

LCB File No. R061-04

PROPOSED REGULATION OF THE STATE
ENVIRONMENTAL COMMISSION

Petition 2004-16

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

Certification Of Laboratories To
Analyze Substances In Water

General Provisions

NAC 445A.0552 Definitions. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) As used in NAC 445A.0552 to 445A.067, inclusive, 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.

NAC 445A.0554 “Accuracy” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Accuracy” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ 1 of the standards.

NAC 445A.0556 “Analyst” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “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 subsection 5 of NAC 445A.0612; and 2. Performs those tests or assists in performing those tests with other qualified employees of a certified laboratory.

NAC 445A.0558 “Analyte” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Analyte” means any compound, element, radical, isotope, contaminant organism, species or other substance for which an environmental sample is tested by a laboratory.

NAC 445A.0562 “Approved method of testing” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Approved method of testing” means a laboratory procedure specified in subsection 4 of NAC 445A.0622 that is approved by the Environmental Protection Agency or the division to test an environmental sample.

NAC 445A.0564 “Certified laboratory” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “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.06~~54~~ 7, inclusive.

NAC 445A.0566 “Commission” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Commission” means the state environmental commission.

NAC 445A.0568 “Director” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “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 subsection 5 of NAC 445A.0612.

NAC 445A.0572 “Division” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Division” means the division of environmental protection of the state department of conservation and natural resources.

NAC 445A.0574 “Environmental sample” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Environmental sample” means a sample of any substance obtained from any natural source or any source that may reasonably be expected to pollute or receive pollution from the atmosphere, supplies of drinking water, ground water, surface water, soil, sediment or ecosystem biota of this state, including, without limitation:

1. Ambient air;
2. Emissions of air from point sources;
3. Drinking water;
4. Receiving waters;
5. Soil or sediment;
6. Effluents from industrial, municipal or residential sources;
7. Samples from facilities used to store or handle chemicals;
8. Facilities used to dispose of waste;
9. Runoff of surface water; and
10. Samples obtained from facilities used to handle or apply substances for the control of weeds or insects.

NAC 445A.0576 “Federal Act” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Federal Act” means *any one of three Federal Acts; the Clean Water Act, 33 U.S.C. §§ 1251 et seq. Safe Drinking Water Act (NRS 439.200, 445A.863), designated as SDWA; the Resource Conservation and Recovery Act (NRS 459.400), designated as RCRA.*

1. *“Clean Water Act (CWA)” as used in this section has the meaning ascribed to it in 33 U.S.C §§ 1251.*

2. *“Safe Drinking Water Act (SDWA)” as used in this section has the meaning ascribed to it in Appendix A of chapter 1 of the standards.*

3. *“Resource Conservation and Recovery Act (RCRA)” as used in this section has the meaning ascribed to it in Appendix A of chapter 1 of the standards.*

NAC 445A.0578 “National Environmental Laboratory Accreditation Conference” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “National Environmental Laboratory Accreditation Conference” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the standards.

NAC 445A.0582 “National Environmental Laboratory Accreditation Program” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “National Environmental Laboratory Accreditation Program” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the standards.

NAC 445A.0584 “Performance-based measurement system” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Performance-based measurement system” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the standards.

NAC 445A.0586 “Point source” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Point source” has the meaning ascribed to it in NRS 445A.395.

NAC 445A.0588 “Precision” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Precision” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the standards.

NAC 445A.0592 “Proficiency test sample” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Proficiency test sample” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the standards.

NAC 445A.0594 “Proficiency testing program” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Proficiency testing program” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the standards.

NAC 445A.0596 “Quality control sample” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Quality control sample” means an uncontaminated environmental 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.

NAC 445A.0598 “Quality manual” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Quality manual” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the standards.

NAC 445A.0602 “Sensitivity” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Sensitivity” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ I of the standards.

NAC 445A.0604 “Spike” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Spike” has the meaning ascribed to it in Appendix ~~B~~ A of chapter ~~5~~ 1 of the standards.

NAC 445A.0606 “Standards” defined. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) “Standards” means the standards of the National Environmental Laboratory Accreditation Conference adopted by reference pursuant to the provisions of NAC 445A.0608.

