information, P.O. Box 42419, Cincinnati, Ohio 45242-0419, or by telephone at 800.490.9198.*

**Sec. 2.** NAC 445A.0552 is hereby amended to read as follows:

445A.0552 As used in NAC 445A.0552 to 445A.067, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.0554 to 445A.0606, inclusive, have the meanings ascribed to them in those sections.

**Sec. 3.** NAC 445A.0554 is hereby amended to read as follows:

445A.0554 “Accuracy” has the meaning ascribed to it in Appendix ~~(B)~~ A of chapter ~~(5)~~ 1 of the Standards.

**Sec. 4.** NAC 445A.0556 is hereby amended to read as follows:

445A.0556 “Analyst” means a chemist, microbiologist, physicist or technician who:

1. Is qualified to conduct analyses of environmental samples pursuant to the provisions of the manual specified in *paragraph (e) of subsection (5) 1* of NAC 445A.0612; and
2. Performs those tests or assists in performing those tests with other qualified employees of a certified laboratory.

**Sec. 5.** NAC 445A.0564 is hereby amended to read as follows:

445A.0564 “Certified laboratory” means a laboratory for which a certificate to conduct analyses of water is issued pursuant to the provisions of NAC 445A.0552 to ~~445A.0654, inclusive.]~~ *445A.067, inclusive, and section 1 of this regulation.*

**Sec. 6.** NAC 445A.0568 is hereby amended to read as follows:

445A.0568 “Director” means:

1. A person who is qualified to administer any technical or scientific operation of a certified laboratory and supervise the procedures for the testing and reporting of the results of tests pursuant to the provisions of the Standards; or

2. A chemist, microbiologist or physicist who is qualified to engage in an activity specified in subsection 1 pursuant to the provisions of the manual specified in *paragraph (e) of* subsection ~~{5}~~ *I* of NAC 445A.0612.

**Sec. 7.** NAC 445A.0578 is hereby amended to read as follows:

445A.0578 “National Environmental Laboratory Accreditation Conference” has the meaning ascribed to it in Appendix ~~{B}~~ *A* of chapter ~~{5}~~ *I* of the Standards.

**Sec. 8.** NAC 445A.0582 is hereby amended to read as follows:

445A.0582 “National Environmental Laboratory Accreditation Program” has the meaning ascribed to it in Appendix ~~{B}~~ *A* of chapter ~~{5}~~ *I* of the Standards.

**Sec. 9.** NAC 445A.0584 is hereby amended to read as follows:

445A.0584 “Performance-based measurement system” has the meaning ascribed to it in Appendix ~~{B}~~ *A* of chapter ~~{5}~~ *I* of the Standards.

**Sec. 10.** NAC 445A.0588 is hereby amended to read as follows:

445A.0588 “Precision” has the meaning ascribed to it in Appendix ~~{B}~~ *A* of chapter ~~{5}~~ *I* of the Standards.

**Sec. 11.** NAC 445A.0592 is hereby amended to read as follows:

445A.0592 “Proficiency test sample” has the meaning ascribed to it in Appendix ~~{B}~~ *A* of chapter ~~{5}~~ *I* of the Standards.

**Sec. 12.** NAC 445A.0594 is hereby amended to read as follows:

445A.0594 “Proficiency testing program” has the meaning ascribed to it in Appendix ~~{B}~~ *A* of chapter ~~{5}~~ *I* of the Standards.

**Sec. 13.** NAC 445A.0598 is hereby amended to read as follows:

445A.0598 “Quality manual” has the meaning ascribed to it in Appendix ~~[B]~~ A of chapter ~~[5]~~ I of the Standards.

**Sec. 14.** NAC 445A.0602 is hereby amended to read as follows:

445A.0602 “Sensitivity” has the meaning ascribed to it in Appendix ~~[B]~~ A of chapter ~~[5]~~ I of the Standards.

**Sec. 15.** NAC 445A.0604 is hereby amended to read as follows:

445A.0604 “Spike” has the meaning ascribed to it in Appendix ~~[B]~~ A of chapter ~~[5]~~ I of the Standards.

**Sec. 16.** NAC 445A.0612 is hereby amended to read as follows:

445A.0612 **1.** The Commission hereby adopts by reference the following publications in the forms most recently published, unless the Commission gives notice pursuant to the provisions of NAC 445A.067 that the most recent publication is not suitable for this State. The publications are available, unless otherwise provided in this section, by mail from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at 800.553.6847. The publications may also be obtained from the National Technical Information Service at the Internet address <<http://www.ntis.gov/ordering.htm>>. The publications are:

~~[1.]~~ **(a)** *Consensus Method for Determining Groundwaters Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)*, ~~[EPA-910/9-92-029,]~~

**EPA/910/9-92/029**, Order Number PB93-180818, for the price of ~~[\$31.50.~~

~~—2.]~~ **\$37.**

**(b)** *DBP/ICR Analytical Methods Manual*, ~~[EPA-814-B-96-002,]~~ **EPA/814/B-96/002**, Order Number PB96-157516, for the price of ~~[\$36.~~

~~—3.] \$52.~~

(c) *ICR Microbial Laboratory Manual*, ~~[EPA-600/R-95/178,] EPA/600/R-95/178~~, Order Number PB96-157557, for the price of ~~[\$51.~~

~~—4.] \$74.~~

(d) *ICR Sampling Manual*, April 1996, ~~[EPA-814-B-96-001,] EPA/814/B-96/001~~, Order Number PB96-157508, for the price of ~~[\$36.~~

~~—5.] \$52.~~

(e) *Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures, Quality Assurance*, 4th edition, ~~[EPA-815-B-97-001,] EPA/815/B-97/001~~, Order Number ~~[PB90-220500,] PB97-171490~~, for the price of ~~[\$36.50.~~

~~—6.] \$51.~~

(f) *Method 100.2: Determination of Asbestos Structures over 10 Micrometers in Length in Drinking Water, June 1994, EPA/600/R-94/134, Order Number PB94-201902, for the price of \$33.50.*

(g) *Method 1613: Tetra-Through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS, Revision B*, October 1994, ~~[EPA-821-B-94-005,] EPA/821/B-94/005B~~, Order Number PB95-104774, for the price of ~~[\$34.~~

~~—7.— *Methods for the Chemical Analysis of Water and Wastes, EPA-600-4-79-020, Order Number PB84-128677, for the price of \$101.*~~

~~—8.] \$39.50.~~

(h) *Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry, February 1999, EPA/821/R-98/002, Order Number PB99-121949,*

*for the price of \$33.50. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address*

*<http://www.epa.gov/ost/methods/1664f051.html>.*

(i) *Methods for the Determination of Inorganic Substances in Environmental Samples*, August 1993, ~~EPA/600/R-93-100,~~ *EPA/600/R-93/100*, Order Number PB94-120821, for the price of ~~[\$45.~~

~~—9.]~~ *\$52.*

(j) *Methods for the Determination of Metals in Environmental Samples*, ~~EPA/600-4-91/010,~~ *EPA 600/4-91/010*, Order Number PB91-231498, for the price of ~~[\$70.~~

~~—10.]~~ *\$81.*

(k) *Methods for the Determination of Metals in Environmental Samples, Supplement I*, EPA/600/R-94/111, Order Number PB95-125472, for the price of ~~[\$63.~~

~~—11.]~~ *\$74.*

(l) *Methods for the Determination of Nonconventional Pesticides in Municipal and Industrial Wastewater, Volume I, Revision 1*, August 1993, ~~EPA-821-R-93-010-A, Product]~~ *EPA/821/R-93/010A, Order* Number PB94-121654, for the price of ~~[\$133.~~

~~—12.]~~ *\$152.50.*

(m) *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 1*, EPA/600/4-90/020, Order Number PB91-146027, for the price of \$68.50.

(n) *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 2*, EPA/600/R-92/129, Order Number PB92-207703, for the price of \$74.

(o) *Methods for the Determination of Organic Compounds in Drinking Water, Supplement 3*, EPA/600/R-95/131, Order Number PB95-261616, for the price of \$117.

(p) *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 4th edition, EPA/600/4-90/027F, Order Number PB94-114733, for the price of ~~[\$70.~~

~~—13.] \$81.~~

(q) *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms*, 3rd edition, EPA/600/4-91/002, Order Number PB96-141452, for the price of ~~[\$60.~~

~~—14.] \$86.50.~~

(r) *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms*, 2nd edition, ~~[EPA/600/4-91-003,]~~ *EPA/600/4-91/003*, Order Number PB96-141445, for the price of ~~[\$77.~~

~~—15. US EPA] \$111.50.~~

(s) *Technical Notes on Drinking Water Methods, EPA/600/R-94/173, Order Number PB95-104766, for the price of \$37.*

(t) *Test Methods for “Escherichia Coli” in Drinking Water: EC Medium with Mug Tube Procedure, Nutrient Agar with Mug Membrane Filter Procedure, EPA/600/4-91/016, Order Number PB91-234591, for the price of \$17.50.*

(u) *USEPA Contract Laboratory Program : [ ] Statement of Work for Organics Analysis : [ ] Multi-Media, Multi-Concentration, OLM01.0 (Includes Revisions OLM01.1 through OLM01.8), EPA/540/R-94/078, Order Number PB95-963508, for the price of [\$86.50.] \$100.* The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/superfund/programs/clp/organic.htm>>.

~~[16. US EPA]~~

(v) USEPA Contract Laboratory Program : ~~[-]~~ Statement of Work for Inorganics Analysis : ~~[-]~~ Multi-Media, Multi-Concentration, ILM02.1, EPA/540/R-94/095, Order Number PB95-963514, for the price of ~~[\$70.]~~ \$81. The publication is *also* available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/superfund/programs/clp/inorg.htm>>.

*2. The Commission hereby adopts by reference the following publications in the forms most recently published, unless the Commission gives notice pursuant to the provisions of NAC 445A.067 that the most recent publication is not suitable for this State. The publications are available by mail from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at 800.553.6847. The publications are:*

*(a) Interim Radiochemical Methodology for Drinking Water, EPA/600/4-75-008, Order Number PB253258, for the price of \$37.*

*(b) Method 100.1: Analytical Method for Determination of Asbestos Fibers in Water, September 1983, EPA/600/4-83-043, Order Number PB83-260471, for the price of \$78.50.*

*(c) Methods for the Chemical Analysis of Water and Wastes, EPA/600/4-79-020, Order Number PB84-128677, for the price of \$117.*

*(d) Methods for the Determination of Organic Compounds in Drinking Water, Revised July 1991, EPA/600/4-88/039, Order Number PB91-231480, for the price of \$89.50.*

*(e) Prescribed Procedures for Measurement of Radioactivity in Drinking Water, EPA/600/4-80-032, Order Number PB80-224744, for the price of \$47.50.*

**Sec. 17.** NAC 445A.0614 is hereby amended to read as follows:

445A.0614 The Commission hereby adopts by reference ~~[the following publications]~~ Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846, 3rd edition, and



Updates I, II, IIA, IIB and III, Publication Number 955-001-00000-1, in the ~~[forms]~~ *form* most recently published, unless the Commission gives notice pursuant to the provisions of NAC 445A.067 that the most recent publication is not suitable for this State. The ~~[publications are available, unless otherwise provided in this section,]~~ *publication is available* by mail from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, or by telephone at 202.512.1800 , ~~[- The publications are:~~

~~—1.— Method 1600 Membrane Filter Test Method for Enterococci in Water, May 1997, EPA-821-R-97-004, which is available, free of charge, from the Environmental Protection Agency, National Center for Environmental Publications and Information, 11029 Kenwood Road, Building 5, Cincinnati, Ohio 45242.~~

~~—2.— Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry, February 1999, EPA-821-R-98-002. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/oameinc1/0112126/1664a.pdf>>.~~

~~—3.— Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846, 3rd edition, and Updates I, II, IIA, IIB and III, Publication Number 955-001-00000-1,]~~ for the price of ~~[\$319.]~~ *\$367*. The publication is also available , *free of charge*, from the ~~[United States Government Printing Office]~~ *Environmental Protection Agency* at the Internet address <<http://www.epa.gov/epaoswer/hazwaste/test/main.htm>>.

**Sec. 18.** NAC 445A.0616 is hereby amended to read as follows:

445A.0616 The following publications are hereby adopted by the Commission in the forms most recently published , unless the Environmental Protection Agency fails to publish notice of

its approval of the publication in the Federal Register or the Commission gives notice pursuant to the provisions of NAC 445A.067 that the most recent publication is not suitable for this State:

1. *Annual Book of ASTM Standards*, Section 5, “Petroleum Products, Lubricants, and Fossil Fuels,” which is available *by mail* from the American Society ~~For~~ *for* Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, *by telephone at 610.832.9585 or at the Internet address <<http://www.astm.org>>*, for the price of ~~[\$528.]~~ *\$999*.

2. *Annual Book of ASTM Standards*, Section 11, “Water and Environmental Technology,” which is available *by mail* from the American Society ~~For~~ *for* Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, *by telephone at 610.832.9585 or at the Internet address <<http://www.astm.org>>*, for the price of ~~[\$589.]~~ *\$906*.

3. *ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories*, 1990, which is available *by mail* from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado ~~[80112,]~~ *80112-5776, by telephone at 800.854.7179 or at the Internet address <<http://www.global.ihs.com>>*, for the price of ~~[\$38.]~~ *\$35*.

