NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NEVADA ENVIRONMENTAL COMMISSION

HEARING ARCHIVE

FOR THE HEARING OF January 22, 1998

HELD AT: Las Vegas , Nevada

TYPE OF HEARING:

YES	**REGULATORY**
	APPEAL
	FIELD TRIP
	ENFORCEMENT
YES	**VARIANCE (Day & Zimmerman Hawthorne)**

RECORDS CONTAINED IN THIS FILE INCLUDE:

YES	**AGENDA**
YES	**PUBLIC NOTICE**
YES	**MINUTES OF THE HEARING**
YES	**LISTING OF EXHIBITS**

NEVADA STATE ENVIRONMENTAL COMMISSION
A G E N D A
January 22, 1998
9:30 A.M.

The Nevada State Environmental Commission will conduct a hearing commencing at **9:00 a.m., on Thursday January 22, 1998,** at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada.

This agenda has been posted at the Grant Sawyer State Office Building and Clark County Commission Chambers in Las Vegas; the Washoe County Library and Division of Wildlife in Reno; and the Nevada State Library and Division of Environmental Protection Office in Carson City. The Public Notice for this hearing was published on December 23, 1997; December 30, 1997; and January 6, 1998, in the Las Vegas Review Journal and Reno Gazette Journal Newspapers.

The following items will be discussed and acted upon but may be taken in different order to accommodate the interest and time of the persons attending.

I. Approval of minutes from the September 23, 1997 meeting. * ACTION

II. Regulatory Petitions * ACTION

A. Petition 97010 (LCB R-205-97) proposes to permanently amend NAC 445B.400 to NAC 445B.775 by adding a new section regarding the definition of restored vehicles and for provisions allowing restored vehicles to be exempt from the vehicle emission programs in Clark and Washoe county.

B. Petition 97007 (LCB R-201-97) proposes to amend Nevada Administrative Code (NAC) 445C to add regulations pertaining to allowing individuals and companies to conduct environmental audits in cooperation with regulatory agencies. The regulations provide for the consideration of reductions in penalties for criminal violations and the elimination of sanctions for civil and administrative actions. The proposed regulations define the audit agreement contents, scope and post audit reporting requirements.

C. Petition 97008 (LCB R-202-97) proposes to permanently amend hazardous waste regulations NAC 444.84275, 444.84275 and 444.8632 by amending the reference to federal regulations as they existed on July 1, 1997, and to amend NAC 444.8632 to adopt 40 C.F.R. Parts 2, Subpart A, 124, Subparts A and B, Parts 260 to 270, and Part 279 as those parts exist on July 1, 1997. The new regulations provide for increased public participation in facility permitting processes, identify when military munitions become a RCRA hazardous waste, and provide for their safe storage and transport. The federal revisions also include clarification of CESQG disposal options, additional test methods, technical corrections, and industry treatment standards for the management of hazardous waste. The proposed amendments also revise the state definition of hazardous waste (NAC 444.8565) and container labeling requirements (NAC 444.8671) to make them more consistent with federal regulations. Proposed amendments to current antifreeze regulations consist of amendments to NAC 444.9452 to adopt 40 C.F.R. as it existed on July 1, 1997, and technical corrections to NAC 444.8886 and NAC 444.8951.

D. **Petition 97009 (LCB R-204-97)** proposes to permanently amend NAC 445B by establishing a new section to govern municipal solid waste landfills annual reporting of nonmethane organic compound emissions, the process for planning and installing air emission collection and control equipment. This regulation is based on 40 C.F.R. Parts 60.30(c) to 60.36(c) and amends NAC 445B.001 to 445B.395.

E. **Petition 97004 (LCB R-105-97)** amends NAC 445B.001 to 445B.395 by adding a new provision for a stationary source to request a revision for a air quality Class II operating permit. In addition, NAC 445B.011 is revised to reference the NRS. NAC 445B.019, "applicable requirement" is re-defined to delete temporary source; NAC 445B.094 amends the definition of major source to exclude mobile sources as defined under Title II of the Federal Clean Air Act; and NAC 445B.221 is amended to add various subparts for New Source Performance Standard Industrial-Commercial-Institutional Steam Generating Units, Municipal Landfills, dry cleaners, chrome anodizing tanks, industrial process cooling towers, halogenated solvents, wood furniture manufacturing, printing and publishing, tanks, containers, surface impoundments, individual drain system and oil or organic water separators. The term "modification" is supplanted with the term "revision" from NAC 445B.001 to NAC 445B.395. NAC 445B.321 is proposed to be amended to add thresholds in defining minor revisions for Class I operating permits. It is proposed that NAC 445B.024, 445B.025, 445B.026, 445B.039, 445B.040, 445B.089, 445B.100, 445B.101, 445B.150, 445B.238, 445B.240, 445B.241, 445B.243, 445B.244, 445B.245, and 445B.367 be repealed.

F. **Petition 97006 (LCB R-107-97)** amends NAC 444.8452 "Additional fees to offset cost of inspection and other regulation: Payment; accounting; penalty for unpaid fee." The proposed amendment adjusts the fees charged for disposal and treatment of hazardous waste to make rates at the state owned Beatty facility comparable to California rates. Fees for importation of hazardous waste, not federally regulated, are reduced and fees for treatment are retained at $ 5.00 dollars per ton.

III. Non Regulatory Petitions * ACTION

A. The Nevada Environmental Commission pursuant to NAC 444.8476 received a request on November 6, 1997 from Day & Zimmerman Hawthorne Corporation, the operations contractor for the Hawthorne Army Depot, for a variance application from NAC 444.8456(1)(d). This is in regards for the proposed plasma ordnance demilitarization system. The variance application concerns the proximity of groundwater beneath the proposed ordnance demilitarization system. NAC 444.847 through 444.8482 provides for the Environmental Commission to act upon variance requests. The variance application has been reviewed by the Nevada Division of Environmental Protection. The division's recommendation is for approval of the variance request. NAC 444.8478 provides for a thirty day public notice and comment period.

B. The Nevada Environmental Commission pursuant to NAC 445B.254 may provide an exemption for a person, government, governmental agency or political subdivision from the provisions of NAC 445B.001 to 445B.395 for an exceptional air quality event. The Division of Environmental Protection is requesting that the Commission declare four exceedances of the National Ambient Air Quality Standards for particulate matter (PM10) exceptional events under NAC 445B.254(3)(1) due to high winds or the cleanup of silt deposited during the floods in January, 1997. These exceedances occurred in Carson City, Battle Mountain, Lovelock and McGill, Nevada. This designation would allow the Division to exclude these data from use in regulatory actions, attainment designations, and the requirement to develop control strategies.

IV. Settlement Agreements on Air Quality Violations * ACTION

A. Day & Zimmermann Hawthorne Corp; Notice of Alleged Violation # 1244
B. Echo Bay Minerals; Notice of Alleged Violation # 1288
C. Nevada Cement Company; Notice of Alleged Violation # 1261
D. Little Mondeaux Limousin Corp; Notice of Alleged Violations #1252, 1253, 1269 & 1273
E. H.E. Hunewill Construction Co.; Notice of Alleged Violation # 1276
F. T.G. Sheppard Construction Inc.; Notice of Alleged Violation # 1279
G. Granite Construction Company; Notice of Alleged Violation # 1270

V. Discussion Items

A. Status of Lake Mead Water Quality Forum
B. Status of air quality in the Las Vegas Valley
C. Status of Division of Environmental Protection's Programs and Policies
D. General Commission or Public Comment

Persons with disabilities who require special accommodations or assistance at the meeting are requested to notify David Cowperthwaite, Executive Secretary in writing at the Nevada State Environmental Commission, 333 West Nye Lane, Room 104, Carson City, Nevada, 89706-0851 or by calling (702) 687-4670 no later than 5:00 p.m., **January 16, 1998.**

# # # #

NOTICE OF INTENT TO ACT UPON REGULATIONS
NEVADA STATE ENVIRONMENTAL COMMISSION
NOTICE OF HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Thursday, January 22, 1998, in Conference Room 4401 located in the Grant Sawyer Office Building, 555 East Washington Avenue, Las Vegas, Nevada**.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations in Chapters 444, 445B, and 445C. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

1. Petition 97007 (LCB R-201-97) proposes to amend Nevada Administrative Code (NAC) 445C to add regulations pertaining to allowing individuals and companies to conduct environmental audits in cooperation with regulatory agencies. The regulations provide for the consideration of reductions in penalties for criminal violations and the elimination of sanctions for civil and administrative actions. The proposed regulations define the audit agreement contents, scope and post audit reporting requirements.