Guidelines and Procedures

NAC 445A.0608 Adoption by reference of *National Environmental Laboratory Accreditation Conference-Constitution, Bylaws and Standards*. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) 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 NAC 445A.067 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, S.W., Washington, D.C. 20460, or from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/ttn/nelac>>.

NAC 445A.0612 Adoption by reference of certain publications related to sample collection procedures, analytical methodologies and requirements for certification. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) 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. *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 \$31.50.
2. *DBP/ICR Analytical Methods Manual*, EPA 814-B-96-002, Order Number PB96-157516, for the price of \$36.
3. *ICR Microbial Laboratory Manual*, EPA 600/R-95/178, Order Number PB96-157557, for the price of \$51.
4. *ICR Sampling Manual*, April 1996, EPA 814-B-96-001, Order Number PB96-157508, for the price of \$36.
 - 4a. *Interim Radiochemical Methodology for Drinking Water, EPA/600/4-75-008, Order Number PB253258, for the price of \$63.*
 - 4b. *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 \$67.50.*

4c. 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 \$28.50.

4d. 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 \$77.50.

4e. Methods for the Determination of Organic Compounds in Drinking Water, Supplement 1, EPA/4-90/020, Order Number PB91-146027, for the price of \$58.50.

4f. 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 \$63.

4g. 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 \$101.

4h. Prescribed Procedures for Measurement of Radioactivity in Drinking Water, EPA/600/4-80-032, Order Number PB80-224744, for the price of \$41.

4i. Technical Notes on Drinking Water Methods, EPA600/R-94-173, Order Number PB95-104766, for the price of \$31.50.

4j. 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 \$15.

5. Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures, Quality Assurance, 4th edition, EPA 815-B-97-001, Order Number PB90-220500, for the price of \$36.50.

6. 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 \$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. 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 \$45.

9. Methods for the Determination of Metals in Environmental Samples, EPA/600-4-91/010, Order Number PB91-231498, for the price of \$70.

10. 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. 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 Number PB94-121654, for the price of \$133.

12. 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. 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. 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 \$77.

15. US EPA Contract Laboratory Program-Statement of Work for Organics Analysis-Multi-Media, Multi-Concentration, OLM01.0 (Includes Revisions OLM01.1 through OLM01.8), Order

Number PB95-963508, for the price of \$86.50. The publication is also available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/superfund/programs/clp/prodserv.htm>>.

16. *US EPA Contract Laboratory Program-Statement of Work for Inorganics Analysis-Multi-Media, Multi-Concentration, ILM02.1*, Order Number PB95-963514, for the price of \$70. The publication is available, free of charge, from the Environmental Protection Agency at the Internet address <<http://www.epa.gov/superfund/programs/clp/prodserv.htm>>.

NAC 445A.0614 Adoption by reference of certain publications related to methods of testing for certain contaminants. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) 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 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/OST/Methods/oil.html>>.

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. The publication is also available from the United States Government Printing Office at the Internet address <<http://search.epa.gov/epaoswer/hazwaste/test/txmain.htm>>.

NAC 445A.0616 Adoption of certain ASTM standards and other publications related to calibration and testing laboratories, and examination of water and wastewater. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) 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 from the American Society For Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, for the price of \$528.

2. *Annual Book of ASTM Standards, Section 11, Water and Environmental Technology*, which is available from the American Society For Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, for the price of \$589.

3. *ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories*, 1990, which is available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, for the price of \$38.

4. *Standard Methods for the Examination of Water and Wastewater*, Order Number 10079, available from the American Water Works Association, Customer Service, 6666 West Quincy Avenue, Denver, Colorado 80235, for the price of \$155 for members and \$200 for nonmembers.

NAC 445A.0618 Interpretation of provisions; resolution of conflicting requirements. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

1. The provisions of NAC 445A.0552 to 445A.0654, inclusive, 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 conflicts with any provision of NAC 445A.0552 to 445A.0654, inclusive, or with the standards, the provision set forth in NAC 445A.0552 to 445A.0654, inclusive, or the standards applies.