4. *Standard Methods for the Examination of Water and Wastewater*, Order Number 10079, available *by mail* from the American Water Works Association, Customer Service, 6666 West Quincy Avenue, Denver, Colorado 80235, *by telephone at 800.926.7337 or at the Internet address <<http://www.awwa.org/bookstore/ProductList.cfm>>*, for the price of \$155 for members and \$200 for nonmembers.

**Sec. 19.** NAC 445A.0618 is hereby amended to read as follows:

445A.0618 1. The provisions of NAC 445A.0552 to ~~[445A.0654,]~~ *445A.067*, inclusive, *and section 1 of this regulation* must not be interpreted to circumvent any of those provisions to

make them less effective. If more than one interpretation exists for any of those provisions, the more restrictive interpretation applies.

2. If any publication adopted by reference pursuant to the provisions of NAC 445A.0612, 445A.0614 and 445A.0616 *and section 1 of this regulation* conflicts with any provision of NAC 445A.0552 to ~~445A.0654,~~ *445A.067*, inclusive, *and section 1 of this regulation* or with the Standards, the provision set forth in NAC 445A.0552 to ~~445A.0654,~~ *445A.067*, inclusive, *and section 1 of this regulation* or the Standards applies.

**Sec. 20.** NAC 445A.0622 is hereby amended to read as follows:

445A.0622 1. ~~Laboratory testing is the category of testing specified in Figure 1-3 of the Standards for which a~~ A laboratory may obtain certification pursuant to the provisions of NAC 445A.0552 to ~~445A.0654, inclusive.~~ *445A.067, inclusive, and section 1 of this regulation to perform analyses for the purposes of NRS 445A.300 to 445A.730, inclusive, to detect the presence of hazardous waste or a regulated substance in soil or water.*

2. The scientific disciplines ~~[within the category of testing specified in subsection 1]~~ for which a laboratory may obtain certification are:

- (a) Chemistry;
- (b) Whole Effluent Toxicity;
- (c) Microbiology; and
- (d) Radiochemistry.

3. A laboratory may obtain certification pursuant to the provisions of NAC 445A.0552 to ~~445A.0654,~~ *445A.067*, inclusive, *and section 1 of this regulation* for any program relating to the analysis of water approved by the Environmental Protection Agency pursuant to the Federal Act.

4. Except as otherwise provided in subsection 5, the approved methods of testing for which a laboratory may obtain certification are set forth in:

- (a) Title 40 C.F.R. § 136.3 and Appendices A, C and D to 40 C.F.R. Part 136;
- (b) Appendices A and B to 40 C.F.R. Part 425;
- (c) Title 40 C.F.R. § 434.64;
- (d) Appendices 1 and 2 to 40 C.F.R. Part 435, Subpart A;
- (e) Table 7 to 40 C.F.R. Part 455;
- (f) Title 40 C.F.R. § 465.03(c);
- (g) Title 40 C.F.R. § 503.8; and
- (h) The publications specified in ~~subsections 7 to 14,~~ *paragraphs (h) to (r)*, inclusive, of *subsection 1 of* NAC 445A.0612, ~~subsections 1 and 2 of NAC 445A.0614 and~~ subsections 1, 2 and 4 of NAC 445A.0616 ~~and~~ *and section 1 of this regulation.*

5. A laboratory may obtain certification to use a performance-based measurement system or any other alternative method of testing if the laboratory:

- (a) Complies with the provisions of subsection 5 of NAC 445A.0626;
- (b) Obtains approval for that method of testing from the Environmental Protection Agency pursuant to the provisions of 40 C.F.R. ~~§§§~~ § 403.7(b)(2)(v), 403.12(b)(5)(vi) or 403.12(g)(4);
- (c) Complies with the requirements for application set forth in 40 C.F.R. § 136.4; and
- (d) Provides proof and evaluates the performance-based measurement system or other

alternative method of testing in accordance with the provisions of:

- (1) Appendix E of chapter 5 of the Standards;

(2) “Guidelines Establishing Test Procedures for the Analysis of Pollutants: Flexibility in Existing Test Procedures and Streamlined Approach for Approving New Test Methods,” set forth in Volume 62 of the Federal Register at pages 14975 et seq., March 28, 1997; and

(3) “Performance Based Measurement System ~~¶~~,” set forth in Volume 62 of the Federal Register at pages 52098 et seq., October 6, 1997.

6. To be certified to conduct an analysis of an analyte using an approved method of testing specified in subsection 4, the analyte must be listed by the Division in the approved method of testing pursuant to that subsection.

**Sec. 21.** NAC 445A.0624 is hereby amended to read as follows:

445A.0624 For the purposes of charging and collecting fees and conducting performance evaluations pursuant to the provisions of NAC 445A.0552 to ~~[445A.0654,]~~ *445A.067*, inclusive, *and section 1 of this regulation*, the Division shall classify each analyte for which a laboratory may be certified into the following categories:

1. ~~[Trace metals;~~
- ~~—2. Minerals;~~
- ~~—3. Nutrients;~~
- ~~—4. Demands;~~
- ~~—5.] Asbestos.~~
2. *Cyanide.*
3. *Demands.*
4. *Dioxin.*
5. *Herbicides.*
6. *Microbiology.*

7. *Minerals.*
8. *Nutrients.*
9. *Oil and grease.*
10. *Perchlorate.*
11. *Pesticides*
12. *Phenolics.*
13. *Polyaromatic hydrocarbons.*
14. Polychlorinated biphenyls ~~[(water);~~  
~~—6.] in oil.~~
15. Polychlorinated biphenyls ~~[(oil);~~  
~~—7. Pesticides;~~  
~~—8. Volatile halocarbons;~~  
~~—9. Volatile aromatics;~~  
~~—10. Total cyanide;~~  
~~—11. Nonfilterable residue;~~  
~~—12. Oil and grease;~~  
~~—13. Total phenolics;~~  
~~—14. Total residual chlorine;~~  
~~—15. Microbiological contaminants;~~  
~~—16. Radiochemical contaminants; or~~  
~~—17.] in wastewater.~~
16. *Radiochemistry.*
17. *Residual chlorine.*

18. *Residue.*
19. *Semivolatile organic chemistry.*
20. *Synthetic Organic Compounds Group 1 (includes semivolatile organic chemistry, pesticides, herbicides and polyaromatic hydrocarbons).*
21. *Toxicity bioassay.*
22. *Trace metals.*
23. *Volatile organic chemistry.*
24. Any other individual contaminant . ~~[as defined by the Environmental Protection Agency.]~~
25. *Any other individual multicontaminant method.*

**Sec. 22.** NAC 445A.0626 is hereby amended to read as follows:

445A.0626 1. To be certified to conduct laboratory testing, a laboratory must comply with the requirements set forth in sections 1.8.3, 4.1.1, 5.0, 5.1 ~~[and 5.4 to 5.16, inclusive,]~~, *5.4 and 5.5* of the Standards.

2. To be certified in:

(a) Chemistry, a laboratory must comply with the requirements set forth in section 1.8.5 and Appendix D.1 of chapter 5 of the Standards;

(b) Whole effluent toxicity, a laboratory must comply with the requirements set forth in section 1.8.6 of the Standards and Appendix D.2 of chapter 5 of the Standards;

(c) Microbiology, a laboratory must comply with the requirements set forth in section 1.8.7 and Appendix D.3 of chapter 5 of the Standards; or

(d) Radiochemistry, a laboratory must comply with the requirements set forth in section 1.8.8 and Appendix D.4 of chapter 5 of the Standards.

3. To be certified pursuant to the program specified in subsection 3 of NAC 445A.0622, a laboratory must comply with:

(a) The provisions concerning method detection limits, sample containers, holding times and preservation set forth in 40 C.F.R. § 136.3(e) and Appendix B to that part;

(b) The provisions of 40 C.F.R. §§ 403.7(b)(2), 403.12(b)(5) and 403.12(g)(4), if applicable;

(c) The provisions concerning the methods set forth in 40 C.F.R. § 455.50, if the laboratory conducts tests for active ingredients in pesticides; and

(d) The provisions concerning the collection of representative samples and the methods set forth in 40 C.F.R. ~~Parts~~ §§ 501.15(b)(10)(iv) and 503.8, if the laboratory conducts tests of sewage sludge.

4. To be certified for an approved method of testing, a laboratory must comply with the requirements for using that approved method of testing specified in subsection 4 of NAC 445A.0622 and the Standards. If a conflict occurs between a provision specified in that subsection and the Standards concerning an approved method of testing, the Standards apply. If a manufacturer provides instructions for maintaining any equipment used for testing or for ensuring the performance of any test or demonstrating the performance of any system of measurement, the laboratory shall comply with those instructions. If a conflict occurs between a provision of those instructions and a provision specified in subsection 4 of NAC 445A.0622 or the Standards, the provisions specified in that section or the Standards apply.

5. If a laboratory intends to use a performance-based measurement system or any other alternative method of testing, the laboratory shall, before the Division conducts an inspection of the laboratory pursuant to the provisions of NAC 445A.0638, submit to the Division a written statement setting forth the performance-based measurement system or other alternative method



of testing it intends to use. The Division may approve the performance-based measurement system or alternative method of testing if, as determined by the Division:

(a) The system or method is equivalent to or exceeds the approved method of testing for accuracy, precision, completeness and comparability relating to determining compliance with the regulatory concentration levels or system conditions;

(b) An approved method of testing is not available for use by the laboratory to determine the presence of an analyte for which the laboratory requests certification pursuant to the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ *446A.067, inclusive, and section 1 of this regulation;* or

(c) The laboratory obtains approval for the system or method from the Environmental Protection Agency.

6. To be certified to test for a specific analyte using an approved method of testing, a laboratory must comply with the requirements established by the Division for the approved method of testing and the standards for initial and continuing calibrations of test equipment and demonstrations by analysts of precision, accuracy, sensitivity and low system background for each analyte. If a conflict occurs between the requirements established by the Division and the Standards, the Standards apply.

7. As used in this section:

(a) "Holding times" has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the Standards.

(b) *"Limit of detection" means the smallest amount or concentration of an analyte that can be reliably detected in a given sample by a specific measurement process.*

(c) “Low system background” means an analysis of a method blank that does not yield contamination at a concentration that is greater than the ~~MDL~~.

~~(e)~~ *method detection limit or the limit of detection, whichever is applicable to the particular analyte.*

(d) “Method blank” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the Standards.

~~(d)~~ (e) “Method detection limit” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the Standards.

**Sec. 23.** NAC 445A.0628 is hereby amended to read as follows:

445A.0628 1. A laboratory may apply for certification by the Division or certification pursuant to the National Environmental Laboratory Accreditation Program.

2. To obtain certification by the Division, a laboratory must comply with the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ *445A.067, inclusive, and section 1 of this regulation.*

3. A laboratory that is certified by the Division may provide analytical data for an environmental sample originating in this State for each analyte for which the laboratory is certified.

4. To obtain certification pursuant to the National Environmental Laboratory Accreditation Program, a laboratory must:

(a) Comply with the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ *445A.067, inclusive, and section 1 of this regulation;*

(b) Before obtaining certification pursuant to the Program and every 2 years after obtaining that certification, submit to an assessment of the laboratory conducted at the laboratory under the

direction of a person who is approved pursuant to the ~~[National Environmental Laboratory Accreditation]~~ Program; and

(c) Specify in its application for certification at least one approved method of testing ~~[and]~~ *an* analyte pursuant to the provisions of subsections 4 and 6 of NAC 445A.0622.

**Sec. 24.** NAC 445A.0632 is hereby amended to read as follows:

445A.0632 1. To apply for certification pursuant to the provisions of NAC 445A.0552 to ~~[445A.0654,]~~ *446A.067*, inclusive, *and section 1 of this regulation*, the director of the laboratory for which certification is requested must submit an application to the Division on a form approved by the Division. The application must be accompanied by the fees prescribed in NAC 445A.066 and include the information specified in sections 4.1.7 and 4.1.9 of the Standards.

2. The provisions of this section do not require an application and certificate for each building or other portion of a certified laboratory that:

(a) Is operated by the same management, quality manual and quality assurance officer as the certified laboratory;

(b) Uses only methods for which the laboratory is certified;

(c) Does not issue reports directly but forwards data to the certified laboratory for reporting purposes; and

(d) The Division determines is used to analyze the same environmental samples as the certified laboratory.

↪ As used in this subsection, “quality assurance officer” means the quality assurance officer specified in section 5.4.2 of the Standards.

3. The Division shall not consider an application for certification submitted pursuant to this section to be complete unless:

(a) The laboratory specifies in the application the approved methods of testing in accordance with the provisions of NAC 445A.0622;

(b) The laboratory satisfactorily analyzes proficiency test samples in accordance with the provisions of NAC 445A.0634;

(c) The laboratory adopts a quality manual and submits the manual to the Division pursuant to the provisions of NAC 445A.0636;

(d) ~~The~~ *Except for a laboratory that complies with the provisions of NAC 445A.0665, the* Division conducts an inspection of the laboratory for the approved methods of testing ~~and~~ analytes for which the laboratory requests certification pursuant to the provisions of NAC 445A.0638;

(e) If the report of an inspection of the laboratory conducted by the Division includes any deficiency that must be corrected, the laboratory submits to the Division a written plan to correct the deficiency in accordance with the provisions of subsection 7 of NAC 445A.0638;

(f) The director of the laboratory is qualified for that position pursuant to the provisions of ~~the manual specified in subsection 5 of NAC 445A.0612;~~ *subsection 4.1 of chapter 4 of the Standards;* and

(g) The applicable fees prescribed in NAC 445A.066 have been paid.