The proposed regulation is not expected to have an adverse economic impact to the regulated community since environmental audits are voluntary. A company entering into an audit does so to evaluate their environmental compliance status and to receive certain benefits for reporting audit results. An entity entering into such an audit must balance the economic benefits of performing the audit with the effect of environmental compliance. The short and long term benefit will increase compliance and reduce fines and penalties. There is no anticipated adverse or beneficial economic impacts to the public. No immediate or long term economic effects on the public are anticipated. Oversight of environmental audits will be conducted using existing staff resources. The proposed regulation does not duplicate or overlap any other state or local requirements. There are no federal regulations concerning environmental audits. There will be no additional fees, nor will there be an increase in fees associated with this regulation.

2. Petition 97008 (LCB R-202-97) proposes to permanently amend hazardous waste regulations NAC 444.84275, 444.84275 and 444.8632 by amending the reference to federal regulations as they existed on July 1, 1997 and to amend NAC 444.8632 to adopt 40 C.F.R. Parts 2, Subpart A, 124, Subparts A and B, Parts 260 to 270, and Part 279 as those parts exist on July 1, 1997. The new regulations provide for increased public participation in facility permitting processes, identify when military munitions become a RCRA hazardous waste, and provide for their safe storage and transport. The federal revisions also include clarification of CESQG disposal options, additional test methods, technical corrections and industry treatment standards for the management of hazardous waste. The proposed amendments also revise the state definition of hazardous waste (NAC 444.8565) and container labeling requirements (NAC 444.8671) to make them more consistent with federal regulations. Proposed amendments to current antifreeze regulations consist of amendments to NAC 444.9452 to adopt 40 C.F.R. as it existed on July 1, 1997 and technical corrections to NAC 444.8886 and NAC 444.8951.

This proposed regulation is not anticipated to have any additional adverse economic impact on Nevada businesses. It should have a beneficial impact by simplifying the requirements to comply with federal hazardous waste regulations. The State is required to adopt these federal regulations to maintain authorization for the Resource Conservation and Recovery Act. This allows the State to implement the RCRA program in lieu of the federal government, thereby eliminating the duplicative regulatory authorities. The proposed regulation is not anticipated to have a adverse or beneficial impact, nor immediate or long term upon the public. There will be no additional cost to the agency for implementing these proposed regulations. The proposed amendments are consistent will those of the federal government and will allow the State to implement the RCRA program. The proposed amendment does not duplicate or overlap any other state or local regulation. No fees will be increased, nor added by this proposed regulation.

3. Petition 97009 (LCB R-204-97) proposes to permanently amend NAC 445B by establishing a new section to govern municipal solid waste landfills annual reporting of nonmethane organic compound emissions, the process for planning and installing air emission collection and control equipment. This regulation is based on 40 C.F.R. Parts 60.30(c) to 60.36(c) and amends NAC 445B.001 to 445B.395.

The proposed regulation will have a slight immediate, adverse economic effect in that each of the three municipal solid waste landfills affected will be required to perform one-time sampling at the landfills at a cost from $ 10,000 to $ 30,000. A long term, adverse effect will be the possible requirement to control emissions if the landfill reaches the regulatory threshold for required control. The cost to a landfill for planning and installing a control system would be approximately $ 300,000, with the operating of control systems costing from $ 10,000 to $ 30,000 per year. The cost to the landfill for permitting would average approximately $ 4,000 per year. There will be no immediate adverse or beneficial economic effect on the public. The long term adverse effect will likely be increased costs of landfill operations due to the control of emissions. The estimated cost by the agency will be minimal. Primarily, the reviewing of annual reports from the three landfills will cost about
$ 300 per year, with the annual cost of permitting from $ 1,000 to $ 2,000 per year. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The proposed regulations are no more stringent that what is required by the federal Emission Guidelines in 40 C.F.R. Part 60.30c though 60.36.c. This regulation does not add a new fee, nor increase an existing fee.

4. Petition 97010 (LCB R-205-97) proposes to permanently amend NAC 445B.400 to NAC 445B.775 by adding a new section regarding the definition of restored vehicles and for provisions allowing restored vehicles to be exempt from the vehicle emission programs in Clark and Washoe county.

There is no estimated adverse or beneficial economic effect upon business by this proposed regulation, either immediate or long term. The general public, those persons with vehicles subject to this provision, will receive an annual savings of approximately $ 96,000. This is an immediate and long term beneficial effect. The annual cost to the regulatory agency, the

Department of Motor Vehicles and Public Safety, is approximately $ 100,000 for enforcement of this regulation. There are no other state regulations which NRS 445B.760 overlaps or duplicates. This proposed regulation is not required by federal law, nor is it more stringent then a federal regulation. There are no new fees nor increases in fees proposed by this regulation.

5. Petition 97004 (LCB R-105-97) amends NAC 445B.001 to 445B.395 by adding a new provision for a stationary source to request a revision for a air quality Class II operating permit. In addition NAC 445B.011 is revised to reference the NRS. NAC 445B.019, "applicable requirement" is re-defined to delete temporary source; NAC 445B.094 amends the definition of major source to exclude mobile sources as defined under Title II of the Federal Clean Air Act; and NAC 445B.221 is amended to add various subparts for New Source Performance Standard Industrial-Commercial-Institutional Steam Generating Units, Municipal Landfills, dry cleaners, chrome anodizing tanks, industrial process cooling towers, halogenated solvents, wood furniture manufacturing, printing and publishing, tanks, containers, surface impoundments, individual drain system and oil or organic water separators. The term "modification" is supplanted with the term "revision" from NAC 445B.001 to NAC 445B.395. NAC 445B.321 is proposed to be amended to add thresholds in defining minor revisions for Class I operating permits. It is proposed that NAC 445B.024, 445B.025, 445B.026, 445B.039, 445B.040, 445B.089, 445B.100, 445B.101, 445B.150, 445B.238, 445B.240, 445B.241, 445B.243, 445B.244, 445B.245, and 445B.367 be repealed.

The proposed regulation will have a beneficial economic impact on the regulated community and the general public. The proposed regulations will simplify the process for assuring stationary sources are in compliance with applicable air pollution requirements. Approximately 400 facilities could potentially realize a modest benefit upon modification of a operating permit. There will be no additional costs associated with enforcement of this regulation. The regulations do not overlap any existing state or federal regulations. The proposed regulations will be consistent with U.S. Environmental Protection Agency statute 42 USC 7401-7671 and the Federal Clean Air Act Titles I-VII. The proposed regulation does not include an increase in fees.

Note: This regulation was previously publicly noticed for the September 23, 1997 Environmental Commission hearing. This proposed petition has been revised since the aforementioned public notice.