NAC 445A.0622 Scope of certification. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

1. Laboratory testing is the category of testing ~~[specified in Figure 1-3 of the standards]~~ for which a laboratory may obtain certification pursuant to the provisions of NAC 445A.0552 to 445A.0654, inclusive. *Categories include SDWA, CWA, and RCRA.*

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, inclusive, for any program relating to the analysis of water *for CWA, SDWA, RCRA samples* approved by the Environmental Protection Agency pursuant to the *appropriate* 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, inclusive, of NAC 445A.0612, subsections 1 and 2 of NAC 445A.0614 and subsections 1, 2 and 4 of NAC 445A.0616.

(i) for SDWA samples are set forth in:

1. Title CFR § § 141.21(e), 141.23(k)(l), 141.24(e), 141.25(a) and (b), 141.40(n)(11), 141.74(a), 141.142(b), 141.143(b) and 143.4(b); and

2. The publications adopted by reference pursuant to the provisions of subsections 1 to 7, inclusive, 9 to 11, inclusive, 4(e) to 4(j), inclusive, of NAC 445A.0612 and subsections 1, 2 and 4 of NAC 445A.0616.

(j) for RCRA samples are set forth in:

1. Title CFR 260.11, Appendix I to 40 CFR 261, Appendix IX to 40 CFR 266, NAC 445A.0616(1) and (2), NAC 445A.0614(3), NAC 445A.0612(15) and (16).

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.

NAC 445A.0624 Categories of analytes for which laboratory may be certified. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) For the purposes of charging and collecting fees and conducting performance evaluations pursuant to the provisions of NAC 445A.0552 to 445A.0654, inclusive, 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. Polychlorinated biphenyls (water);~~
- ~~6. 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. Any other individual contaminant as defined by the Environmental Protection Agency.]~~

CWA categories:

1. *Microbiology*
2. *Volatile Organic Chemistry*
3. *Semi-volatile Organic Chemistry*
4. *Pesticides*
5. *Herbicides*
6. *Polyaromatic Hydrocarbons (PAHs)*
7. *Dioxin*
8. *Polychlorinatedbiphenyls (PCBs) in Waste Water / Oil*
9. *Oil & Grease*
10. *Phenolics*
11. *Trace Metals*
12. *Cyanide*
13. *Asbestos*
14. *Perchlorate*
15. *Minerals*
16. *Demands*
17. *Nutrients*
18. *Residue*
19. *Radiochemistry*
20. *Toxicity Bioassay*
21. *Residual Chlorine*
22. *Individual contaminants not listed above*
23. *Individual Multi-contaminant Methods not listed above*

and the following SDWA categories:

1. *Microbiology*
2. *Primary Inorganic Chemistry*
3. *Secondary Inorganic Chemistry*
4. *Volatile Organic Chemistry*
5. *Semi-volatile Organic Chemistry*
6. *Pesticides*
7. *Herbicides*
8. *Glyphosate*
9. *Endothall*
10. *Diquat*
11. *EDB/DBCP*
12. *Carbamates*
13. *Dioxin*
14. *Haloacetic Acids*
15. *Polychlorinatedbiphenyls (PCBs) in Drinking Water*
16. *Asbestos*
17. *Perchlorate*
18. *Radiochemistry*
19. *Residual Chlorine*

20. *Individual contaminants not listed above*
21. *Individual Multi-contaminant Methods not listed above*

and the following RCRA categories:

1. *Microbiology*
2. *Charateristics of Hazardous Waste*
3. *Physical Properties of Hazardous Waste*
4. *Extraction/Digestion Procedures for Hazardous Waste*
5. *Trace Metals in Hazardous Waste*
6. *Inorganic Chemistry of Hazardous Waste*
7. *Volatile Organic Chemistry of Hazardous Waste*
8. *Polychlorinatedbiphenyls (PCBs) in Hazardous Waste*
9. *Polyaromatic Hydrocarbons (PAHs) in Hazardous Waste*
10. *Liquid Chromatography for Hazardous Waste*
11. *Infrared Analyses of Hazardous Waste*
12. *Immunoassay Methods for Hazardous Waste*
13. *Dioxin in Hazardous Waste*
14. *Miscellaneous Screening Methods for Hazardous Waste*
15. *Radiochemistry of Hazardous Waste*
16. *Toxicity Bioassay of Hazardous Waste*
17. *Bulk Asbestos Analysis of Hazardous Waste*
18. *Individual contaminants not listed above*
19. *Individual Multi-contaminant Methods not listed above*

NAC 445A.0626 Requirements for certification in certain areas.(NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

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 5.1615, inclusive, 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 (*CWA*), 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.