4. An application for certification shall be deemed withdrawn by the applicant if it is not completed pursuant to the provisions of this section within 1 year after the Division receives the application. The Division may extend the period in which an application must be completed pursuant to this subsection if the applicant submits to the Division a written request for an extension setting forth the reasons for the request.

**Sec. 25.** NAC 445A.0634 is hereby amended to read as follows:

445A.0634 1. Each laboratory for which an application for certification is submitted and each certified laboratory must participate in a proficiency testing program. The laboratory must:

(a) Obtain single-blind proficiency test samples from a provider approved by ~~[the National Institute of Testing Standards;]~~ *a Proficiency Testing Oversight Body/Proficiency Testing Provider Accreditor;*

(b) Analyze the proficiency test samples, if available, for each category of certification and analyte that is included in the program; and

(c) Report the results of the analysis to the provider specified in paragraph (a).

↪ If the laboratory is a certified laboratory and if a test will be conducted for each category of certification and analyte for which the laboratory is certified, the certified laboratory must analyze a proficiency test sample pursuant to the program not less than once every 6 months.

2. Each laboratory specified in subsection 1 shall pay the costs of subscribing to a program specified in that subsection.

3. Each laboratory specified in subsection 1 must satisfactorily analyze each analyte that is included in the program specified in subsection 3 of NAC 445A.0622 on two of the most recent three rounds of testing. Each laboratory shall, before obtaining a proficiency test sample pursuant to paragraph (a) of subsection 1, authorize the provider of the proficiency test sample to submit to the Division the results of any test taken pursuant to the provisions of this section. If the laboratory fails to provide that authorization, the Division may refuse to consider the results of any test taken pursuant to those provisions.

4. The Division shall consider the results of any test taken pursuant to this section to be satisfactory if the results are within the limits of acceptance established by the provider of the

proficiency test samples in accordance with the provisions of Appendix C of chapter 2 of the Standards.

5. If the Division determines that the results of a test are satisfactory, the laboratory may be certified to use any approved method of testing for each analyte that is satisfactorily analyzed by the laboratory if, as determined by the Division, data sufficient to validate the use of that method of testing on an annual basis are available. If such data are not available, the Division shall deny or revoke certification for that method of testing. As used in this ~~paragraph,~~ *subsection*, “data sufficient to validate” means performance of an initial demonstration of capability as defined in section 7.2.8 of the manual specified in *paragraph (e) of* subsection ~~5~~ *1* of NAC 445A.0612.

6. If a certified laboratory fails:

(a) Two rounds of testing pursuant to subsection 3, the Division shall suspend the certification of that laboratory for each analyte the laboratory failed to analyze during those rounds; or

(b) Three rounds of testing pursuant to that subsection, the Division shall revoke the certification of that laboratory for each analyte the laboratory failed to analyze during those rounds.

7. If the Division suspends the certification of a certified laboratory pursuant to subsection 6 because the laboratory failed two nonconsecutive rounds of testing, the Division shall reinstate the certification of that laboratory for the method of testing ~~and~~ *an* analyte for which the certification was suspended if the certified laboratory satisfactorily analyzes the analyte in a proficiency test sample that is approved by the Division.

8. If the Division suspends the certification of a certified laboratory pursuant to subsection 6 because the laboratory failed to analyze an analyte on two consecutive rounds of testing, the

laboratory must satisfactorily analyze the analyte during each of two consecutive rounds of testing conducted after the Division suspends the certification.

9. If the Division revokes the certification of a certified laboratory pursuant to subsection 6, the laboratory must:

(a) Analyze satisfactorily the analyte for which the certification was revoked during each of two consecutive rounds of testing conducted after the Division revoked the certification; and

(b) Reapply for certification and pay the applicable fees pursuant to the provisions of NAC 445A.0552 to ~~[445A.0654, inclusive.]~~ *445A.067, inclusive, and section 1 of this regulation.*

↪ If a certified laboratory complies with the provisions of this subsection and is otherwise qualified for certification pursuant to the provisions of NAC 445A.0552 to ~~[445A.0654,]~~ *44A.067, inclusive, and section 1 of this regulation,* the Division shall reinstate the certification of the laboratory for each method of testing and analyte for which the laboratory was certified.

10. Each certified laboratory must comply with the requirements concerning enrollment, testing, conduct and participation in the program specified in subsection 1 pursuant to the provisions of sections 2.4, 2.5 and 2.7 of the Standards.

*11. As used in this section, “Proficiency Testing Oversight Body/Proficiency Testing Provider Accreditor” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

**Sec. 26.** NAC 445A.0636 is hereby amended to read as follows:

445A.0636 1. Each laboratory that applies for certification pursuant to NAC 445A.0552 to ~~[445A.0654,]~~ *445A.067, inclusive, and section 1 of this regulation* shall adopt a quality manual and comply with the provisions of that manual. The director of the laboratory shall submit the manual to the Division before the Division conducts an inspection of the laboratory.

2. Each quality manual specified in subsection 1 must be adopted in accordance with the provisions of section 5.5 of the Standards and include, without limitation:

(a) A statement setting forth the requirements of the laboratory for sensitivity, precision and accuracy for each method of testing or analyte for which the laboratory requests certification;

~~and~~

(b) The policy of the laboratory concerning any unauthorized use of data or fraudulent activity that occurs at the laboratory ~~and~~; *and*

*(c) The policy of the laboratory concerning the collection of samples for the purpose of determining compliance with the Federal Act. The policy must provide that:*

*(1) A person taking a sample shall sign and date an attestation indicating the validity and authenticity of the sample; and*

*(2) Tampering with or intentionally mislabeling the location, date, time or collection of a sample may be considered grounds for the denial of an application for certification or the revocation, suspension or limitation of certification pursuant to the provisions of NAC 445A.0642.*

**Sec. 27.** NAC 445A.0638 is hereby amended to read as follows:

445A.0638 1. Unless a laboratory satisfies the provisions of *paragraph (c) of* subsection ~~4] 2~~ of NAC 445A.0665, the Division shall conduct an inspection of the premises and operation of each certified laboratory or laboratory for which an application for certification is submitted pursuant to the provisions of NAC 445A.0632. An inspection conducted pursuant to this section must be conducted in accordance with the provisions of sections 3.4 to 3.7, inclusive, of the Standards. If a certified laboratory conducts analyses of ~~[wastewater,] water~~, the laboratory must be inspected in accordance with the manual adopted by reference pursuant to the provisions of



*paragraph (e) of* subsection ~~[5]~~ *1* of NAC 445A.0612. A certified laboratory shall analyze a quality control sample for each method of testing ~~[and]~~ *an* analyte for which it is certified:

- (a) At least once every ~~[12]~~ *3* months; and
- (b) Each time a new calibration curve is generated.

2. The Division shall conduct an inspection specified in subsection 1:

- (a) Not less than once every 2 years, if the laboratory is a certified laboratory; or

- (b) If the laboratory submits an application for certification pursuant to the provisions of NAC 445A.0632, not more than 30 days after the Division determines that the laboratory has complied with the provisions of paragraphs (a), (b) and (c) of subsection 3 of that section.

3. The Division may conduct an inspection of a laboratory more than once every 2 years pursuant to this section if:

- (a) The Division receives a complaint concerning the quality of the laboratory from a member of the general public or any public agency;

- (b) The Division has reasonable cause to believe the laboratory is engaging in fraudulent activity;

- (c) The Division identifies deficiencies in the operation of the laboratory after conducting an inspection of the laboratory pursuant to this section;

- (d) The laboratory notifies the Division pursuant to NAC 445A.0652 of any changes specified in that section; or

- (e) Any circumstance specified in section 3.3 of the Standards occurs.

4. An inspection conducted pursuant to the provisions of this section may include, without limitation:

- (a) Requiring the laboratory to conduct an analysis of a proficiency test sample; and

(b) Photocopying, photographing or videotaping:

(1) Any part of the laboratory that is used for analyzing samples of water pursuant to the Federal Act;

(2) Any equipment, activity, environmental sample, records or results of any test relating to the analysis of water pursuant to the Federal Act;

(3) Any data concerning the control of the quality of any analysis conducted by the laboratory pursuant to the Federal Act; or

(4) Any other information required by the Division to ensure compliance with the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ *445A.067, inclusive, and section 1 of this regulation.*

5. Except as otherwise provided in this subsection, the Division shall announce each inspection conducted pursuant to the provisions of this section. The Division may conduct an unannounced inspection of a laboratory if the Division determines that such an inspection is required to ensure compliance by the laboratory with the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ *445A.067, inclusive, and section 1 of this regulation.* In determining whether to conduct an unannounced inspection, the Division shall consider:

(a) The laboratory's record of compliance with the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ *445A.067, inclusive, and section 1 of this regulation;*

(b) The results of any proficiency test taken by the laboratory;

(c) The performance of any analyst or other employee of the laboratory in conducting an analysis of an environmental sample pursuant to the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ *445A.067, inclusive, and section 1 of this regulation;*

(d) Any complaints concerning the laboratory that the Division has received from members of the general public or any public agency; and

(e) The performance of the laboratory in conducting analyses pursuant to the provisions of NAC 445A.0552 to ~~[445A.0654, inclusive;]~~ *445A.067, inclusive, and section 1 of this regulation.*

6. If the Division conducts an inspection of a laboratory pursuant to the provisions of this section, the laboratory shall:

(a) Ensure that any record or other information which relates to compliance by the laboratory with the Federal Act or NAC 445A.0552 to ~~[445A.0654,]~~ *445A.067, inclusive, and section 1 of this regulation* and which is required by the Division to conduct the inspection is available for review, including, without limitation:

(1) The quality manual adopted pursuant to the provisions of NAC 445A.0636;

(2) Any information concerning the methods of testing used by the laboratory;

(3) Any data concerning the control of the quality of an analysis conducted by the laboratory; and

(4) Any information concerning any proficiency test taken by the laboratory; and

(b) Allow the Division to:

(1) Examine any records of the laboratory concerning the operation or certification of the laboratory that relate to compliance by the laboratory with the Federal Act or NAC 445A.0552 to ~~[445A.0654, inclusive;]~~ *445A.067, inclusive, and section 1 of this regulation;*

(2) Observe the operation, facilities and equipment of the laboratory that relate to compliance with the Federal Act or NAC 445A.0552 to ~~[445A.0654, inclusive;]~~ *445A.067, inclusive, and section 1 of this regulation;*

(3) Interview any employee of the laboratory who performs duties relating to compliance by the laboratory with the Federal Act or NAC 445A.0552 to ~~[445A.0654, inclusive;]~~ *445A.067, inclusive, and section 1 of this regulation;* and

(4) Engage in any activity which is necessary and appropriate for determining compliance by the laboratory with the Federal Act or NAC 445A.0552 to ~~[445A.0654;]~~ *445A.067, inclusive, and section 1 of this regulation* and which is required by the Division.

7. If the Division conducts an inspection of a laboratory, it shall, within 30 days after it conducts the inspection, provide to the laboratory a copy of the report of the inspection. The report must include any deficiency the Division discovers during its inspection of the laboratory. The laboratory shall prepare a plan to correct the deficiency specified in the report. The plan must:

(a) Be submitted to the Division not more than 30 days after the laboratory receives the report from the Division;

(b) Be submitted on a form approved by the Division; and

(c) Include, without limitation:

(1) The signature of the person who prepared the plan; and

(2) The proposed date by which the laboratory will correct the deficiency.

8. If, after reviewing the plan submitted pursuant to subsection 7, the Division determines that the plan is insufficient to correct the deficiency, the Division shall notify the laboratory of that fact in writing. Upon receipt of the written notice, the laboratory shall, not more than 30 days after receiving the notice, submit a revised plan to the Division. If, after reviewing the revised plan, the Division determines that the revised plan is insufficient to correct the deficiency, or if the Division conducts an inspection of the laboratory and determines that the

deficiency has not been corrected, the Division shall deny the laboratory's application for certification or revoke its certification.