6. Petition 97006 (LCB R-107-97) amends NAC 444.8452 "Additional fees to offset cost of inspection and other regulation: Payment; accounting; penalty for unpaid fee." The proposed amendment adjusts the fees charged for disposal and treatment of hazardous waste to make rates at the state owned Beatty facility comparable to California rates. Fees for importation of hazardous waste, not federally regulated, are reduced and fees for treatment are retained at $ 5.00 dollars per ton.

The proposed regulation will have a beneficial economic effect on the company operating the Beatty facility and may allow the facility to continue to operate until it reaches capacity. Continued operation of the facility will benefit Nevada businesses that generate hazardous waste by providing an in-state disposal facility. The proposed changes will have a modest or negligible economic effect on the public. The local Beatty, Nye County economy benefits from the jobs and economic activity derived from the Beatty facility. Fees charged on the disposal of hazardous waste at the Beatty facility supports the Division of Environmental Protection's hazardous waste regulatory program. There will be no additional costs associated with enforcement of this regulation. The regulations do not overlap any existing state or federal regulations. Federal regulations do not regulate this activity. The proposed regulation would result in lower fees for disposal of imported hazardous waste that is regulated by the state of origin as hazardous waste but not federally regulated as hazardous waste. This fee establishes parity with California fees for treatment of hazardous waste. The fees are deposited in the State's hazardous waste management fund and are used to regulate, manage and cleanup hazardous waste.

Note: This regulation was previously publicly noticed for the September 23, 1997 Environmental Commission hearing. This proposed petition has been revised since the aforementioned public notice.

NON REGULATORY ACTIONS

7. The Nevada Environmental Commission pursuant to NAC 444.8476 received a request on November 6, 1997 from Day & Zimmerman Hawthorne Corporation, the operations contractor for the Hawthorne Army Depot, for a variance application from NAC 444.8456(1)(d). This is in regards for the proposed plasma ordnance demilitarization system. The variance application concerns the proximity of groundwater beneath the proposed ordnance demilitarization system. NAC 444.847 through 444.8482 provides for the Environmental Commission to act upon variance requests. The variance application has been reviewed by the Nevada Division of Environmental Protection. The divisions recommendation is for approval of the variance request. NAC 444.8478 provides for a thirty day public notice and comment period.

8. The Nevada Environmental Commission pursuant to NAC 445B.254 may provide an exemption for a person, government, governmental agency or political subdivision from the provisions of NAC 445B.001 to 445B.395 for an exceptional air quality event. The Division of Environmental Protection is requesting that the Commission declare four exceedances of the National Ambient Air Quality Standards for particulate matter (PM10) exceptional events under NAC 445B.254(3)(1) due to high winds or the cleanup of silt deposited during the floods in January 1997. These exceedances occurred in Carson City, Battle Mountain, Lovelock and McGill, Nevada. This designation would allow the Division to exclude these data from use in regulatory actions, attainment designations, and the requirement to develop control strategies.

Persons wishing to comment upon the proposed regulations or any other matter listed above may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. Written submissions must be received at least 5 days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City and at the Division of Environmental Protection, 555 E. Washington - Suite 4300, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notice have been deposited at major library branches in each county in Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at http:/www.leg.state.nv.us.

Pursuant to NRS 233B.0603(c) the provisions of NRS 233B.064 (2) is hereby provided: "Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption".

Additional copies of the regulations to be adopted or amended will be available at the Division of Environmental Protection for inspection and copying by the members of the public during business hours. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Executive Secretary in writing, Nevada State Environmental Commission, 333 West Nye Lane, Room 128, Carson City, Nevada, 89706-0851, facsimile (702) 687-5856, or by calling (702) 687-4670 Extension 3118, no later than 5:00 p.m. on **January 16, 1998**.

This public notice has been posted at the following locations: Clark County Public Library and Grant Sawyer Office Building in Las Vegas; the Washoe County Library in Reno; and Division of Environmental Protection and State Library in Carson City.

# # # #

STATE ENVIRONMENTAL COMMISSION
Meeting of January 22, 1998
Grant Sawyer Office Building Room 4401, Las Vegas, Nevada
Adopted Minutes

MEMBERS PRESENT:
Melvin Close, Chairman
Michael Turnipseed
William Molini
Roy Trenoweth
Mark Doppe
Joseph L. Johnson
Doug Driesner (Acting Administrator, Div. of Minerals)

MEMBERS ABSENT:
Marla Griswold
Paul Iverson
Bob Jones
Fred Gifford

Staff Present:
Deputy Attorney General Jean Mischel- Deputy Attorney General
David Cowperthwaite - Executive Secretary
LuElla Rogers - Recording Secretary

Chairman Close called the meeting to order at 9:30 a.m. and verified that the public notice posting requirements as defined in the agenda for January 22, 1998, were met.

Chairman Close moved to **Agenda Item I - Approval of minutes from the September 23, 1997, meeting:**

Commissioner Turnipseed made a motion to adopt the September 23, 1997, minutes as presented.

Commissioner Trenoweth seconded the motion.

The motion was approved.

Chairman Close moved to **Agenda Item II - Regulatory Petitions**

A. **Petition 97010 (LCB R-205-97)** proposes to permanently amend NAC 445B.400 to NAC 445B.775 by adding a new section regarding the definition of restored vehicles and for provisions allowing restored vehicles to be exempt from the vehicle emission programs in Clark and Washoe county.

Chairman Close requested that Vice-chairman Molini chair this agenda item, excusing himself because he owns a restored vehicle.

Ed Glick, Nevada Division of Environmental Protection (NDEP) Mobile Sources, Bureau of Air Quality, explained the 1997 legislature requested that a provision for the definition of"restored vehicle" and an exemption for restored vehicle be put in the regulations by the SEC. The purpose is to exempt classic vehicles that usually have low mileage and are of special interest in nature. Four workshops, 2 in Las Vegas and 2 in Reno, were held for public input on this issue.

Mr. Glick reviewed Petition 97010.

Section 2. The provisions of NAC 445B.575 to 445B.601, inclusive, do not apply to a motor vehicle that is certified as a restored vehicle by the department pursuant to section 3 of this regulation". Mr. Glick explained "department" in this context is the Department of Motor Vehicles (DMV).

Section 3. "The department may certify a motor vehicle as a restored vehicle is the motor vehicle:

1. Is licensed pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816;
2. Does not emit smoke; and
3. Has an engine that complies with the standards for emissions set forth in NAC 445B.596 for the model year of the motor vehicle as determined by a two-speed emissions test conducted by the department pursuant to NRS 445B.798 or conducted at an authorized station or authorized inspection station.

Commissioner Turnipseed asked if the plates actually state the vehicle classification.