3a. To be certified pursuant to the program specified in subsection 4(i) of NAC 445A.0622 (SDWA), a laboratory must comply with the provisions concerning method detection limits or limit of detection (however expressed), sample containers, holding times, proficiency testing and quality assurance set forth in 40 CFR §§ 141.21(c), 141.21(f), 141.23(k), 141.24(e), 141.24(f)(17), 141.24(f)(20), 141.24(h)(13), 141.24(h)(19), 141.25, 141.30(e), 141.470(g), 141.40(n)(11), 141.40(n)(12), 141.74(a) and 141.89.

3b. To be certified pursuant to the program specified in subsection 4(j) of NAC 445A.0622 (RCRA), a laboratory must comply with the provisions concerning method detection limits or limit of detection (however expressed), sample containers, holding times, proficiency testing and quality assurance set forth as follows:

(1) A laboratory or field sampling organization that supports a solid waste disposal facility or a municipal solid waste landfill must comply with documented groundwater monitoring program requirements for sampling, preservation and transport, analysis, chain-of-custody, and quality assurance and quality control, as stipulated in 40CFR Parts 257.23(a) and 258.53(a), and herein adopted by reference. Testing of solid waste to determine whether it is prohibited from land disposal must conform to methodology requirements in 40 CFR Parts 268.7(a)(1), 268.7(b)(1), and 268.40(f), and incorporated herein by reference.

(2) A laboratory supporting a hazardous waste facility must comply with sampling, preservation and transport, analysis, and chain-of-custody requirements documented in waste analysis plans, as specified in 40 CFR Parts 264.13 and 265.13; groundwater monitoring plans, as specified in 40CFR Parts 264.97(d) – (e) and 265.92(a); and, if applicable, soil and soil-pore liquid monitoring, as specified in 40 CFR 264.278(e). Each of these CFR references is adopted herein by reference.

(3) Laboratories and field sampling organizations performing waste testing to determine compliance with air emissions standards from tanks, surface impoundments, and containers shall comply with sampling and analysis requirements in 40 CFR Part 265.1084, adopted by reference herein.

(4) Laboratories and field sampling organizations supporting an Underground Injection Control program for hazardous waste must comply with documented procedures approved in a written waste analysis plan, as referenced in 40 CFR Part 146.68(a), and adopted by reference herein.

(5) Laboratories and field sampling organizations performing testing to ensure compliance with air emissions standards for process vents and equipment leaks must comply with methodology requirements in 40 CFR Parts 264.1033(e)(1), 264.1034, 264.1063, 265.1033(e)(1), 265.1034, and 265.1063, all adopted herein by reference.

(6) Laboratories and field sampling organizations that perform sampling and analysis of hazardous waste burned in boilers and industrial furnaces must comply with methodology requirements in 40 CFR Parts 266.100(c)(1)(ii), 266.100(f)(2), 266.102(b), 266.104(e)(1), 266.106(g), 266.107(f), and 266.112(b), all adopted by reference herein.

(7) Laboratories and field sampling organizations performing waste analysis for hazardous waste permits and trial burn plans for incinerators, boilers, and industrial furnaces shall comply with the methodology requirements in 40 CFR Parts 270.19(c)(1)(iii), 270.22(a)(2)(ii)(B), 270.62(b)(2)(i)(c), and 270.66(c)(2)(i), and adopted by reference herein.

(8) Laboratories and field sampling organizations supporting used oil processing and re-refining facilities must meet requirements for representative sampling and analytical methodology in 40 CFR Parts 279.10(b)(1)(ii), 279.44(c), 279.53(c), 379.55, and 279.63(c), all adopted by reference herein, in order to prove that the used oil is not hazardous.