**Sec. 28.** NAC 445A.0642 is hereby amended to read as follows:

445A.0642 1. The Division may deny an application for certification of a laboratory or revoke, suspend or limit the certification of a certified laboratory if the laboratory:

(a) Makes a false statement in:

(1) An application for certification;

(2) A report concerning the analysis of an environmental sample; or

(3) Any other document relating to certification in violation of the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ ***445A.067, inclusive, and section 1 of this regulation;***

(b) Falsifies any results of laboratory testing or misrepresents any information obtained from laboratory testing in violation of the provisions of NAC 445A.0626 or 445A.0654;

(c) Fails to maintain the facilities or equipment of the laboratory in accordance with the quality manual or quality system of the laboratory;

(d) Fails to participate satisfactorily in a proficiency testing program, if the program is available, in violation of the provisions of NAC 445A.0634;

(e) Falsely claims certification for a method of testing or an analyte for which the laboratory is not certified in violation of the provisions of NAC 445A.0654;

(f) Fails to prepare a plan of correction or to correct any deficiency specified by the Division within the period specified in the plan in violation of the provisions of NAC 445A.0638;

(g) Fails to pay any fees or expenses of the Division in violation of the provisions of NAC 445A.066;

(h) Fails to notify the Division of any changes specified in NAC 445A.0652;

- (i) Authorizes a person who is not qualified to perform an analysis in violation of the provisions of NAC 445A.0626;
- (j) Communicates with or receives a communication concerning the results of a proficiency test sample from a laboratory on or before the date established for submitting the results of that sample to the provider of the sample pursuant to the provisions of NAC 445A.0634;
- (k) Knowingly receives a proficiency test sample from a laboratory or provides a proficiency test sample to a laboratory on or before the date specified in paragraph (j);
- (l) Prohibits an employee of the Division from conducting an inspection of the laboratory in violation of the provisions of NAC 445A.0638;
- (m) Fails to provide to the Division any information required by the Division to determine whether a laboratory is operated in compliance with the provisions of NAC 445A.0552 to ~~445A.0654, inclusive;~~ **445A.067, inclusive, and section 1 of this regulation;**
- (n) Misrepresents any material fact to obtain or maintain certification pursuant to the provisions of NAC 445A.0552 to ~~445A.0654, inclusive; or~~ **445A.067, inclusive, and section 1 of this regulation;**
- (o) Engages in any activity that is a ground for the denial of an application for certification or for the suspension or revocation of the certification of a laboratory set forth in ~~sections~~ **section 4.1.4(d) or 4.4 of the Standards [ ] ; or**
- (p) Knowingly employs, directly or indirectly, a person who has violated a provision of NRS 445A.300 to 445A.730, inclusive, or NAC 445A.0552 to 445A.067, inclusive, and section 1 of this regulation.**

2. In determining whether to deny an application for certification or to revoke, suspend or limit the certification of a laboratory pursuant to this section, the Division shall consider:

- (a) The gravity of the violation;
- (b) The harm to the health and safety of the members of the general public;
- (c) The intent of the person who committed the violation;
- (d) The extent of the violation; and
- (e) Any proposed correction of the violation.

3. As used in this section, “quality system” has the meaning ascribed to it in Appendix ~~B~~ **A** of chapter ~~5~~ **1** of the Standards.

**Sec. 29.** NAC 445A.0646 is hereby amended to read as follows:

445A.0646 1. The Division may renew the certificate of a certified laboratory if:

- (a) The laboratory pays the applicable fee to renew the certificate;
- (b) The laboratory submits a statement on a form approved by the Division indicating that it is in compliance with the provisions of NAC 445A.0552 to ~~445A.0654,~~ **445A.067**, inclusive, **and section 1 of this regulation** concerning each category of testing, method of testing and analyte for which it is certified;

(c) The laboratory submits a report to the Division indicating that it has received satisfactory proficiency test results for each category of testing and analyte for which it is certified; and

(d) The Division determines that the laboratory is in compliance with the provisions of NAC 445A.0552 to ~~445A.0654, inclusive,~~ **445A.067, inclusive, and section 1 of this regulation.**

2. A certificate issued to a laboratory pursuant to the provisions of NAC 445A.0552 to ~~445A.0654,~~ **445A.067**, inclusive, **and section 1 of this regulation** expires on ~~June 30~~ **July 31** of each year. If the certificate of a certified laboratory expires, the laboratory may apply for certification in the manner prescribed in NAC 445A.0632.

3. ~~[Not later than June 1 of each year, the]~~ *The* Division shall ~~[mail]~~ *make available* to each certified laboratory a notice for the renewal of the certificate and a form to provide a statement of compliance specified in paragraph (b) of subsection 1.

4. Each certified laboratory shall maintain any record specified in section 4.3.3 of the Standards in accordance with the provisions of that section.

**Sec. 30.** NAC 445A.0648 is hereby amended to read as follows:

445A.0648 1. The director of the laboratory shall display the certificate issued by the Division in a conspicuous place in the laboratory to which the members of the general public have access.

2. The certificate is the property of the Division and must be surrendered to the Division if:

(a) The Division revokes the certificate;

(b) The laboratory for which the certificate is issued ceases to conduct analyses of water for which a certificate is required; or

(c) The Division ceases to be an accrediting authority approved by the Environmental Protection Agency. As used in this paragraph, “accrediting authority” has the meaning ascribed to it in Appendix ~~[B]~~ *A* of chapter ~~[5]~~ *I* of the Standards.

3. In addition to issuing a certificate to each certified laboratory, the Division shall provide to each certified laboratory a document which indicates each category of testing ~~[and]~~ *an* analyte for which the laboratory is certified. If, after the Division provides the document to the laboratory, the Division certifies the laboratory for an additional analyte or the Division revokes, suspends or limits the certification of the laboratory for a category of testing or analyte, the Division shall revise the document to include the additional analyte for which the laboratory is



certified or the category of testing or analyte that is revoked, suspended or limited by the Division.

**Sec. 31.** NAC 445A.0654 is hereby amended to read as follows:

445A.0654 1. A certified laboratory shall ensure that each analysis it performs complies with the provisions of Appendix D of chapter 5 of the Standards.

2. A certified laboratory shall maintain any document or other information required by the provisions of section 4.3.3 of the Standards in accordance with the provisions of that section.

3. If a certified laboratory prepares a report of any test conducted pursuant to the provisions of this section, the report must be prepared in accordance with the provisions of section 5.13 of the Standards.

4. If a certified laboratory is not certified to conduct a test in a category of testing or to use a method of testing or test for an analyte pursuant to the provisions of NAC 445A.0552 to ~~445A.0654,~~ **445A.067**, inclusive, *and section 1 of this regulation* the director of the laboratory may contract with a certified laboratory to perform that test if:

(a) Before entering into the contract, the director notifies in writing the person for whom the test will be conducted of his intent to enter into the contract; and

(b) The laboratory complies with the requirements specified in section 5.14 of the Standards.

5. If a certified laboratory contracts with another certified laboratory pursuant to the provisions of this section, the director of the certified laboratory shall ensure that the certified laboratory that will conduct the test is certified pursuant to the provisions of NAC 445A.0552 to ~~445A.0654, inclusive,~~ **445A.067**, inclusive, *and section 1 of this regulation*. If the certified laboratory that offered the contract maintains any record of the contract or of any test conducted pursuant to the contract, it shall include in that record:

(a) Any report submitted by the certified laboratory that conducted the test concerning the results of the test; and

(b) The certification number of the certified laboratory that conducted the test.

6. If the certified laboratory that offered the contract prepares a report concerning the results of any test conducted pursuant to the contract, it shall specify in the report that the results of that test were obtained by contract pursuant to the provisions of this section.

**Sec. 32.** NAC 445A.066 is hereby amended to read as follows:

445A.066 1. ~~{A}~~ *Except as otherwise provided in subsection 2, a* laboratory must submit ~~{a one-time, nonrefundable}~~ *an annual* fee of ~~[\$400]~~ *\$500* with each application for certification ~~. [, including, without limitation, any application for certification for additional analytes.]~~

2. A laboratory *which only performs analysis for microbiology is not required to pay the fee provided pursuant to subsection 1.*

3. *In addition to the fee required pursuant to the provisions of subsections 1 and 4, a laboratory* must submit an annual certification fee for each category of contaminant for which certification is requested. The categories of contaminants and annual fees are:

CATEGORY OF CONTAMINANT	ANNUAL FEE
<del>{Trace Metals}</del> .....	<del>\$500</del>
<del>Minerals</del> .....	<del>500</del>
<del>Nutrients</del> .....	<del>250</del>
<del>Demands</del> .....	<del>250</del>

CATEGORY OF CONTAMINANT	FEE
<del>Polychlorinated biphenols (Water)</del> .....	<del>250</del>
<del>Polychlorinated biphenols (Oil)</del> .....	<del>250</del>
<del>Pesticides</del> .....	<del>500</del>
<del>Volatile Halocarbons</del> .....	<del>250</del>
<del>Volatile Aromatics</del> .....	<del>250</del>
<del>Total Cyanide</del> .....	<del>125</del>
<del>Nonfilterable Residue</del> .....	<del>125</del>
<del>Oil and Grease</del> .....	<del>125</del>
<del>Total Phenolics</del> .....	<del>125</del>
<del>Total Residual Chlorine</del> .....	<del>125</del>
<del>Microbiological</del> .....	<del>350</del>
<del>Radiochemical</del> .....	<del>500</del>
<del>Other]</del>	
<i>Asbestos</i> .....	<i>\$400</i>
<i>Cyanide</i> .....	<i>250</i>
<i>Demands</i> .....	<i>350</i>
<i>Dioxin</i> .....	<i>545</i>
<i>Herbicides</i> .....	<i>545</i>
<i>Microbiology</i> .....	<i>400</i>
<i>Minerals</i> .....	<i>400</i>

CATEGORY OF CONTAMINANT	ANNUAL FEE
<i>Nutrients</i> .....	250
<i>Oil and grease</i> .....	250
<i>Perchlorate</i> .....	250
<i>Pesticides</i> .....	545
<i>Phenolics</i> .....	250
<i>Polyaromatic hydrocarbons</i> .....	545
<i>Polychlorinated biphenyls in oil</i> .....	545
<i>Polychlorinated biphenyls in wastewater</i> .....	545
<i>Radiochemistry</i> .....	545
<i>Residual chlorine</i> .....	125
<i>Residue</i> .....	350
<i>Semivolatile organic chemistry</i> .....	545
<i>Synthetic Organic Compounds Group 1 (includes semivolatile organic chemistry, pesticides, herbicides and polyaromatic hydrocarbons)</i> .....	1,500
<i>Toxicity bioassay</i> .....	400
<i>Trace metals</i> .....	545
<i>Volatile organic chemistry</i> .....	545
<i>Any other individual contaminant [as defined by the United States Environmental Protection Agency</i> .....	<del>125]</del>
.....	200

CATEGORY OF CONTAMINANT	ANNUAL FEE
<i>Any other individual multicontaminant method .....</i>	<i>400</i>

~~{→ The annual certification fee to perform toxicity bioassays is \$125.~~

~~—3. The fee]~~

*4. In addition to the fees required pursuant to the provisions of subsections 1 and 3, if a laboratory applies for certification for a contaminant in more than two of the approved methods of testing for that contaminant, the laboratory must submit a fee of \$200 for each additional approved method of testing.*

*5. If a laboratory applies for certification for additional contaminants ~~[requested by a laboratory during]~~ after the laboratory has been issued a certification for an annual period of certification ~~[is \$400.]~~, the fee for certification for each additional contaminant is the fee provided for that contaminant pursuant to the provisions of subsection 3.* The fee must be prorated pursuant to subsection ~~[4]~~ 6 if the provisions of that subsection otherwise apply. If the Division conducts an evaluation for certification at the laboratory, the laboratory must pay, at the rate provided for state officers and employees generally, the actual travel and per diem expenses of the Division. If the laboratory is located outside of this State, the expenses must be paid pursuant to the provisions of subsection ~~[5.]~~ 7.

~~[4.]~~ 6. The fees are effective for 12 months beginning on ~~[July]~~ August 1 of each year. If an application for certification to test for an analyte is submitted during that period, the fees for that certification must be prorated using the following formula:

Fee X .083 X the number of months remaining in the ~~[fiscal year.]~~ *period of certification.*

For the purpose of prorating fees, an application for certification to test for an analyte shall be deemed to have been submitted at the beginning of a month regardless of the date of the application. The prorated fee must be rounded to the next highest dollar. The fee ~~[for submitting an application for certification to test for an analyte]~~ *provided pursuant to the provisions of subsection 1* must not be prorated.

~~[5.]~~ **7.** If an evaluation for certification of a laboratory that is located outside *of* this State is conducted, the laboratory must pay the actual travel and per diem expenses of the employee of the Division who conducts the evaluation.

~~[6.]~~ **8.** The fee for certification to test for a specific analyte must be paid before a certificate for that analyte may be issued.

~~[7.]~~ **9.** Any fee paid pursuant to the provisions of this section is nonrefundable.

**Sec. 33.** NAC 445A.0665 is hereby amended to read as follows:

445A.0665 The Division shall accept data relating to the analysis of contaminants regulated pursuant to NRS 445A.300 to 445A.730, inclusive, that are submitted from a laboratory located outside of this State if:

1. The laboratory has otherwise complied with the requirements set forth in NAC 445A.0552 to 445A.0665, inclusive;

2. The ~~[Laboratory]~~ :

(a) *Laboratory* is certified by ~~[~~:

~~—(a) The state where it is located or, if the state where the laboratory is located does not have a program for certifying laboratories for the analysis of water, by any other state which provides those certifications; or~~

~~—(b) The~~ *the* United States Environmental Protection Agency;

~~{3. The}~~

(b) Division determines that the state where the laboratory is located:

~~{(a)}~~ (1) Has adopted a program for certifying laboratories for the analysis of water that is equivalent to the program for certifying those laboratories adopted by ~~{this State; and~~

~~{(b)}~~ *the Division; and*

(2) Accepts the results of evaluations conducted pursuant to the program adopted by ~~{this State;~~

~~—4. The laboratory;~~

~~—(a) the Division; or~~

(c) *Laboratory:*

(1) Is located in a state that has established an agreement with this State concerning certification of laboratories by reciprocity; or

~~{(b)}~~ (2) Is certified pursuant to the National Environmental Laboratory Accreditation Program; and

~~{5.}~~ 3. The laboratory submits to the Division a copy of an acceptable report relating to the most recent evaluation conducted at the laboratory by:

(a) The state where the laboratory is certified;

(b) An independent organization that is approved by the Division to certify laboratories for the analysis of water; or

(c) The United States Environmental Protection Agency.