Mr. Glick explained the plates are printed with "Classic Vehicle" on the left side of the plate followed by a 4 or 5 digit number on the right side. The owner pays an initial extra fee and there is a yearly fee for maintaining it.
Commissioner Turnipseed asked if the owner who now has a special license plate (UNR, UNLV, personalized) will have to give it up and get one of these.
Mr. Glick explained the legislative directive, SB 430, only included 4 plates:
Old-timer plate for vehicles 40 years and older;
Street rod plate for vehicles made prior to 1948;
Classic vehicle plate for vehicles over 25 years old;
Classic rod plate for vehicles 20 years or older.
The old-timer plates and the street rod plates are not included in the current emissions program now.
Commissioner Doppe asked how many vehicles would be affected.
Mr. Glick explained approximately 60,000 vehicles built prior to 1978 are registered but we estimate about 6,000 vehicles will be affected. This regulation is written for a well-maintained vehicle and will not allow exemption to polluters.
Commissioner Doppe noted the vehicle has to pass the emissions test only once and will not be subject to testing again.
Mr. Glick the hobbyists agreed during the workshops that a final check would not be unreasonable. If the vehicle passes the final check then you can get an exemption from a yearly emissions test for as long as you own the vehicle. Most folks own nice-looking and well maintained vehicles that they take out for Hot August Nights or a club activity. They don't accumulate many yearly miles and the smog test is an unnecessary burden according to the legislative intent.
Commissioner Doppe noted no restriction on vehicle use is mentioned. It could be their daily transportation vehicle.
Mr. Glick relayed that was brought up in the workshops. To most people a restored vehicle is one that looks like it came from the factory. Some hobbyists are working on vehicles and if they are mechanically in good shape then they should be eligible for the exemption. A milage restriction was discussed but the DMV thought it would a bureaucratic burden requiring yearly mileage verification. Other avenues were discussed but all were felt more burdensome than just getting a smog (emissions) test.
Commission Johnson noted the existing statute on issuing license plates outlines criteria for classic cars - not only that they are 25 years old but that they are substantially original equipment. I understand that presently the DMV doesn't certify, the applicant for the tag is the verifier on the condition of the vehicle. Will there be some review for the environmental inspectors to make that decision?
Mr. Glick explained to get the exemption the owner will have to bring the vehicle to the DMV for verification of the smog test - DMV can do it free of charge - or the owner can go to any local distributor for their test and verification that the smog test was correct.
Commissioner Turnipseed asked if the emissions test cut-points would be different.
Mr. Glick explained cut-points as currently established would be the same for that year of vehicle.
DAG Jean Mischel asked if the estimated $96,000 annual savings referenced in the public notice was based on the 6,000 car estimate?
Ed Glick agreed.
Vice-chairman Molini called for public testimony.
James M. Sohns, President of the Nevada Car Owner's Association (NCOA) reported this all started when he asked the legislature for a Rolling 25 on the emissions test. California recently went to a rolling 30, exempting 1974 and older vehicles. SB 430 was not originally what I asked. The classic vehicle plate introduced in the 1995 legislative session does go to a restored original vehicle which is 25 years or older. The classic rod plate is for 20 years or older. 6,000 vehicles will be affected. Some emission stations were concerned but this is not a loss to the state

because it costs $10 extra renewal on the classic vehicle plate and $20 for the classic rod plate.actor to the state yearly. As president of the NCOA I represent over 20,000 people and 99% don't use their vehicles daily. I have 3 vehicles that I trailer.
Mr. Sohn reported a study in 1994 by the Desert Research Institute (DRI) reveled older cars are not the problem. Computerized cars emit pollutants. Articles that have been written say this regulation is going to cause more smog. The dictionary defines smog as "fog and smoke" and we have particulates and pollutants but not smog from cars.
Vice-chairman Molini asked if this regulation as currently written and presented today accomplishes what Mr. Sohn had in mind.
Mr. Sohn replied it did but if they had made it a just rolling 25, like California, it would have been a lot easier.
Commissioner Turnipseed asked for an explanation of the word "flippers" cited in the DRI document.
Mr. Sohn explained computerized cars have different sensors and if one sensor is off that car can be a gross polluter and studies have shown that the computer cars are the major problem. I could not understand it when, in his recent presentation to the Clark County Commissioners, Clete Kus exempted newer cars from having an emissions test. A sensor can be working one day, the next day it can be off, becoming a gross polluter and that is the definition of a flipper.
Vice-chairman Molini called for additional public testimony.
Linda Cardenas, owner of 1 1974 Dodge Charger, expressed support for the petition.
There was no additional public testimony.
Commissioner Doppe declared there is no financial burden, only $15 - $16 per year for these folks to comply with the same emissions testing required of all other vehicles in the county. If it was a financial burden I would rather cut the cost on the plates but still compel the vehicle inspection. With all the questions about global warming and emissions fundamentally unanswered, why would we make an exception to potentially 60,000 cars. Nothing in NRS restricts it to 6,000 cars. We are frequently faced with someone wanting an exemption from an air quality requirement claiming that they are such a small part of it that they don't really matter but all those in the aggregate do amount to something. It is our job to defend the existing air pollution/air quality requirements as a whole. I feel that this petition is without merit and I make a motion to at least remove the classic rod and classic vehicles, NRS. 482.3814 and 482.3816. **I make a motion to deny this petition.**
Vice-chairman Molini called for a second to the motion. The motion failed for lack of a second.
Vice-Chairman Molini asked Mr. Glick if it was a major loophole if there are 60,000 vehicles that fall in those year classes, could be called a classic rod, and could get that plate without truly meeting the intent of being a restored and a classic vehicle.
Ed Glick replied it depends on the diligence of DMV inspecting the vehicles that apply for the exemption. I have been assured they will be very diligent. I point out that SB 430 directed us to do this without much leeway into interpreting which license plates are eligible. Controversy arose in the workshops because owners who presently have personalized plates would have to relinquish those to get one of these 4 plates for this exemption.
Vice-chairman Molini noted that statute requires the SEC to adopt some kind of enabling regulations.
Lew Dodgion, Administrator of NDEP, explained all those arguments were made to the legislature when they were considering this legislation. The response to those arguments was the amendment of it to include the provision that the SEC would define what a restored vehicle is and that was the response of the legislature to closing the loop-hole for 60,000 cars to be able to take advantage of it. The regulation before you is the division's and the hobbyist's attempt to plug that loop-hole. Classic cars, classic rods, and the others are mandated to be in it by statute. The choice that you have as a Commission is to reject this, saying the petition is not adequate to plug the loop-hole.
Commissioner Doppe explained he does not have a problem with the owners that have a legitimate classic rod or classic vehicle as fits the definition. Those valuable vehicles are not being used for daily transportation. We have not anything to distinguish the 6,000 from the other 54,000 and I see a loophole for 54,000 cars to drive through.
Lew Dodgion agreed and explained there is DMV specification or criteria to get the classic car plates and in respect

to this program DMV has assured us they will now inspect the vehicles to make sure they meet the restored original equipment criteria for classic cars. I don't know how else to close that loop-hole so if the Commission can give us ideas we will take this regulation back to Mr. Sohn and to the public and express your concerns.
Vice-chairman Molini recalled the Commission had previously adopted regulations that required further adoptive action by the DMV and asked if the SEC can define more strictly, within this regulation, what a classic rod is that would be binding on DMV.
Deputy Attorney General (DAG) Jean Mischel stated no.
Mr. Dodgion explained we have the ability to define "restored vehicle" which covers the 4 classes as spelled out in the statute for the classic car, the classic rod, the street rod and the old-timers. I'm sure you have the leeway to say for this old-timer classification this is what "restored" means". You can do that under the finding of "restored vehicle".
Vice-chairman Molini asked if the Division could work up a definition for restored vehicle that might cover all 4 classifications.
Mr. Dodgion assumed that they could.
Commissioner Turnipseed stated he had no problem passing the regulation but he did not see any advantage of it. If a car doesn't smoke and already meets the emission test what does this get you? Just an exemption from having the smog check every year.
Mr. Dodgion agreed but noted, as Mr. Sohn's testified, computerized cars can be running alright today and not tomorrow and the same thing is true of any vehicle so there is a big advantage to the owner because it is an inconvenience and there is a cost involved to take it in to be tested.
Commissioner Turnipseed recognized the owner does have an option. If you have a 25 year-old restored car you can either get your emissions test every year and keep the plate and registration you currently have or you can get the exemption for as long as you own the car as long as you get one of these other plates.
Mr. Dodgion agreed.
Vice-chairman Molini stated then the statute recently passed does not require annual inspection on these classic restored vehicles?
Mr. Dodgion explained the statute exempts them and requires the SEC to define the criteria by which they get the exemption by defining "restored vehicle".
Commissioner Johnson expressed concern with the 20 year-old street rods. There is no criteria to establish what those vehicles are. We have the statement that these are for restored vehicles but we have no definition within this new petition. I have an old truck, is that a street rod?
Mr. Sohns explained that would be a classic rod. Street rod is already exempt. Classic rod plates have been in existence for 6 years. For the classic vehicle plate we wrote the definition as "a restored, original vehicle" but whoever passed this law, the classic rod plate, didn't put a definition in statute and that is the problem. Classic vehicle is defined under statute and that is where we are running into a problem in our meetings.
Commissioner Doppe asked if there was a common denominator, i.e., membership in a car club, that can be found that will distinguish those 6,000 vehicles from the others who just might try to take advantage of the loophole? Is there a way that we can tag those people and grant us some confidence that they are taking care of their cars?
Mr. Sohns explained that was also discussed in the workshops. A lot of people will say "why do I have to give up the regular plates" and I think those people that have raggedy cars won't come in to get the inspection to get the classic rod plate because if he's got a 1976 and it is all original he doesn't qualify for the classic rod plate and he isn't going to put out the additional money every year to get by. I don't know any other way to answer. I have had no response from Ms. Vonne Chowning who banged her head trying to get this same thing working so we don't have gross polluters in there. Some senators are working to re-do this bill in 1999 legislation to address the problem areas.
Vice-chairman Molini recognized Gary Owen.