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; 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]~~1 of the standards.

(b) "Low system background" means an analysis of a method blank that does not yield contamination at a concentration that is greater than the ~~[MDL]~~ ***method detection limit or limit of detection, however defined.***

(c) "Method blank" has the meaning ascribed to it in Appendix ~~[B]~~A of chapter ~~[5]~~1 of the standards.

(d) "Method detection limit" has the meaning ascribed to it in Appendix ~~[B]~~A of chapter ~~[5]~~1 of the standards.

(e) ***"Quality Assurance" has the meaning ascribed to it in Appendix A of chapter 1 of the Standards.***

NAC 445A.0628 Certification by division or pursuant to National Environmental Laboratory Accreditation Program. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

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.
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;
 - (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 an ~~an~~ analyte pursuant to the provisions of subsections 4 and 6 of NAC 445A.0622.

NAC 445A.0632 Application for certification. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

1. To apply for certification pursuant to the provisions of NAC 445A.0552 to 445A.0654, inclusive, 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 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~~[-];~~ *except that an inspection is not required pursuant to this paragraph if the laboratory has complied with the provisions of NAC 445A.0665;*

(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.

NAC 445A.0634 Participation in proficiency testing program. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

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 *approved PTOB/PTA* provider ~~[approved by the National Institute of Testing Standards]~~ ;

(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.

(1) "PTOB/PTA" as used in this section has the meaning ascribed to it in Appendix A of Chapter 1 of the Standards.

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, “data sufficient to validate” means performance of an initial demonstration of capability as defined in section 7.2.8 of the manual specified in subsection 5 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 an ~~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. 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, inclusive, 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.

NAC 445A.0636 Adoption of quality manual by laboratory; contents. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

1. Each laboratory that applies for certification pursuant to NAC 445A.0552 to 445A.0654, inclusive, 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*

(c) The policy of the laboratory concerning collection of regulatory samples for compliance purposes which must include an attestation by the sampler and signed and dated by the sampler indicating the validity and authenticity of the sample. It should include a statement that tampering or intentionally mislabeling the sample location, date and time or collection may be considered fraud and subject to the provisions of NAC445A.0642.

NAC 445A.0638 Inspection of laboratory by division. (NRS 445A.425,445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

1. Unless a laboratory satisfies the provisions of subsection 4 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 and/or RCRA samples**, the laboratory must be inspected in accordance with the manual adopted by reference pursuant to the provisions of subsection 5 of NAC 445A.0612. A certified laboratory shall analyze a quality control sample for each method of testing an~~[d]~~ 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 **or RCRA samples** pursuant to ~~[the]~~ **a** Federal Act;
 - (2) Any equipment, activity, environmental sample, records or results of any test relating to the analysis of water **or RCRA samples** pursuant to ~~[the]~~ **a** Federal Act;
 - (3) Any data concerning the control of the quality of any analysis conducted by the laboratory pursuant to ~~[the]~~ **a** 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.

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. 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;

(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;

(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.

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~~ a Federal Act or NAC 445A.0552 to 445A.0654, inclusive, 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~~ a Federal Act or NAC 445A.0552 to 445A.0654, inclusive;

(2) Observe the operation, facilities and equipment of the laboratory that relate to compliance with ~~the~~ a Federal Act or NAC 445A.0552 to 445A.0654, inclusive;

(3) Interview any employee of the laboratory who performs duties relating to compliance by the laboratory with ~~the~~ a Federal Act or NAC 445A.0552 to 445A.0654, inclusive; and

(4) Engage in any activity which is necessary and appropriate for determining compliance by the laboratory with ~~the~~ a Federal Act or NAC 445A.0552 to 445A.0654, inclusive, 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.

NAC 445A.0642 Grounds for denial of application for certification, or revocation, suspension or limitation of certification. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

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;
- (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;

(n) Misrepresents any material fact to obtain or maintain certification pursuant to the provisions of NAC 445A.0552 to 445A.0654, inclusive; ~~for~~

(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 4.1.4(d) or 4.4 of the standards ~~and~~; *or*

(p) Knowingly employs anyone, directly or indirectly, convicted of laboratory fraud or who has participated in unethical or inappropriate laboratory practices.