↳ The evaluation to which the report relates must be conducted within the 2 years immediately preceding the date of the application of the laboratory for certification.

**Sec. 34.** NAC 445A.067 is hereby amended to read as follows:

445A.067 If any publication adopted by reference pursuant to the provisions of NAC 445A.0552 to ~~445A.0654,~~ **445A.067**, inclusive, *and section 1 of this regulation* is revised, the Commission may review the revision to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to the provisions of NAC 445A.0552 to ~~445A.0654, inclusive.~~ **445A.067, inclusive, and section 1 of this regulation.**

**Sec. 35.** Chapter 459 of NAC is hereby amended by adding thereto the provisions set forth as sections 36 to 80, inclusive, of this regulation.

**Sec. 36.** *As used in sections 36 to 80, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 37 to 57, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 37.** *“Accuracy” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

**Sec. 38.** *“Analyst” means a chemist, microbiologist, physicist or technician who:*



*1. Is qualified to conduct analyses of waste samples pursuant to the provisions of the manual specified in paragraph (e) of subsection 1 of section 60 of this regulation; and*

*2. Performs those tests or assists in performing those tests with other qualified employees of a certified laboratory.*

**Sec. 39.** *“Analyte” means any compound, element, radical, isotope, contaminant organism, species or other substance for which a waste sample is tested by a laboratory.*

**Sec. 40.** *“Approved method of testing” means a laboratory procedure specified in subsection 4 of section 64 of this regulation that is approved by the Environmental Protection Agency or the Division to test a waste sample.*

**Sec. 41.** *“Certified laboratory” means a laboratory for which a certificate to conduct analyses of waste samples is issued pursuant to the provisions of sections 36 to 80, inclusive, of this regulation.*

**Sec. 42.** *“Commission” means the State Environmental Commission.*

**Sec. 43.** *“Director” means:*

*1. A person who is qualified to administer any technical or scientific operation of a certified laboratory and supervise the procedures for the testing and reporting of the results of tests pursuant to the provisions of the Standards; or*

*2. A chemist, microbiologist or physicist who is qualified to engage in an activity specified in subsection 1 pursuant to the provisions of the manual specified in paragraph (e) of subsection 1 of section 60 of this regulation.*

**Sec. 44.** *“Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.*

Sec. 45. *“Federal Act” means the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq.*

Sec. 46. *“National Environmental Laboratory Accreditation Conference” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 47. *“National Environmental Laboratory Accreditation Program” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 48. *“Performance-based measurement system” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 49. *“Precision” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 50. *“Proficiency test sample” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 51. *“Proficiency testing program” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 52. *“Quality control sample” means an uncontaminated waste sample that is spiked with a known analyte and provided to a laboratory for analysis to determine the performance of the laboratory in testing for the presence of that analyte by using a specified method of testing for the analyte.*

Sec. 53. *“Quality manual” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 54. *“Sensitivity” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 55. *“Spike” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

Sec. 56. *“Standards” means the Standards of the National Environmental Laboratory Accreditation Conference adopted by reference pursuant to the provisions of section 58 of this regulation.*

Sec. 57. *“Waste sample” means a sample of any substance obtained from any natural source or any other source to identify whether waste is hazardous waste or to detect the presence of hazardous waste or a regulated substance in soil or water.*

Sec. 58. *The Commission hereby adopts by reference the National Environmental Laboratory Accreditation Conference-Constitution, Bylaws, and Standards, EPA 600/R-98/151, in the form most recently published by the Environmental Protection Agency, unless the Commission gives notice pursuant to the provisions of section 80 of this regulation that the most recent publication is not suitable for this State. The publication is available, free of charge, from the Environmental Protection Agency, Office of Research and Development, 401 M Street, SW, Washington, DC 20460, or from the Environmental Protection Agency at the Internet address <http://www.epa.gov/nerlesd1/land-sci/nelac/index.html>.*

Sec. 59. *The Commission hereby adopts by reference Method 1600-Membrane Filter Test Method for Enterococci in Water, May 1997, EPA-821-R-97-004, in the form most recently published, unless the Commission gives notice pursuant to the provisions of section 80 of this regulation that the most recent publication is not suitable for this State. The publication is available, free of charge, by mail from the Environmental Protection Agency, National Center for Environmental Publications and Information, P.O. Box 42419, Cincinnati, Ohio 45242-0419, or by telephone at 800.490.9198.*

**Sec. 60. 1.** *The Commission hereby adopts by reference the following publications in the forms most recently published, unless the Commission gives notice pursuant to the provisions of section 80 of this regulation that the most recent publication is not suitable for this State. The publications are available, unless otherwise provided in this section, by mail from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at 800.553.6847. The publications may also be obtained from the National Technical Information Service at the Internet address <<http://www.ntis.gov/ordering.htm>>. The publications are:*

*(a) Consensus Method for Determining Groundwaters Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA), EPA/910/9-92/029, Order Number PB93-180818, for the price of \$37.*

*(b) DBP/ICR Analytical Methods Manual, EPA/814/B-96/002, Order Number PB96-157516, for the price of \$52.*

*(c) ICR Microbial Laboratory Manual, EPA/600/R-95/178, Order Number PB96-157557, for the price of \$74.*

*(d) ICR Sampling Manual, April 1996, EPA/814/B-96/001, Order Number PB96-157508, for the price of \$52.*

*(e) Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures, Quality Assurance, 4th edition, EPA/815/B-97/001, Order Number PB97-171490, for the price of \$51.*

*(f) Method 100.2: Determination of Asbestos Structures over 10 Micrometers in Length in Drinking Water, June 1994, EPA/600/R-94/134, Order Number PB94-201902, for the price of \$33.50.*

(g) Method 1613: Tetra-Through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS, Revision B, October 1994, EPA/821/B-94/005, Order Number PB95-104774, for the price of \$39.50.

(h) Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry, February 1999, EPA/821/R-98/002, Order Number PB99-121949, for the price of \$33.50. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/ost/methods/1664f051.html>>.

(i) Methods for the Determination of Inorganic Substances in Environmental Samples, August 1993, EPA/600/R-93/100, Order Number PB94-120821, for the price of \$52.

(j) Methods for the Determination of Metals in Environmental Samples, EPA/600/4-91/010, Order Number PB91-231498, for the price of \$81.

(k) Methods for the Determination of Metals in Environmental Samples, Supplement I, EPA/600/R-94/111, Order Number PB95-125472, for the price of \$74.

(l) Methods for the Determination of Nonconventional Pesticides in Municipal and Industrial Wastewater, Volume I, Revision 1, August 1993, EPA/821/R-93/010A, Order Number PB94-121654, for the price of \$152.50.

(m) Methods for the Determination of Organic Compounds in Drinking Water, Supplement 1, EPA/600/4-90/020, Order Number PB91-146027, for the price of \$68.50.

(n) Methods for the Determination of Organic Compounds in Drinking Water, Supplement 2, EPA/600/R-92/129, Order Number PB92-207703, for the price of \$74.

(o) Methods for the Determination of Organic Compounds in Drinking Water, Supplement 3, EPA/600/R-95/131, Order Number PB95-261616, for the price of \$117.

(p) Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, 4th edition, EPA/600/4-90/027F, Order Number PB94-114733, for the price of \$81.

(q) Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, 3rd edition, EPA/600/4-91/002, Order Number PB96-141452, for the price of \$86.50.

(r) Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms, 2nd edition, EPA/600/4-91/003, Order Number PB96-141445, for the price of \$111.50.

(s) Technical Notes on Drinking Water Methods, EPA/600/R-94/173, Order Number PB95-104766, for the price of \$37.

(t) Test Methods for "Escherichia Coli" in Drinking Water: EC Medium with Mug Tube Procedure, Nutrient Agar with Mug Membrane Filter Procedure, EPA/600/4-91/016, Order Number PB91-234591, for the price of \$17.50.

(u) USEPA Contract Laboratory Program: Statement of Work for Organics Analysis: Multi-Media, Multi-Concentration, OLM01.0 (Includes Revisions OLM01.1 through OLM01.8), EPA/540/R-94/078, Order Number PB95-963508, for the price of \$100. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/superfund/programs/clp/organic.htm>>.

(v) USEPA Contract Laboratory Program: Statement of Work for Inorganics Analysis: Multi-Media, Multi-Concentration, ILM02.1, EPA/540/R-94/095, Order Number PB95-

963514, for the price of \$81. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address

<http://www.epa.gov/superfund/programs/clp/inorg.htm>.

2. The Commission hereby adopts by reference the following publications in the forms most recently published, unless the Commission gives notice pursuant to the provisions of section 80 of this regulation that the most recent publication is not suitable for this State. The publications are available by mail from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at 800.553.6847. The publications are:

(a) Interim Radiochemical Methodology for Drinking Water, EPA/600/4-75-008, Order Number PB253258, for the price of \$37.

(b) Method 100.1: Analytical Method for Determination of Asbestos Fibers in Water, September 1983, EPA/600/4-83-043, Order Number PB83-260471, for the price of \$78.50.

(c) Methods for the Chemical Analysis of Water and Wastes, EPA/600/4-79-020, Order Number PB84-128677, for the price of \$117.

(d) Methods for the Determination of Organic Compounds in Drinking Water, Revised July 1991, EPA/600/4-88/039, Order Number PB91-231480, for the price of \$89.50.

(e) Prescribed Procedures for Measurement of Radioactivity in Drinking Water, EPA/600/4-80-032, Order Number PB80-224744, for the price of \$47.50.

**Sec. 61.** The Commission hereby adopts by reference Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846, 3rd edition, and Updates I, II, IIA, IIB and III, Publication Number 955-001-00000-1, in the form most recently published, unless the Commission gives notice pursuant to the provisions of section 80 of this regulation that the

*most recent publication is not suitable for this State. The publication is available by mail from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, or by telephone at 202.512.1800, for the price of \$367. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/epaoswer/hazwaste/test/main.htm>>.*

**Sec. 62.** *The following publications are hereby adopted by the Commission in the forms most recently published, unless the Environmental Protection Agency fails to publish notice of its approval of the publication in the Federal Register or the Commission gives notice pursuant to the provisions of section 80 of this regulation that the most recent publication is not suitable for this State:*

*1. Annual Book of ASTM Standards, Section 5, "Petroleum Products, Lubricants, and Fossil Fuels," which is available by mail from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at 610. 832.9585 or at the Internet address <<http://www.astm.org>>, for the price of \$999.*

*2. Annual Book of ASTM Standards, Section 11, "Water and Environmental Technology," which is available by mail from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at 610.832.9585 or at the Internet address <<http://www.astm.org>>, for the price of \$906.*

*3. ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories, 1990, which is available by mail from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112-5776, by telephone at 800.854.7179 or at the Internet address <<http://www.global.ihs.com>>, for the price of \$35.*



4. [Standard Methods for the Examination of Water and Wastewater, Order Number 10079, available by mail from the American Water Works Association, Customer Service, 6666 West Quincy Avenue, Denver, Colorado 80235, by telephone at 800.926.7337 or at the Internet address <<http://www.awwa.org/bookstore/ProductList.cfm>>, for the price of \\$155 for members and \\$200 for nonmembers.](#)

**Sec. 63. 1.** *The provisions of sections 36 to 80, inclusive, of this regulation must not be interpreted to circumvent any of those provisions to make them less effective. If more than one interpretation exists for any of those provisions, the more restrictive interpretation applies.*

2. *If any publication adopted by reference pursuant to the provisions of sections 58 to 62, inclusive, of this regulation conflicts with any provision of sections 36 to 80, inclusive, of this regulation or with the Standards, the provision set forth in sections 36 to 80, inclusive, of this regulation or the Standards applies.*

**Sec. 64. 1.** *A laboratory may obtain certification pursuant to the provisions of sections 36 to 80, inclusive, of this regulation to perform analyses for the purposes of NRS 459.400 to 459.600, inclusive, 459.610 to 459.658, inclusive, and 459.800 to 459.856, inclusive, to identify whether waste is hazardous waste or to detect the presence of hazardous waste or a regulated substance in soil or water.*

2. *The scientific disciplines for which a laboratory may obtain certification are:*

(a) *Chemistry;*

(b) *Microbiology; and*

(c) *Radiochemistry.*

3. *A laboratory may obtain certification pursuant to the provisions of sections 36 to 80, inclusive, of this regulation for any program relating to the analysis of a waste sample approved by the Environmental Protection Agency pursuant to the Federal Act.*

4. *Except as otherwise provided in subsection 5, the approved methods of testing for which a laboratory may obtain certification are set forth in:*

(a) *Title 40 C.F.R. § 136.3 and Appendices A, C and D to 40 C.F.R. Part 136;*

(b) *Title 40 C.F.R. § 260.11;*

(c) *Appendix I to 40 C.F.R. Part 261;*

(d) *Appendix IX to 40 C.F.R. Part 266;*

(e) *Appendices A and B to 40 C.F.R. Part 425;*

(f) *Title 40 C.F.R. § 434.64;*

(g) *Appendices 1 and 2 to 40 C.F.R. Part 435, Subpart A;*

(h) *Table 7 to 40 C.F.R. Part 455;*

(i) *Title 40 C.F.R. § 465.03(c);*

(j) *Title 40 C.F.R. § 503.8; and*

(k) *The publications specified in section 59 of this regulation, paragraphs (h) to (r), inclusive, and (u) and (v) of subsection 1 of section 60 of this regulation, section 61 of this regulation and subsections 1, 2 and 4 of section 62 of this regulation.*