Mr. Owen explained he owns 3 classic vehicles and the criteria can be found in the classic vehicle insurance. Most insurance companies require that the vehicle be driven 2500 miles or less and be kept in a garage and that outlines some guidelines for the classic rods or the classic vehicles, whichever it may be. These cars are usually taken to shows on a trailer and probably driven less than 75 miles.

Vice-chairman Molini asked if the statute gives the SEC broad authority to put some requirement in the regulations.

DAG Jean Mischel explained SB 430 gives some latitude to the Commission for establishing criteria for the condition and functioning of a restored vehicle. I don't know if it would be redundant to DMV's regulation under Chapter 482. Since you have some statutory authority to define the condition and functioning of that vehicle the mileage that it is driven is one of the functions. Ms. Mischel recommended this exemption continue throughout the ownership of the vehicle and that some provision be made that there be no modification to that vehicle since it met its first emission test.

Mr. Owen explained when applying for classic vehicle insurance he had to send in 4 photos of the vehicle - one from each side, front, back and one of the interior - so it meets the criteria that it isn't a junk car or a clunker and one photo has to show the vehicle in front of the garage door where you are going to house it. Yearly, when the insurance is renewed, you fill in an affidavit certifying the mileage you have driven. These vehicles are strictly for parade and shows.

Vice-chairman Molini asked, upon the initial registration to meet the requirements currently listed in Section 3 of this petition, could the vehicle owner certify to the DMV that they do not drive the vehicle more than 2500 miles a year?

Mr. Glick agreed that may be possible.

Vice-chairman Molini asked, if we the SEC adopts this petition, is there a way to monitor this for a couple of years to satisfy this Commission regarding Mr. Doppe's concern that we don't have 60,000 vehicles participating in this.

Mr. Glick explained you would have to have the license plate before you can apply for the exemption and the license plate currently only has 5 digits. Monitoring plate sales under those various classifications ought to give us some indication if people are trying to take advantage of what has been described as a potential loop-hole. Every vehicle that wants an exemption will have to go the state inspection station for the final exemption, whether they have the emission test done there or not, so I think we have a modicum of review.

Commissioner Doppe asked if the owner elected to go with this plate would there be a problem if, at the time of renewal of the plate, to have the car owner certify that they are applying for an exemption, that they are not going to drive it more than 2500 miles and fill in their mileage.

Mr. Glick stated he could not speak for the mechanism DMV - since the plate is in the statute I don't know what kind of variation they have in that requirement.

DAG Mischel reiterated, it is DMV's application.

Mr. Glick acknowledged that NDEP has had good cooperation with DMV on the exemption and maybe it could be that at the time they go in for the exemption they can certify their annual mileage won't exceed a certain threshold.

Vice-chairman Molini asked DAG Mischel if it would be within the authority of the statute if the SEC put in the definition of restored vehicle that there must be a certification to DMV on annual registration that they have not exceeded whatever mileage we would determine.

DAG Mischel replied legally, yes, but in terms of enforcement it would be difficult because we would be relying upon DMV to enforce your criteria. You could include a subsection 4 that reads "that the vehicle owner has certified upon annual registration mileage of less than" -

Commissioner Doppe recommended the petition be sent back to the Division for the inclusion of a certification provision by the owner in conjunction with their annual renewal or initial registration whereby they certify that the vehicle is to only be driven for a certain amount of miles.

Commissioner Johnson seconded that recommendation.

Commissioner Turnipseed explained we have the authority to amend the regulation today and 2,500 miles sounds

good to me if that is the limit on their insurance.
Vice-chairman Molini asked Mr. Doppe if he wanted to include in his motion to add language in Section 3 a subsection 4 to further define a restored vehicle that the owner certifies upon annual registration that the vehicle has not been driven over 2500 miles. We are trying to eliminate someone who might register a vehicle under one of those classifications that is driving it back and forth to work every day.
Commissioner Turnipseed stated they don't have to apply for the exemption. They can get the regular registration and drive the vehicle every day if they want to. It is the option of the owner.
Commissioner Doppe amended his motion to add a subsection 4 with a maximum 2500 annual miles and requested that the Commission be given an annual report showing how many people are taking advantage of this so we can get some sense as to whether or not it is falling into line with what we expect or whether it is being abused.
Commissioner Johnson seconded the motion.
The motion carried.

Vice-chairman Molini turned the meeting back to Chairman Close.

Chairman Close moved to agenda item II.B
Petition 97007 (LCB R-201-97) proposes to amend Nevada Administrative Code (NAC) 445C to add regulations pertaining to allowing individuals and companies to conduct environmental audits in cooperation with regulatory agencies. The regulations provide for the consideration of reductions in penalties for criminal violations and the elimination of sanctions for civil and administrative actions. The proposed regulations define the audit agreement contents, scope and post audit reporting requirements.
Allen Biaggi, Deputy Administrator for the NDEP remarked it is appropriate that Mr. Johnson is now a member of the Commission since he was instrumental in drafting some of the language in the statutes that occurred in the 1997 legislative session.
Mr. Biaggi explained Petition 97007 was initially drafted, peer reviewed by the NDEP and the legislation sponsor, Assemblyman Brian Sandoval from Reno. Approximately 15 people attended workshops held in Carson City and Las Vegas on November 12, 1997. Written and oral comments were addressed and the regulations were modified and then sent to all of these parties for further comment. No additional comments were received from the interested parties. The Legislative Counsel Bureau drafted the petition into the legal language required under the law and those revisions were also sent out to the interested parties. Again, no additional comments were received. Mr. Robert Hall from Las Vegas sent comments, included in your informational packet. I will address his concerns later.
Mr. Biaggi displayed overheads that reviewed the statutes and the intent of the legislation.
The audit regulation was passed as Assembly Bill 355 by the 1997 session of the Nevada Legislature and signed by Governor Miller in July, 1997. AB 355 has been incorporated in NRS into Chapter 445C.
Environmental audits are designed to be voluntary, taken by a regulated facility to determine their compliance with environmental statutes and regulations for solid waste, water pollution, air pollution, hazardous waste, underground storage tanks and mining regulation and reclamation. The legislation does not apply to the Chemical Accident Prevention Program (CAPP).
Mr. Biaggi explained in return for conducting an environmental audit the regulated facility is granted a privilege from administrative and civil fines and penalties and considerations and criminal penalties. A judge may consider the fact that a violation was disclosed in a voluntary fashion and use that consideration in assessing the criminal sanctions that were imposed.
Environmental audit is defined as "an examination of materials or practices at a regulated facility as conducted by a regulated person or his agent and is specifically designed to produce systematic, documented, and objective results to identify and prevent non-compliance with environmental requirements and to improve compliance with such a