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.

NAC 445A.0644 Reapplication after denial of application or revocation of certification. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) 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 NAC 445A.0632.

NAC 445A.0646 Renewal of certification. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

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, inclusive, 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.

2. A certificate issued to a laboratory pursuant to the provisions of NAC 445A.0552 to 445A.0654, inclusive, 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~~ *August 1* of each year, 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.

NAC 445A.0648 Display of certificate; conditions for surrender of certificate; issuance of document. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

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 *or RCRA 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 ~~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 an~~d~~ 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.

NAC 445A.0652 Notification of division of certain changes concerning certified laboratory. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) 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.

NAC 445A.0654 Contractual agreements, records and reports. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

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, inclusive, 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. 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.

Miscellaneous Provisions

NAC 445A.066 Fees for certification. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)

1. A laboratory must submit ~~[a one-time]~~ *an annual*, nonrefundable fee of ~~\$[400]~~ *500* with each application for certification. ~~[, including, without limitation, any application for certification for additional analytes.]~~

(a) Laboratories performing only microbiology analysis are exempt from the annual application fee.

2. 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~~

Trace Metals.....	\$5
Minerals.....	5
Nutrients	2
Demands.....	2
Polychlorinated biphenols (Water).....	2
Polychlorinated biphenols (Oil)	2
Pesticides.....	5
Volatile Halocarbons.....	2
Volatile Aromatics	2
Total Cyanide	1
Nonfilterable Residue.....	1
Oil and Grease.....	1
Total Phenolics.....	1
Total Residual Chlorine	1
Microbiological	3
Radiochemical.....	5
Other individual contaminant as defined by the United States Environmental Protection Agency	1

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

CATEGORY OF CWA CONTAMINANT	ANNUAL FEE
<i>Microbiology</i>	\$400
<i>Volatile Organic Chemistry</i>	545
<i>Semi-volatile Organic Chemistry</i>	545
<i>Pesticides</i>	545
<i>Herbicides</i>	545
<i>Polyaromatic Hydrocarbons (PAHs)</i>	545
<i>Dioxin</i>	545
<i>Polychlorinatedbiphenyls (PCBs) in Waste Water / Oil</i>	545
<i>Oil & Grease</i>	250
<i>Phenolics</i>	250
<i>Trace Metals</i>	545
<i>Cyanide</i>	250
<i>Asbestos</i>	400
<i>Perchlorate</i>	250
<i>Minerals</i>	400
<i>Demands</i>	350
<i>Nutrients</i>	250
<i>Residue</i>	350
<i>Radiochemistry</i>	545
<i>Toxicity Bioassay</i>	400
<i>Residual Chlorine</i>	125
<i>Individual contaminants not listed above</i>	200
<i>Individual Multi-contaminant Methods not listed above</i>	400
* <i>CWA SOCs Group I includes semi volatile organic chemistry, Pesticides, Herbicides, Polyaromatic Hydrocarbons</i>	1500

CATEGORY OF SDWA CONTAMINANT	ANNUAL FEE
<i>Microbiology</i>	\$600
<i>Primary Inorganic Chemistry</i>	545
<i>Secondary Inorganic Chemistry</i>	545
<i>Volatile Organic Chemistry</i>	545
<i>Semi-volatile Organic Chemistry</i>	545
<i>Pesticides</i>	545
<i>Herbicides</i>	545
<i>Glyphosate</i>	250
<i>Endothall</i>	250
<i>Diquat</i>	250
<i>EDB/DBCP</i>	350
<i>Carbamates</i>	350
<i>Dioxin</i>	545
<i>Haloacetic Acids</i>	400
<i>Polychlorinatedbiphenyls (PCBs) in Drinking Water</i>	545
<i>Asbestos</i>	400
<i>Perchlorate</i>	250
<i>Radiochemistry</i>	545