5. *A laboratory may obtain certification to use a performance-based measurement system or any other alternative method of testing if the laboratory:*

(a) *Complies with the provisions of subsection 5 of section 66 of this regulation;*

(b) *Obtains approval for that method of testing from the Environmental Protection Agency pursuant to the provisions of 40 C.F.R. § 403.7(b)(2)(v), 403.12(b)(5)(vi) or 403.12(g)(4);*

*(c) Complies with the requirements for application set forth in 40 C.F.R. § 136.4; and*

*(d) Provides proof and evaluates the performance-based measurement system or other alternative method of testing in accordance with the provisions of:*

*(1) Appendix E of chapter 5 of the Standards;*

*(2) “Guidelines Establishing Test Procedures for the Analysis of Pollutants: Flexibility in Existing Test Procedures and Streamlined Approach for Approving New Test Methods,” set forth in Volume 62 of the Federal Register at pages 14975 et seq., March 28, 1997; and*

*(3) “Performance Based Measurement System,” set forth in Volume 62 of the Federal Register at pages 52098 et seq., October 6, 1997.*

*6. To be certified to conduct an analysis of an analyte using an approved method of testing specified in subsection 4, the analyte must be listed by the Division in the approved method of testing pursuant to that subsection.*

**Sec. 65.** *For the purposes of charging and collecting fees and conducting performance evaluations pursuant to the provisions of sections 36 to 80, inclusive, of this regulation, the Division shall classify each analyte for which a laboratory may be certified into the following categories:*

- 1. Bulk asbestos analysis of hazardous waste.*
- 2. Characteristics of hazardous waste.*
- 3. Dioxin in hazardous waste.*
- 4. Herbicides.*
- 5. Immunoassay methods for hazardous waste.*
- 6. Infrared analysis of hazardous waste.*
- 7. Inorganic chemistry of hazardous waste.*

8. *Liquid chromatography for hazardous waste.*
9. *Microbiology.*
10. *Miscellaneous screening methods for hazardous waste.*
11. *Pesticides.*
12. *Physical properties of hazardous waste.*
13. *Polycyclic aromatic hydrocarbons in hazardous waste.*
14. *Polychlorinated biphenyls in hazardous waste.*
15. *Radiochemistry of hazardous waste.*
16. *Semivolatile organic chemistry of hazardous waste.*
17. *Toxicity bioassay of hazardous waste.*
18. *Trace metals in hazardous waste.*
19. *Volatile organic chemistry of hazardous waste.*
20. *Any other individual contaminant.*
21. *Any other individual multicontaminant method.*

**Sec. 66. 1.** *To be certified to conduct laboratory testing, a laboratory must comply with the requirements set forth in sections 1.8.3, 4.1.1, 5.0, 5.1, 5.4 and 5.5 of the Standards.*

**2.** *To be certified in:*

*(a) Chemistry, a laboratory must comply with the requirements set forth in section 1.8.5 and Appendix D.1 of chapter 5 of the Standards;*

*(b) Microbiology, a laboratory must comply with the requirements set forth in section 1.8.7 and Appendix D.3 of chapter 5 of the Standards; or*

*(c) Radiochemistry, a laboratory must comply with the requirements set forth in section 1.8.8 and Appendix D.4 of chapter 5 of the Standards.*

*3. To be certified pursuant to the program specified in subsection 3 of section 64 of this regulation, a laboratory must comply with:*

*(a) If the laboratory supports a solid waste disposal facility or a municipal solid waste landfill, the provisions concerning:*

*(1) The requirements for a ground water monitoring program relating to sampling, preservation and transport, analysis, chain-of-custody, quality assurance and quality control set forth in 40 C.F.R. §§ 257.23(a) and 258.53(a); and*

*(2) The methodological requirements for the testing of solid waste to determine whether the waste is subject to the land disposal restrictions set forth in 40 C.F.R. §§ 268.7(a)(1), 268.7(b)(1) and 268.40(f).*

*(b) If the laboratory supports a hazardous waste facility, the provisions concerning:*

*(1) The requirements for a waste analysis plan relating to sampling, preservation and transport, analysis and chain-of-custody set forth in 40 C.F.R. §§ 264.13 and 265.13;*

*(2) The requirements for a ground water monitoring plan set forth in 40 C.F.R. §§ 264.97(d), 264.97(e) and 265.92(a); and*

*(3) If applicable to the laboratory, the requirements for soil and soil-pore liquid monitoring set forth in 40 C.F.R. § 264.278(e).*

*(c) If the laboratory performs the testing of waste to determine compliance with air emission standards from tanks, surface impoundments or containers, the requirements for sampling and analysis set forth in 40 C.F.R. § 265.1084.*

*(d) If the laboratory supports an underground injection control program for hazardous waste, the requirements relating to an approved waste analysis plan set forth in 40 C.F.R. § 146.68(a).*

*(e) If the laboratory performs testing to determine compliance with air emission standards for process vents and equipment leaks, the methodological requirements set forth in 40 C.F.R. §§ 264.1033(e)(1), 264.1034, 264.1063, 265.1033(e)(1), 265.1034 and 265.1063.*

*(f) If the laboratory performs the sampling and analysis of hazardous waste burned in a boiler or industrial furnace, the methodological requirements set forth in 40 C.F.R. §§ 266.100(c)(1)(ii), 266.100(f), 266.102(b), 266.104(e)(1), 266.106(g), 266.107(f) and 266.112(b).*

*(g) If the laboratory performs the analysis of waste for a hazardous waste permit and a trial burn plan for incinerators, boilers and industrial furnaces, the methodological requirements set forth in 40 C.F.R. §§ 270.19(c)(1)(iii), 270.22(a)(2)(ii)(B), 270.62(b)(2)(i)(C) and 270.66(c)(2)(i).*

*(h) If the laboratory supports the processing of used oil or a re-refining facility, the requirements to determine whether used oil is hazardous for representative sampling and the analytical methodological requirements set forth in 40 C.F.R. §§ 279.10(b)(1)(ii), 279.44(c), 279.53(c), 279.55 and 279.63(c).*

*4. To be certified for an approved method of testing, a laboratory must comply with the requirements for using that approved method of testing specified in subsection 4 of section 64 of this regulation and the Standards. If a conflict occurs between a provision specified in that subsection and the Standards concerning an approved method of testing, the Standards apply. If a manufacturer provides instructions for maintaining any equipment used for testing or for ensuring the performance of any test or demonstrating the performance of any system of measurement, the laboratory shall comply with those instructions. If a conflict occurs between a provision of those instructions and a provision specified in subsection 4 of section 64 of this regulation or the Standards, the provisions specified in that section or the Standards apply.*

*5. If a laboratory intends to use a performance-based measurement system or any other alternative method of testing, the laboratory shall, before the Division conducts an inspection of the laboratory pursuant to the provisions of section 71 of this regulation, submit to the Division a written statement setting forth the performance-based measurement system or other alternative method of testing it intends to use. The Division may approve the performance-based measurement system or alternative method of testing if, as determined by the Division:*

*(a) The system or method is equivalent to or exceeds the approved method of testing for accuracy, precision, completeness and comparability relating to determining compliance with the regulatory concentration levels or system conditions;*

*(b) An approved method of testing is not available for use by the laboratory to determine the presence of an analyte for which the laboratory requests certification pursuant to the provisions of sections 36 to 80, inclusive, of this regulation; or*

*(c) The laboratory obtains approval for the system or method from the Environmental Protection Agency.*

*6. To be certified to test for a specific analyte using an approved method of testing, a laboratory must comply with the requirements established by the Division for the approved method of testing and the standards for initial and continuing calibrations of test equipment and demonstrations by analysts of precision, accuracy, sensitivity and low system background for each analyte. If a conflict occurs between the requirements established by the Division and the Standards, the Standards apply.*

*7. As used in this section:*

*(a) "Limit of detection" means the smallest amount or concentration of an analyte that can be reliably detected in a given sample by a specific measurement process.*

*(b) “Low system background” means an analysis of a method blank that does not yield contamination at a concentration that is greater than the method detection limit or the limit of detection, whichever is applicable to the particular analyte.*

*(c) “Method blank” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

*(d) “Method detection limit” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

*(e) “Quality assurance” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

**Sec. 67. 1.** *A laboratory may apply for certification by the Division or certification pursuant to the National Environmental Laboratory Accreditation Program.*

*2. To obtain certification by the Division, a laboratory must comply with the provisions of sections 36 to 80, inclusive, of this regulation.*

*3. A laboratory that is certified by the Division may provide analytical data for a waste sample originating in this State for each analyte for which the laboratory is certified.*

*4. To obtain certification pursuant to the National Environmental Laboratory Accreditation Program, a laboratory must:*

*(a) Comply with the provisions of sections 36 to 80, inclusive, of this regulation;*

*(b) Before obtaining certification pursuant to the Program and every 2 years after obtaining that certification, submit to an assessment of the laboratory conducted at the laboratory under the direction of a person who is approved pursuant to the Program; and*

*(c) Specify in its application for certification at least one approved method of testing an analyte pursuant to the provisions of subsections 4 and 6 of section 64 of this regulation.*



**Sec. 68. 1.** *To apply for certification pursuant to the provisions of sections 36 to 80, inclusive, of this regulation, the director of the laboratory for which certification is requested must submit an application to the Division on a form approved by the Division. The application must be accompanied by the fees prescribed in section 78 of this regulation and include the information specified in sections 4.1.7 and 4.1.9 of the Standards.*

*2. The provisions of this section do not require an application and certificate for each building or other portion of a certified laboratory that:*

*(a) Is operated by the same management, quality manual and quality assurance officer as the certified laboratory;*

*(b) Uses only methods for which the laboratory is certified;*

*(c) Does not issue reports directly but forwards data to the certified laboratory for reporting purposes; and*

*(d) The Division determines is used to analyze the same waste samples as the certified laboratory.*

↪ *As used in this subsection, “quality assurance officer” means the quality assurance officer specified in section 5.4.2 of the Standards.*

*3. The Division shall not consider an application for certification submitted pursuant to this section to be complete unless:*

*(a) The laboratory specifies in the application the approved methods of testing in accordance with the provisions of section 64 of this regulation;*

*(b) The laboratory satisfactorily analyzes proficiency test samples in accordance with the provisions of section 69 of this regulation;*

*(c) The laboratory adopts a quality manual and submits the manual to the Division pursuant to the provisions of section 70 of this regulation;*

*(d) Except for a laboratory that complies with the provisions of section 79 of this regulation, the Division conducts an inspection of the laboratory for the approved methods of testing analytes for which the laboratory requests certification pursuant to the provisions of section 71 of this regulation;*

*(e) If the report of an inspection of the laboratory conducted by the Division includes any deficiency that must be corrected, the laboratory submits to the Division a written plan to correct the deficiency in accordance with the provisions of subsection 7 of section 71 of this regulation;*

*(f) The director of the laboratory is qualified for that position pursuant to the provisions of subsection 4.1 of chapter 4 of the Standards; and*

*(g) The applicable fees prescribed in section 78 of this regulation have been paid.*

*4. An application for certification shall be deemed withdrawn by the applicant if it is not completed pursuant to the provisions of this section within 1 year after the Division receives the application. The Division may extend the period in which an application must be completed pursuant to this subsection if the applicant submits to the Division a written request for an extension setting forth the reasons for the request.*

**Sec. 69. 1.** *Each laboratory for which an application for certification is submitted and each certified laboratory must participate in a proficiency testing program. The laboratory must:*

*(a) Obtain single-blind proficiency test samples from a provider approved by a Proficiency Testing Oversight Body/Proficiency Testing Provider Accreditor;*

*(b) Analyze the proficiency test samples, if available, for each category of certification and analyte that is included in the program; and*

*(c) Report the results of the analysis to the provider specified in paragraph (a).*

*↳ If the laboratory is a certified laboratory and if a test will be conducted for each category of certification and analyte for which the laboratory is certified, the certified laboratory must analyze a proficiency test sample pursuant to the program not less than once every 6 months.*

*2. Each laboratory specified in subsection 1 shall pay the costs of subscribing to a program specified in that subsection.*

*3. Each laboratory specified in subsection 1 must satisfactorily analyze each analyte that is included in the program specified in subsection 3 of section 64 of this regulation on two of the most recent three rounds of testing. Each laboratory shall, before obtaining a proficiency test sample pursuant to paragraph (a) of subsection 1, authorize the provider of the proficiency test sample to submit to the Division the results of any test taken pursuant to the provisions of this section. If the laboratory fails to provide that authorization, the Division may refuse to consider the results of any test taken pursuant to those provisions.*

*4. The Division shall consider the results of any test taken pursuant to this section to be satisfactory if the results are within the limits of acceptance established by the provider of the proficiency test samples in accordance with the provisions of Appendix C of chapter 2 of the Standards.*