requirement".
The regulated facility is defined as "an area, building, tank or other facility that is subject to an environmental requirement" and a regulated person means "the owner or operator of a regulated facility".
In the context of the legislation, a regulatory agency may be the State Environmental Commission, the Division of Environmental Protection, or a District Board of Health acting as a solid waste management authority or an air pollution control authority and this gets to the jest of Mr. Hall's concern. Mr. Hall's letter indicated that he had some concern with regard to the Clark County District Health Department being allowed to conduct environmental audits for air pollution concerns. NRS 445C-3, Section 13.3 and 14.4 specifically states that a regulatory agency means a Board of Health acting as the Air Pollution Control Authority or a District Board of Health acting as the Solid Waste Management Authority. In response to the concern expressed in Mr. Hall's letter, we feel that is an issue addressed in NRS and is not a matter for consideration under this body at this time.
Mr. Biaggi explained the statutes were vague in some of the conditions on what constitutes an environmental audit and how the agreement process works between the regulatory agency and the facility. Petition 97007 further defines the information and procedures necessary for a regulated facility to enter into an audit agreement with a regulatory agency.
Mr. Biaggi explained Section 2 through Section 9 of Petition 97007 are definitions. Today we request one change in Section 5, subsection 1 where it states that an environmental audit agreement means a written agreement between a regulatory agency and a regulated person that requires the regulated person to conduct an environmental audit. Environmental audits are voluntary. We would like to the word "requires" to "allows" to reflect the voluntary nature of the audit.
Commissioner Molini noted, you are defining it is voluntary to enter into an agreement but once you enter into an agreement could you not require the person to conduct the environmental audit?
Allen Biaggi explained this is a give and take process where in return for conducting the audit they receive a privilege. If they decide not to do the audit then the privilege is not granted.
Allen Biaggi continued, Sections 8 and 9 are definitions. Section 10 deals with a provision in the Statute as to who can and who cannot enter into an audit.

1. A regulatory agency shall not enter into an environmental audit agreement with a regulated person for a particular environmental requirement if the regulated person:

(a) Has been cited for a violation in the preceding 3 years or

(b) Is specifically required to comply with that particular environmental requirement pursuant to a permit or a judicial, administrative or a consent order.

2. The provisions of this section do not limit the authority of the regulatory agency to enter into an environmental audit agreement with the regulated person for any other environmental requirement that is not subject to the provisions of subsection 1.

Mr. Biaggi explained if a regulatory facility has been cited for an air pollution violation in the preceding 3 years that doesn't prohibit them from entering into an audit agreement for hazardous waste. Just because you had a violation in one environmental media doesn't completely prohibit you from entering into environmental audit agreements in other environmental media.
Section 11 lists the basic requirements of what must be contained in an environmental audit agreement.
It came out in the workshops that sometimes we'll get into these agreements and perhaps the scope is broader than you thought and it is going to take you more time so there needs to be some ability to modify the time frames and procedures for terminating the environmental audit agreement if the regulated person does not comply with the terms of the agreement. Workshop attendees also thought it was important to clarify that the provisions of this chapter apply to state and local environmental requirements only and in no way bind the federal government to comply with these audit requirements. Participants are not getting protection from federal law.

Section 12 requires that environmental consultants who will be doing the audit be certified under the requirements of NAC 459.
Section 13 explains what happens when the environmental audit reveals some violations of an environmental requirement. The regulated facility must then enter into an enforceable agreement that lists each specific violation that was found, the actions that are to be taken by the regulated person to bring the regulated facility into compliance, the actions that are to be taken by the regulated person to remedy any damage or other harm caused by each violation and the dates by which that will be done, and the actions that are to be taken by the regulated person to prevent similar incidents from occurring in the future.
Section 14 states that a regulatory agency shall consider the following to be public records that are open to inspection and copying pursuant to NRS Chapter 239, the open document provision for the State of Nevada. The environmental audit agreements are public documents and all information relating to an environmental audit that is obtained by the regulatory agency, whether or not such information is privileged and inadmissible. This is unique wording in Nevada's audit laws, that all of the information obtained in an audit is public information but a third party cannot use that information against the entity doing the audit. A third party has get their own unique information and that is where the privilege comes in. In other states such as Texas and Colorado all of the audit provisions and all of the documentation coming out of the environmental audit are secret and not open to the public. Nevada's law is different, it is open to the public but a third party cannot use that information in an action against the facility doing the audit.
Subsection 2 states that division shall maintain a public registry that contains a listing of each regulated person who has entered into an environmental audit agreement and any other information that is relating to environmental audits and environmental audit agreements. NDEP anticipates coordinating efforts with the two district health departments to maintain that registry.

Chairman Close asked for questions.
Commissioner Turnipseed asked if this regulation would encourage entities not to report a violation then apply for an environmental audit to be exempt from some of the penalties that may be incurred.
Allen Biaggi explained the statutes specifically requires compliance with the law. If it can be demonstrated that they knew of a release, purposely did not report it, and entered into the audit agreement to get a shield from penalties we would invalidate the audit agreement and outside of the audit agreement use our more traditional regulatory authority to go after that regulated facility for the non-reporting of the violation. Our intent here is to not provide a shield for regulated facilities to break the law.
Commissioner Molini questioned EPA's reaction to NRS 445C and this regulation.
Allen Biaggi explained EPA has a environmental audit policy which Assemblyman Sandoval tried to make as consistent as possible in drafting the legislation. We have heard nothing from EPA since the bill was passed and signed by the governor. Obviously, an environmental audit will completely cover state programs such as mining programs and some of our other programs which don't have a federal component to them. How EPA will react to the Clean Water Act Program, Hazardous Waste Programs, and the like remains to be seen. The State of Nevada audit provisions in the statutes are pretty mild compared to other states and I don't anticipate that I will hear significant opposition from EPA at this time.
Chairman Close asked if a company with operations in both Las Vegas and Reno had an air pollution violation in Reno would that preclude an environmental audit in Las Vegas for the same potential violation?
Allen Biaggi believed it would. The prohibition of entering into the audit agreement for violations speaks both to the regulated person and the regulated facility both.
DAG Mischel asked if there had been discussion in the legislature or workshops about the pollutants that are subject to a higher level of scrutiny if a facility is within a non-attainment area for that pollutant?
Allen Biaggi replied there was no discussion in the workshops but the legislature specifically exempts the CAPP in

recognition of the catastrophic nature of that program. There was no discussion in regard to attainment or non-attainment areas nor hazardous air pollutants.

Commissioner Doppe noted Section 10 - subsection 1(b)(1), mandated by the legislature, says you are not allowed to do an audit of items with regard to general or specific limitations contained in the permit. Wouldn't the only thing be stuff you might incidentally stumble on? If I am a regulated operator those items would be the most I would like to get your opinion on.

Allen Biaggi explained the theory is that a regulated facility with a permit, be it an NPDES water discharge permit or an air permit, has entered into an agreement with the Division to maintain their facility in such a fashion and make sure that their discharges meet specific limitations so that should not be subject to an audit agreement because there is already an agreement there between the Division and that regulated facility. The intent of this process is to evaluate more - i.e., is someone is going to purchase a piece of property is there soil contamination or ground water contamination - those types of things where there is not a environmental permit, consent agreement, administrative order, or some other mechanism already in place between the regulated facility and the regulated agency.