<i>Residual Chlorine</i>	<i>125</i>
<i>Individual contaminants not listed above</i>	<i>200 each analyte</i>
<i>Individual Multi-contaminant Methods not listed above</i>	<i>400 each method</i>
<i>*SDWA SOCs Group I includes semi volatile organic chemistry,</i>	
<i>Pesticides, Herbicides</i>	<i>1200</i>
<i>Group II includes HAAs, Carbamates, EDB/DBCP</i>	<i>800</i>
<i>Group III includes Diquat/Paraquat, Endothall, Glyphosate</i>	<i>500</i>
<i>SOC Package includes Groups I, II and III</i>	<i>2000</i>

<i>CATEGORY OF RCRA CONTAMINANT</i>	<i>ANNUAL FEE</i>
<i>Microbiology</i>	<i>\$400</i>
<i>Charateristics of Hazardous Waste</i>	<i>350</i>
<i>Physical Properties of Hazardous Waste</i>	<i>350</i>
<i>Trace Metals in Hazardous Waste</i>	<i>545</i>
<i>Inorganic Chemistry of Hazardous Waste</i>	<i>545</i>
<i>Volatile Organic Chemistry of Hazardous Waste</i>	<i>545</i>
<i>Semi-volatile Organic Chemistry of Hazardous Waste</i>	<i>545</i>
<i>Polychlorinatedbiphenyls (PCBs) in Hazardous Waste</i>	<i>545</i>
<i>Polyaromatic Hydrocarbons (PAHs) in Hazardous Waste</i>	<i>545</i>
<i>Pesticides</i>	<i>545</i>
<i>Herbicides</i>	<i>545</i>
<i>Liquid Chromatography for Hazardous Waste</i>	<i>545</i>
<i>Infrared Analyses of Hazardous Waste</i>	<i>545</i>
<i>Immunoassay Methods for Hazardous Waste</i>	<i>545</i>
<i>Dioxin in Hazardous Waste</i>	<i>400</i>
<i>Miscellaneous Screening Methods for Hazardous Waste</i>	<i>400 each</i>
<i>Radiochemistry of Hazardous Waste</i>	<i>545</i>
<i>Toxicity Bioassay of Hazardous Waste</i>	<i>400</i>
<i>Bulk Asbestos Analysis of Hazardous Waste</i>	<i>400</i>
<i>Individual contaminants not listed above</i>	<i>200 each analyte</i>
<i>Individual Multi-contaminant Methods not listed above</i>	<i>400 each method</i>

3. If a laboratory requests certification for an analyte by more than two approved methodologies a fee of \$200.00 shall be assessed for each methodology in excess of two.

~~[3]~~ 4. The fee for certification for additional contaminants requested by a laboratory during an annual period of certification is *in accordance with the above schedule* ~~[\$400]~~. The fee must be prorated pursuant to subsection 4 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]~~ 6.

~~[4]~~ 5. The fees are effective for 12 months beginning on ~~July 1~~ *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]~~ *certification period*.

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~~ *annual application fee* for certification to test for an analyte must not be prorated.

~~5~~ 6. If an evaluation for certification of a laboratory that is located outside 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~~ 7. The fee for certification to test for a specific analyte must be paid before a certificate for that analyte may be issued.

~~7~~ 8. Any fee paid pursuant to the provisions of this section is nonrefundable.

NAC 445A.0665 Acceptance of analyses conducted by laboratory located outside state. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*)
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~~ *when*:

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

2. The laboratory is certified by ~~the~~

~~(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 or RCRA samples, by any other state which provides those certifications; or~~

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

3. The Division determines that the state where the laboratory is located:

(a) Has adopted a program for certifying laboratories for the analysis of water *or RCRA samples* that is equivalent to the program for certifying those laboratories adopted by ~~this state~~ *the Division*; and

(b) Accepts the results of evaluations conducted pursuant to the program adopted by ~~this state~~ *the Division*;

4. The laboratory:

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

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

5. 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.

NAC 445A.067 Review by commission of publications adopted by reference. (NRS 445A.425, 445A.428, *Senate Bill No. 58 as approved by the 2003 Legislative Session*) If any publication adopted by reference pursuant to the provisions of NAC 445A.0552 to 445A.0654, inclusive, 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.