*5. If the Division determines that the results of a test are satisfactory, the laboratory may be certified to use any approved method of testing for each analyte that is satisfactorily analyzed by the laboratory if, as determined by the Division, data sufficient to validate the use of that method of testing on an annual basis are available. If such data are not available, the*

*Division shall deny or revoke certification for that method of testing. As used in this subsection, “data sufficient to validate” means performance of an initial demonstration of capability as defined in section 7.2.8 of the manual specified in paragraph (e) of subsection 1 of section 60 of this regulation.*

*6. If a certified laboratory fails:*

*(a) Two rounds of testing pursuant to subsection 3, the Division shall suspend the certification of that laboratory for each analyte the laboratory failed to analyze during those rounds; or*

*(b) Three rounds of testing pursuant to that subsection, the Division shall revoke the certification of that laboratory for each analyte the laboratory failed to analyze during those rounds.*

*7. If the Division suspends the certification of a certified laboratory pursuant to subsection 6 because the laboratory failed two nonconsecutive rounds of testing, the Division shall reinstate the certification of that laboratory for the method of testing an analyte for which the certification was suspended if the certified laboratory satisfactorily analyzes the analyte in a proficiency test sample that is approved by the Division.*

*8. If the Division suspends the certification of a certified laboratory pursuant to subsection 6 because the laboratory failed to analyze an analyte on two consecutive rounds of testing, the laboratory must satisfactorily analyze the analyte during each of two consecutive rounds of testing conducted after the Division suspends the certification.*

*9. If the Division revokes the certification of a certified laboratory pursuant to subsection 6, the laboratory must:*

*(a) Analyze satisfactorily the analyte for which the certification was revoked during each of two consecutive rounds of testing conducted after the Division revoked the certification; and*

*(b) Reapply for certification and pay the applicable fees pursuant to the provisions of sections 36 to 80, inclusive, of this regulation.*

*↪ If a certified laboratory complies with the provisions of this subsection and is otherwise qualified for certification pursuant to the provisions of sections 36 to 80, inclusive, of this regulation, the Division shall reinstate the certification of the laboratory for each method of testing and analyte for which the laboratory was certified.*

*10. Each certified laboratory must comply with the requirements concerning enrollment, testing, conduct and participation in the program specified in subsection 1 pursuant to the provisions of sections 2.4, 2.5 and 2.7 of the Standards.*

*11. As used in this section, “Proficiency Testing Oversight Body/Proficiency Testing Provider Accreditor” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

**Sec. 70.** *1. Each laboratory that applies for certification pursuant to sections 36 to 80, inclusive, of this regulation shall adopt a quality manual and comply with the provisions of that manual. The director of the laboratory shall submit the manual to the Division before the Division conducts an inspection of the laboratory.*

*2. Each quality manual specified in subsection 1 must be adopted in accordance with the provisions of section 5.5 of the Standards and include, without limitation:*

*(a) A statement setting forth the requirements of the laboratory for sensitivity, precision and accuracy for each method of testing or analyte for which the laboratory requests certification;*

*(b) The policy of the laboratory concerning any unauthorized use of data or fraudulent activity that occurs at the laboratory; and*

*(c) The policy of the laboratory concerning the collection of samples for the purpose of determining compliance with the Federal Act. The policy must provide that:*

*(1) A person taking a sample shall sign and date an attestation indicating the validity and authenticity of the sample; and*

*(2) Tampering with or intentionally mislabeling the location, date, time or collection of a sample may be considered grounds for the denial of an application for certification or the revocation, suspension or limitation of certification pursuant to the provisions of section 72 of this regulation.*

**Sec. 71. 1.** *Unless a laboratory satisfies the provisions of paragraph (c) of subsection 2 of section 79 of this regulation, the Division shall conduct an inspection of the premises and operation of each certified laboratory or laboratory for which an application for certification is submitted pursuant to the provisions of section 68 of this regulation. An inspection conducted pursuant to this section must be conducted in accordance with the provisions of sections 3.4 to 3.7, inclusive, of the Standards. If a certified laboratory conducts analyses of waste samples, the laboratory must be inspected in accordance with the manual adopted by reference pursuant to the provisions of paragraph (e) of subsection 1 of section 60 of this regulation. A certified laboratory shall analyze a quality control sample for each method of testing an analyte for which it is certified:*

*(a) At least once every 3 months; and*

*(b) Each time a new calibration curve is generated.*

*2. The Division shall conduct an inspection specified in subsection 1:*

*(a) Not less than once every 2 years, if the laboratory is a certified laboratory; or*

*(b) If the laboratory submits an application for certification pursuant to the provisions of section 68 of this regulation, not more than 30 days after the Division determines that the laboratory has complied with the provisions of paragraphs (a), (b) and (c) of subsection 3 of that section.*

*3. The Division may conduct an inspection of a laboratory more than once every 2 years pursuant to this section if:*

*(a) The Division receives a complaint concerning the quality of the laboratory from a member of the general public or any public agency;*

*(b) The Division has reasonable cause to believe the laboratory is engaging in fraudulent activity;*

*(c) The Division identifies deficiencies in the operation of the laboratory after conducting an inspection of the laboratory pursuant to this section;*

*(d) The laboratory notifies the Division pursuant to the provisions of section 76 of this regulation of any changes specified in that section; or*

*(e) Any circumstance specified in section 3.3 of the Standards occurs.*

*4. An inspection conducted pursuant to the provisions of this section may include, without limitation:*

*(a) Requiring the laboratory to conduct an analysis of a proficiency test sample; and*

*(b) Photocopying, photographing or videotaping:*

*(1) Any part of the laboratory that is used for analyzing waste samples pursuant to the Federal Act;*

*(2) Any equipment, activity, waste sample, records or results of any test relating to the analysis of a waste sample pursuant to the Federal Act;*

*(3) Any data concerning the control of the quality of any analysis conducted by the laboratory pursuant to the Federal Act; or*

*(4) Any other information required by the Division to ensure compliance with the provisions of sections 36 to 80, inclusive, of this regulation.*

*5. Except as otherwise provided in this subsection, the Division shall announce each inspection conducted pursuant to the provisions of this section. The Division may conduct an unannounced inspection of a laboratory if the Division determines that such an inspection is required to ensure compliance by the laboratory with the provisions of sections 36 to 80, inclusive, of this regulation. In determining whether to conduct an unannounced inspection, the Division shall consider:*

*(a) The laboratory's record of compliance with the provisions of sections 36 to 80, inclusive, of this regulation;*

*(b) The results of any proficiency test taken by the laboratory;*

*(c) The performance of any analyst or other employee of the laboratory in conducting an analysis of a waste sample pursuant to the provisions of sections 36 to 80, inclusive, of this regulation;*

*(d) Any complaints concerning the laboratory that the Division has received from members of the general public or any public agency; and*



*(e) The performance of the laboratory in conducting analyses pursuant to the provisions of sections 36 to 80, inclusive, of this regulation.*

*6. If the Division conducts an inspection of a laboratory pursuant to the provisions of this section, the laboratory shall:*

*(a) Ensure that any record or other information which relates to compliance by the laboratory with the Federal Act or sections 36 to 80, inclusive, of this regulation and which is required by the Division to conduct the inspection is available for review, including, without limitation:*

*(1) The quality manual adopted pursuant to the provisions of section 70 of this regulation;*

*(2) Any information concerning the methods of testing used by the laboratory;*

*(3) Any data concerning the control of the quality of an analysis conducted by the laboratory; and*

*(4) Any information concerning any proficiency test taken by the laboratory; and*

*(b) Allow the Division to:*

*(1) Examine any records of the laboratory concerning the operation or certification of the laboratory that relate to compliance by the laboratory with the Federal Act or sections 36 to 80, inclusive, of this regulation;*

*(2) Observe the operation, facilities and equipment of the laboratory that relate to compliance with the Federal Act or sections 36 to 80, inclusive, of this regulation;*

*(3) Interview any employee of the laboratory who performs duties relating to compliance by the laboratory with the Federal Act or sections 36 to 80, inclusive, of this regulation; and*

*(4) Engage in any activity which is necessary and appropriate for determining compliance by the laboratory with the Federal Act or sections 36 to 80, inclusive, of this regulation and which is required by the Division.*

*7. If the Division conducts an inspection of a laboratory, it shall, within 30 days after it conducts the inspection, provide to the laboratory a copy of the report of the inspection. The report must include any deficiency the Division discovers during its inspection of the laboratory. The laboratory shall prepare a plan to correct the deficiency specified in the report. The plan must:*

*(a) Be submitted to the Division not more than 30 days after the laboratory receives the report from the Division;*

*(b) Be submitted on a form approved by the Division; and*

*(c) Include, without limitation:*

*(1) The signature of the person who prepared the plan; and*

*(2) The proposed date by which the laboratory will correct the deficiency.*

*8. If, after reviewing the plan submitted pursuant to subsection 7, the Division determines that the plan is insufficient to correct the deficiency, the Division shall notify the laboratory of that fact in writing. Upon receipt of the written notice, the laboratory shall, not more than 30 days after receiving the notice, submit a revised plan to the Division. If, after reviewing the revised plan, the Division determines that the revised plan is insufficient to correct the deficiency, or if the Division conducts an inspection of the laboratory and determines that the deficiency has not been corrected, the Division shall deny the laboratory's application for certification or revoke its certification.*

**Sec. 72. 1. The Division may deny an application for certification of a laboratory or revoke, suspend or limit the certification of a certified laboratory if the laboratory:**

**(a) Makes a false statement in:**

**(1) An application for certification;**

**(2) A report concerning the analysis of a waste sample; or**

**(3) Any other document relating to certification in violation of the provisions of sections 36 to 80, inclusive, of this regulation;**

**(b) Falsifies any results of laboratory testing or misrepresents any information obtained from laboratory testing in violation of the provisions of section 66 or 77 of this regulation;**

**(c) Fails to maintain the facilities or equipment of the laboratory in accordance with the quality manual or quality system of the laboratory;**

**(d) Fails to participate satisfactorily in a proficiency testing program, if the program is available, in violation of the provisions of section 69 of this regulation;**

**(e) Falsely claims certification for a method of testing or an analyte for which the laboratory is not certified in violation of the provisions of section 77 of this regulation;**

**(f) Fails to prepare a plan of correction or to correct any deficiency specified by the Division within the period specified in the plan in violation of the provisions of section 71 of this regulation;**

**(g) Fails to pay any fees or expenses of the Division in violation of the provisions of section 78 of this regulation;**

**(h) Fails to notify the Division of any changes specified in section 76 of this regulation;**

**(i) Authorizes a person who is not qualified to perform an analysis in violation of the provisions of section 66 of this regulation;**

*(j) Communicates with or receives a communication concerning the results of a proficiency test sample from a laboratory on or before the date established for submitting the results of that sample to the provider of the sample pursuant to the provisions of section 69 of this regulation;*

*(k) Knowingly receives a proficiency test sample from a laboratory or provides a proficiency test sample to a laboratory on or before the date specified in paragraph (j);*

*(l) Prohibits an employee of the Division from conducting an inspection of the laboratory in violation of the provisions of section 71 of this regulation;*

*(m) Fails to provide to the Division any information required by the Division to determine whether a laboratory is operated in compliance with the provisions of sections 36 to 80, inclusive, of this regulation;*

*(n) Misrepresents any material fact to obtain or maintain certification pursuant to the provisions of sections 36 to 80, inclusive, of this regulation;*

*(o) Engages in any activity that is a ground for the denial of an application for certification or for the suspension or revocation of the certification of a laboratory set forth in section 4.1.4(d) or 4.4 of the Standards; or*

*(p) Knowingly employs, directly or indirectly, a person who has violated a provision of NRS 459.400 to 459.600, inclusive, 459.610 to 459.658, inclusive, 459.800 to 459.856, inclusive, or sections 36 to 80, inclusive, of this regulation.*

*2. In determining whether to deny an application for certification or to revoke, suspend or limit the certification of a laboratory pursuant to this section, the Division shall consider:*

*(a) The gravity of the violation;*

*(b) The harm to the health and safety of the members of the general public;*

*(c) The intent of the person who committed the violation;*

*(d) The extent of the violation; and*

*(e) Any proposed correction of the violation.*

*3. As used in this section, “quality system” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

**Sec. 73.** *If the Division denies an application for certification submitted by a laboratory or revokes the certification of a certified laboratory, the laboratory may, after the period specified in section 4.4 of the Standards expires, reapply for certification in the manner prescribed in section 68 of this regulation.*

**Sec. 74.** *1. The Division may renew the certificate of a certified laboratory if:*

*(a) The laboratory pays the applicable fee to renew the certificate;*

*(b) The laboratory submits a statement on a form approved by the Division indicating that it is in compliance with the provisions of sections 36 to 80, inclusive, of this regulation concerning each category of testing, method of testing and analyte for which it is certified;*

*(c) The laboratory submits a report to the Division indicating that it has received satisfactory proficiency test results for each category of testing and analyte for which it is certified; and*

*(d) The Division determines that the laboratory is in compliance with the provisions of sections 36 to 80, inclusive, of this regulation.*

*2. A certificate issued to a laboratory pursuant to the provisions of sections 36 to 80, inclusive, of this regulation expires on July 31 of each year. If the certificate of a certified laboratory expires, the laboratory may apply for certification in the manner prescribed in section 68 of this regulation.*

3. *The Division shall make available to each certified laboratory a notice for the renewal of the certificate and a form to provide a statement of compliance specified in paragraph (b) of subsection 1.*