Commission Doppe continued, if I was an operator I could invite you come and inspect my operation voluntarily, the benefits of this regulation will allow me to do that. I am not trying to hide anything because I presume you folks are going to make sure that the audit is not going to be used as a "get out of jail free card". But if I have made a mistake, invite you in and you discover it, my penalty (if any) is less than what it otherwise might have been. Apparently my impression is wrong with regard to those items that are covered by my original permit.

Allen Biaggi explained there are other ways available to regulated facilities to determine environmental compliance. Very successful programs, used a lot in the state, are the Small Business Development Center (SBDC), the Small Business Assistance Program (SBAP) and some of our contract programs with UNR. They can be asked to come into a facility and, on a third party basis without connection to the division, evaluate their compliance status.

Commissioner Doppe questioned Section 14, public information. We are trying to encourage companies to take advantage of the audit process but because privileged information - trade secrets - can be made available to competitors is there a chance that might dissuade a company from wanting to take part in an audit?

Allen Biaggi explained the individual company must consider that before entering into the audit agreement. There is a provision under state law to protect trade secrets - process secrets - etc. through a confidentiality provision that is at the discretion of the administrator to secure.

Commissioner Doppe asked if those provisions would apply to this particular regulation.

Allen Biaggi replied yes.

Chairman Close noted that occasionally citations are issued and for one reason or another are withdrawn or dismissed. Do you intend to preclude that person from having the benefit of this audit?

Allen Biaggi admitted that question came up repeatedly in the workshops. Obviously, just because someone is cited does not mean the violation actually occurred and there is a due process provision there. We have committed to taking a look at that and working with the regulated facility to come up with a way to reasonably define what constitutes a violation, given the statutory language. We assure you that we will do our best to reasonably apply that and not unreasonably deny the audit privilege to individuals.

Commissioner Molini referred to Section 11, subsection 4, and asked what kind of enforcement action would you take under the statute and regulation in the circumstance of non-disclosure?

Allen Biaggi explained we probably couldn't take an enforceable action under our other environmental regulations. What this is speaking to is that there needs to a commitment by the regulated person to disclose the violation. If there is not that commitment to disclose then the privilege granted by the environmental audit would be revoked.

Commissioner Johnson disclosed that he lobbied this bill and some of the issues were included and some of them were not what I advocated. We were unsuccessful at getting a closer definition of environmental audit statutorily so I wouldn't attempt to do that here but the concern is simply that the regulated authority has the ability to set the scope and nature of the environmental audit. Section 14, says once it's made public it is not usable by third parties in

a law suit by the employees, neighbors or individual citizens. I am concerned that:
1) the authority will not narrowly gauge the scope of the report, and
2) information the audit reveals - the regulated facility can simply drop a carton by your office and it then becomes privileged even though it becomes a public document. The courts will have to decide on each individual case the use of these public documents by other people and any information that a claimant may come forward with will claim that it is covered by this. How do you propose to prevent this privilege on a wide scope of information? I know we have discussed this but I would like it on public record.

Allen Biaggi replied what you are saying is that someone could bring in a large volume of documents, say that they are passed through the environmental audit and thereby secure the privilege from third party use of those documents under the audit provision. Insuring that doesn't happen is incumbent on the division and the agency entering into the audit agreement:

1) It is critical that the scope of the audit is clearly defined up front. A critical aspect into the audit agreement is that we narrow the focus of it and clearly define what is to be looked at;

2) When the audit agreement results come in we need to thoroughly evaluate that data and make sure that the data being submitted is clearly related to the intended scope of the audit. By doing that we can insure that these other miscellaneous items do not come into the record and covered under the privilege requirements.

Chairman Close called upon Rick Nielsen.

Rick Nielsen, Director of Citizen Alert, asked if the language in Section 10.1 applies to federal violations? Some companies in Las Vegas have been cited by EPA whereas the regulatory agency, the Health District and the Air Pollution Control Division, have either not seen fit to impose any kind of violation or have overlooked a potential violation.

Allen Biaggi replied a violation is a violation and the statute itself doesn't distinguish between federal or state violations. If a federal violation was identified we would recognize that.

Mr. Nielsen asked if the regulatory agency involved in the audit is also the responsible party for oversight or accountability of the audit itself? If the Health District is involved will there be oversight by any other agency?

Allen Biaggi explained the statute gives the specific audit allowance to the Health District alone so other than maintaining the registry of those who conduct the environmental audit, the audit agreement and audit results, I don't see a state oversight role for the two Health Districts.

Rick Nielsen stated that opens this whole process up to an agreement of sorts between the industry and the agency and the fact that the audit data and information are then shielded from public review so it tends to exclude the public in many ways. From that perspective I would be opposed to this particular voluntary audit procedure process.

Allen Biaggi explained there is no shield from public review in these provisions. Sections 12 and 13 state that all documents are open and available for public review. The difference is that the third party cannot use that information in a civil or administrative action.

Rick Nielsen asked if you can't use it what good is it to you? There has to be some form of recourse and I believe that is a particular area of discomfort for people that represent public interest and the public at large.

Mr. Nielsen questioned Section 10.B(1) "The general or specific conditions or limitations contained in a permit" - many times operations exceed or expand permit requirements or limitations just in the course of doing business and sometimes those operation's activities lead to exceedences in particular areas which may then cause these companies to conduct an audit. If these general or specific conditions or limitations are excluded I fail to see the value of this entire audit process. What exactly is the benefit for a voluntary audit if the terms and the conditions in a permit are not part of it?

Allen Biaggi explained Assemblyman Sandoval drafted the legislation in response to concerns he had with regard to primarily property issues and environmental contamination that may reside on property in the nature of soil and ground water and perhaps even surface water contamination. Those are the types of things that are not contained in permits, they are findings that occur as a result of buying, selling, transferring, owning property. The intent here

was to ensure that permits and administrative and consent orders are not considered under environmental orders, but those kinds of property issues, for example, are. Again, this is something that sets Nevada's environmental audit law apart from other states where they do allow environmental permits to come under the auspices of audits.
Rick Nielsen stated for the record his view is these environmental voluntary audits would be of limited value where there is a majority of contamination or emissions by operating companies.
Chairman Close asked for additional questions.
DAG Mischel noticed the legislature made some real consideration to the issue of not keeping the public out of the process. NRS 090 discusses rebuttable presumption and in NRS 110 there are exceptions to the privilege that I think protect both the public health and safety and the state's ability to take appropriate enforcement action.
Robert W. Hall, Nevada Environmental Coalition, explained he did submit written comments and his late arrival was attributed to the fact that his meeting and the Health District meeting were scheduled at the same time. I attended that meeting to determine what the Health Districts reaction was to the December 26 newspaper article as well as my comments.
Mr. Hall expressed concern regarding staffing at the Health District. South Coast in California currently has 1200 to 1300 employees to keep track of environmental matters. They are trying to cut back to 900 employees. The Health District staff cannot take on new duties they need to address existing programs. I realize this is state mandated but I am trying to bring to your attention that there are already serious problems. The area of pollution problems is vulnerable to political chicanery in Nevada. Today, at the Health Commission meeting they said none of this, the newspaper wasn't true, it was a lot of false information - the tabloid word was used.
When I volunteered to devote as much time as necessary to auditing every word in these articles against their books, they declined and the subject was changed. I'll send them a certified letter making that offer again but don't be surprised if it is never taken up. There is a lot being covered up around here. One example, we checked out the Lone Mountain Pit because they gave them credit for wetting down the aggregate in production. There is no equipment nor water to do that at that site. I asked the BLM "how come you are giving them credits (incidently they get credits in the county) for water on the production site when there is no water there?" His answer was "yes, we are aware of that, we are going to look into that and we should get after them". The state is asking us to have faith in the credibility of a self-reporting plan that has to be administered and they don't have the people or the will to administer. They are not going to get their 5-year extension on PM non-attainment - if they do we will sue them. We sued the BLM and we have a formal complaint against the BLM, if they don't get it - the non-attainment - then somebody has to face up to something here.
Mr. Hall suggested the SEC might consider taking back this power from the county because unless there is an audit by CPA's to straighten out this mess (in this December 26 article) you are at risk of the federal government doing it, by lawsuit or otherwise. We don't have any confidence in the County. When they tell me they are $1.1 million off in any calculation as a former merchant banker I would want to call my CPA's as fast as I could get to a phone because first of all, it probably was just a bureaucratic screw-up but it amounts to a political kick-back if you don't collect it. Somebody could be pocketing it - we don't know, God forbid! But certainly the county wants to find that out. Mr. Hall stated he is available to devote hours to do whatever it takes to prove that the information in the letter or in the article is wrong and if it isn't wrong then they should do an audit. If they don't do an audit you people have a fiduciary duty to act and I am asking you to do it.
Chairman Close asked that the 12-page exhibit from Mr. Hall be included as part of the record.
Commissioner Molini reiterated the statute doesn't provide leeway to the SEC by regulation to not delegate this authority to the two respective county health organizations.
Chairman Close called for additional testimony on this issue.
Commissioner Doppe made a motion that to adopt the petition changing "requires" to "allows" in Section 5.1.
Commissioner Turnipseed seconded the motion.