4. *Each certified laboratory shall maintain any record specified in section 4.3.3 of the Standards in accordance with the provisions of that section.*

**Sec. 75. 1.** *The director of the laboratory shall display the certificate issued by the Division in a conspicuous place in the laboratory to which the members of the general public have access.*

2. *The certificate is the property of the Division and must be surrendered to the Division if:*

(a) *The Division revokes the certificate;*

(b) *The laboratory for which the certificate is issued ceases to conduct analyses of waste samples for which a certificate is required; or*

(c) *The Division ceases to be an accrediting authority approved by the Environmental Protection Agency. As used in this paragraph, “accrediting authority” has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.*

3. *In addition to issuing a certificate to each certified laboratory, the Division shall provide to each certified laboratory a document which indicates each category of testing an analyte for which the laboratory is certified. If, after the Division provides the document to the laboratory, the Division certifies the laboratory for an additional analyte or the Division revokes, suspends or limits the certification of the laboratory for a category of testing or analyte, the Division shall revise the document to include the additional analyte for which the*

*laboratory is certified or the category of testing or analyte that is revoked, suspended or limited by the Division.*

*Sec. 76. If, as determined by the Division, a change concerning a certified laboratory occurs that substantially affects the ability of the laboratory to perform any analysis for which the laboratory is certified, the director of the laboratory shall, not more than 30 days after the change occurs, notify the Division of the change in writing. For the purposes of this section, a change includes, without limitation, a change in the name, ownership, location or personnel of a laboratory or any other change specified in sections 4.1.8 and 4.3.2 of the Standards.*

*Sec. 77. 1. A certified laboratory shall ensure that each analysis it performs complies with the provisions of Appendix D of chapter 5 of the Standards.*

*2. A certified laboratory shall maintain any document or other information required by the provisions of section 4.3.3 of the Standards in accordance with the provisions of that section.*

*3. If a certified laboratory prepares a report of any test conducted pursuant to the provisions of this section, the report must be prepared in accordance with the provisions of section 5.13 of the Standards.*

*4. If a certified laboratory is not certified to conduct a test in a category of testing or to use a method of testing or test for an analyte pursuant to the provisions of sections 36 to 80, inclusive, of this regulation, the director of the laboratory may contract with a certified laboratory to perform that test if:*

*(a) Before entering into the contract, the director notifies in writing the person for whom the test will be conducted of his intent to enter into the contract; and*

*(b) The laboratory complies with the requirements specified in section 5.14 of the Standards.*

*5. If a certified laboratory contracts with another certified laboratory pursuant to the provisions of this section, the director of the certified laboratory shall ensure that the certified laboratory that will conduct the test is certified pursuant to the provisions of sections 36 to 80, inclusive, of this regulation. If the certified laboratory that offered the contract maintains any record of the contract or of any test conducted pursuant to the contract, it shall include in that record:*

*(a) Any report submitted by the certified laboratory that conducted the test concerning the results of the test; and*

*(b) The certification number of the certified laboratory that conducted the test.*

*6. If the certified laboratory that offered the contract prepares a report concerning the results of any test conducted pursuant to the contract, it shall specify in the report that the results of that test were obtained by contract pursuant to the provisions of this section.*

**Sec. 78. 1.** *Except as otherwise provided in subsection 2, a laboratory must submit an annual fee of \$500 with each application for certification.*

*2. A laboratory which only performs analysis for microbiology is not required to pay the fee provided pursuant to subsection 1.*

*3. In addition to the fee required pursuant to the provisions of subsections 1 and 4, a laboratory must submit an annual certification fee for each category of contaminant for which certification is requested. The categories of contaminants and annual fees are:*



<i>CATEGORY OF CONTAMINANT</i>	<i>FEE</i>
<i>Bulk asbestos analysis of hazardous waste .....</i>	<i>\$400</i>
<i>Characteristics of hazardous waste .....</i>	<i>350</i>
<i>Dioxin in hazardous waste .....</i>	<i>400</i>
<i>Herbicides .....</i>	<i>545</i>
<i>Immunoassay methods for hazardous waste .....</i>	<i>545</i>
<i>Infrared analysis of hazardous waste .....</i>	<i>545</i>
<i>Inorganic chemistry of hazardous waste .....</i>	<i>545</i>
<i>Liquid chromatography for hazardous waste.....</i>	<i>545</i>
<i>Microbiology.....</i>	<i>400</i>
<i>Miscellaneous screening methods for hazardous waste .....</i>	<i>400</i>
	<i>per</i>
	<i>method</i>
<i>Pesticides.....</i>	<i>545</i>
<i>Physical properties of hazardous waste .....</i>	<i>350</i>
<i>Polyaromatic hydrocarbons in hazardous waste.....</i>	<i>545</i>
<i>Polychlorinated biphenyls in hazardous waste .....</i>	<i>545</i>
<i>Radiochemistry of hazardous waste.....</i>	<i>545</i>
<i>Semivolatile organic chemistry of hazardous waste .....</i>	<i>545</i>
<i>Toxicity bioassay of hazardous waste .....</i>	<i>400</i>
<i>Trace metals in hazardous waste .....</i>	<i>545</i>

<i>CATEGORY OF CONTAMINANT</i>	<i>FEE</i>
<i>Volatile organic chemistry of hazardous waste.....</i>	<i>545</i>
<i>Any other individual contaminant.....</i>	<i>200</i>
<i>Any other individual multicontaminant method.....</i>	<i>400</i>

*4. In addition to the fees required pursuant to the provisions of subsections 1 and 3, if a laboratory applies for certification for a contaminant in more than two of the approved methods of testing for that contaminant, the laboratory must submit a fee of \$200 for each additional approved method of testing.*

*5. If a laboratory applies for certification for additional contaminants after the laboratory has been issued a certification for an annual period of certification, the fee for certification for each additional contaminant is the fee provided for that contaminant pursuant to the provisions of subsection 3. The fee must be prorated pursuant to subsection 6 if the provisions of that subsection otherwise apply. If the Division conducts an evaluation for certification at the laboratory, the laboratory must pay, at the rate provided for state officers and employees generally, the actual travel and per diem expenses of the Division. If the laboratory is located outside of this State, the expenses must be paid pursuant to the provisions of subsection 7.*

*6. The fees are effective for 12 months beginning on August 1 of each year. If an application for certification to test for an analyte is submitted during that period, the fees for that certification must be prorated using the following formula:*

*Fee X .083 X the number of months remaining in the period of certification.*

*For the purpose of prorating fees, an application for certification to test for an analyte shall be deemed to have been submitted at the beginning of a month regardless of the date of the application. The prorated fee must be rounded to the next highest dollar. The fee provided pursuant to the provisions of subsection 1 must not be prorated.*

*7. If an evaluation for certification of a laboratory that is located outside of this State is conducted, the laboratory must pay the actual travel and per diem expenses of the employee of the Division who conducts the evaluation.*

*8. The fee for certification to test for a specific analyte must be paid before a certificate for that analyte may be issued.*

*9. Any fee paid pursuant to the provisions of this section is nonrefundable.*

**Sec. 79.** *The Division shall accept data relating to the analysis of contaminants regulated pursuant to NRS 459.400 to 459.600, inclusive, 459.610 to 459.658, inclusive, and 459.800 to 459.856, inclusive, that are submitted from a laboratory located outside of this State if:*

*1. The laboratory has otherwise complied with the requirements set forth in sections 36 to 80, inclusive, of this regulation;*

*2. The:*

*(a) Laboratory is certified by the United States Environmental Protection Agency;*

*(b) Division determines that the state where the laboratory is located:*

*(1) Has adopted a program for certifying laboratories for the analysis of water that is equivalent to the program for certifying those laboratories adopted by the Division; and*

*(2) Accepts the results of evaluations conducted pursuant to the program adopted by the Division; or*

*(c) Laboratory:*

*(1) Is located in a state that has established an agreement with this State concerning certification of laboratories by reciprocity; or*

*(2) Is certified pursuant to the National Environmental Laboratory Accreditation Program; and*

*3. The laboratory submits to the Division a copy of an acceptable report relating to the most recent evaluation conducted at the laboratory by:*

*(a) The state where the laboratory is certified;*

*(b) An independent organization that is approved by the Division to certify laboratories for the analysis of waste samples; or*

*(c) The United States Environmental Protection Agency.*

*↪ The evaluation to which the report relates must be conducted within the 2 years immediately preceding the date of the application of the laboratory for certification.*

**Sec. 80.** *If any publication adopted by reference pursuant to the provisions of sections 36 to 80, inclusive, of this regulation, is revised, the Commission may review the revision to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the*

*Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to the provisions of sections 36 to 80, inclusive, of this regulation.*

**Sec. 81.** NAC 445A.0586 is hereby repealed.

---

---

**TEXT OF REPEALED SECTION**

---

---

**445A.0586 “Point source” defined.**

1. “Point source” has the meaning ascribed to it in NRS 445A.395.
2. The term includes wheeled, track, stationary or floating equipment used for earth-moving activity from which pollutants are or may be discharged.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R061-04**

The State Environmental Commission adopted regulations assigned LCB File No. R061-04 which pertain to chapters 445A and 459 of the Nevada Administrative Code on August 19, 2004.

**Notice date:** 7/16/2004  
**Hearing date:** 8/19/2004

**Date of adoption by agency:** 8/19/2004  
**Filing date:** 10/7/2004

**INFORMATIONAL STATEMENT**

**The following statement is submitted for adopted amendments to Nevada Administrative Code.** This regulation repeals existing regulations and adopts new revised regulations. This regulation repeals Nevada Administrative Code (NAC) 445A.055 through 445A.067 and adopts NAC 445A.0552 to NAC 445A.067, (i.e., Certification of Environmental Laboratories). The authority for these regulations are defined under Nevada Revised Statutes (NRS) 445A.425, 445A.428.

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

The Nevada Division of Environmental Protection (NDEP), Bureau of Water Quality Planning, scheduled two public workshops to present proposed revisions to the Nevada Laboratory Certification Program (Nevada Administrative Code 445A.0552 through 445A.067 and Senate Bill No. 58 as approved by the 2003 Legislative Session). The workshops were held on:

Tuesday, January 20, 2004  
Division of Environmental Protection  
Conference Room 217  
123 W. Nye Lane  
Caron City, Nevada  
1:00 to 3:00 pm

Friday, February 6, 2004  
Grant Sawyer Building  
Conference Room 1100, First Floor  
555 E. Washington Avenue  
Las Vegas, Nevada  
8:00 to 10:00 am

The proposed regulation was also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates – July 19, July 26 and August 9, 2004. The public was subsequently mailed a public notice and meeting agenda for the SEC hearing; the SEC mailing list was used for both mailings.

At the SEC hearing, there were public oral comments received by the Commission during the adoption of the referenced regulation. Comments in support of the regulation were provided by Dr. Roger Scholl of Alpha Analytical and Dr. John Cobra of Sierra Environmental Monitoring.

**2. The number persons who:**

- (a) **Attended August 19, 2004 hearing;** 30
- (b) **Testified on this Petition at the hearing:** 2
- (c) **Submitted to the agency written comments:** 29 (see #3 below)

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

NDEP's Bureau of Water Quality Planning (BWQP) sent eighty (80) questionnaires to businesses that might be effected by, or interested in, the state's laboratory certification program. The BWQP received 29 replies to the questionnaire that expressed interest in the new hazardous waste certification program for laboratories. Comments on this regulation were also solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list.

**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 regulation was adopted by the State Environmental Commission on August 19, 2004 without any changes.

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

Adverse effects of this regulation may include a slightly higher cost to do business for some laboratories. Small laboratories will be less affected than the larger laboratories. A poll of the laboratories affected indicates that none of the in-state laboratories consider the change in fees to present a hardship. Respondents to the above mentioned questionnaire indicated that they anticipate a beneficial effect in terms of establishing the Resource Conservation & Recovery Act (RCRA) certification program in Nevada. The new certification program will level the playing field for laboratories that perform the analytical procedures appropriately. It will also enable in-state laboratories to demonstrate certified status so that they may participate in certain contracts that require it. These contracts have previously been let to out-of-state laboratories based upon their out-of-state certification. The lack of a certification program for RCRA has resulted in out-of-state laboratories obtaining an inordinate amount of RCRA work in Nevada. In-state laboratories have either been precluded from participation in out-of-state work for lack of a Nevada certification program, or have had to pay for out-of-state certification.

Out-of-state laboratories have not had to pay for Nevada certification, but have had a free hand to participate in Nevada contracts.

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

Agency costs to implement the proposed regulations would not be negatively effected; that is, the more participation in the lab certification program, the more fees will be obtained to fund the

agency operations. The net effect would be the addition of one full time Laboratory Certification Official and a half time Administrative Assistant.

**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 regulation does 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.**

The regulation is no more stringent than what is established by federal law.

**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.**

Regarding fees, the new regulation does not contain changes in the fee structure for participating laboratories. The changes would better balance the wastewater and drinking water programs based upon actual time and effort required to administer the programs as well as support the RCRA certification program. These fees have been coordinated so that equivalent activities among the three program areas will be proportionally cost allocated. The new fee structure will generate an additional \$92,000.00 per year. These funds will support operational costs of the laboratory certification program as well as support a third certification officer and a part-time administrative assistance.