The motion carried.

Chairman Close moved to Agenda Item II-C.

Petition 97008 (LCB R-202-97) proposes to permanently amend hazardous waste regulations NAC 444.84275, 444.84275 and 444.8632 by amending the reference to federal regulations as they existed on July 1, 1997, and to amend NAC 444.8632 to adopt 40 C.F.R. Parts 2, Subpart A, 124, Subparts A and B, Parts 260 to 270, and Part 279 as those parts exist on July 1, 1997. The new regulations provide for increased public participation in facility permitting processes, identify when military munitions become a RCRA hazardous waste, and provide for their safe storage and transport. The federal revisions also include clarification of CESQG disposal options, additional test methods, technical corrections, and industry treatment standards for the management of hazardous waste. The proposed amendments also revise the state definition of hazardous waste (NAC 444.8565) and container labeling requirements (NAC 444.8671) to make them more consistent with federal regulations. Proposed amendments to current antifreeze regulations consist of amendments to NAC 444.9452 to adopt 40 C.F.R. as it existed on July 1, 1997, and technical corrections to NAC 444.8886 and NAC 444.8951.

David Emme, Chief of the Bureau of Waste Management, revealed a workshop held on December 5, 1997 was attended by 12 people. Questions were asked regarding the intent of some sections of the petition. No other comments were received.

Mr. Emme explained Nevada is authorized, pursuant to the Resource Conservation and Recovery Act (RCRA), to implement federally adopted hazardous waste regulations in lieu of EPA. To become authorized we had to demonstrate in an application to EPA that:

1) our state regulations were no less stringent than the federal regulations;
2) that we have the authority to enforce the regulations; and
3) that we had adequate staffing to implement these regulations.

Hazardous waste regulations are very complex and frequently amended by EPA. Nevada must apply to become authorized for each new federal regulation adopted. Petition 97008 adopts (by referencing the citations in the federal code rather than placing the actual voluminous language) the federal regulation into the NAC and Petition 97008 covers a 2-year time period, from 1995 to 1997. Subsequently, we will apply to EPA to become authorized to implement those new regulations in lieu of U.S. EPA.

Mr. Emme reviewed Petition 97008.

Sections 1 through 3 consist of minor technical updates to solid waste portions of the NAC.

Sections 4 through 6 are updates to the date of reference of the federal regulations, changing the date from 1995 to 1997.

Chairman Close wondered what would happen if I do something on January 1, 1998, and the regulations still refer to 1995.

David Emme explained that issue has come up, we have adopted federal regulations by reference as of a certain date and then subsequently those regulations have been changed. An example is waste generated from carbamate pesticides. EPA listed that particulate waste stream as hazardous, we adopted that by reference and subsequent to our adoption by reference EPA was sued - they lost - and that listing was vacated. So technically that waste is still considered hazardous in the State of Nevada because we are referencing the prior version of the regulations. It has not resulted in a big issue except when that waste was received for disposal by a landfill and they had to consider it as hazardous and pay us a fee. We also adopted a regulation governing organic air emissions from containers. After we adopted that EPA extended the effective date 3 times. So, federally, that regulation was not in effect in the State of Nevada. We responded by informing affected parties by letter that we did not intend to enforce that.

David Emme continued in Section 7 we are proposing to amend the definition of hazardous waste by deleting subsection 2.(b) from the current definition which references mixtures of commercial chemical products. In the last

7 years this definition has rarely been applied to define a waste as hazardous that would otherwise be non-hazardous. The language is confusing and raises the question of whether it applies to mixtures of waste, mixtures of waste and commercial chemical products, or mixtures of different commercial chemical products. For that rare case when this definition may apply to a waste stream the generator is then faced with further confusion as to what to do with that waste because they are required to manifest and label containers that hold the hazardous waste with a EPA designated code number. For this particular waste, since it is a state defined waste stream, there is no code number and it's not clear how manifesting would be used or what treatment standards would apply to the waste once you attempted to dispose of it. To alleviate the confusion caused by this regulation our choices were to try to clarify it and adopt additional standards or simply delete it and be consistent with the federal handling of commercial chemical products. We are proposing deletion.

Section 8 proposes to adopt by reference any new federal regulations that have been adopted by EPA during the two-year time period, July 1, 1995, to July 1, 1997. There were several federal rules adopted during this time period. Most are very routine up-dates, corrections in some cases, or fairly archaic amendments that don't have any effect on Nevada:

Some updates to the test methods that are used to evaluate waste streams;

EPA's manual SW-846 of different test methods was updated adding new analytical methods as being approved methods;

An update to test methods used to evaluate sorbents that are used to absorb liquids since the regulations prohibit bulk liquids from landfill disposal, a text to evaluate the biodegradability of the sorbent;

A rule was passed to expand the public participation requirements in the permitting program, such as posting a sign at the facility that indicates it has applied for a hazardous waste permit;

There was an amendment to the organic air emission standards;

Treatment standards were established under the land disposal restrictions program for odd things like benz-aluminum pot liners and for wood-preserving waste that is intended to be land-filled;

The emissions rule, intended to make it less burdensome for the military to move around waste munitions and to clarify when those munitions are hazardous waste affects Hawthorne and possibly Nellis. The change eliminates the requirement for a manifest if the DOD is moving waste munitions from one military installation to another. It also eliminates the requirement for manifesting for movements of munitions on a public road that may divide a installation, such as Hawthorne.

Section 9 details specific sections in the federal regulations that we are <u>not</u> adopting. We chose not to adopt Part 262, Subpart H. This is a notification and record keeping requirement relating to shipments of hazardous waste out of this country to Organization for Economic Cooperation and Development. Records required for waste shipped out of the country for recovery and recycling must show that they are not creating problems in another country without our nation's knowledge of it. It was optional as to whether or not a state would adopt this and we see no reason why Nevada should keep those records instead of EPA.

Section 10 amends an existing state requirement governing labeling. A generator of waste is required to include on the hazardous waste label the EPA code number. The change we are proposing is that while they would still be required to place a hazardous waste label denoting the waste is hazardous waste at the point of accumulation they would not have to put the code number on. A generator is allowed to accumulate in the satellite accumulation area up to 55 gallons of waste. They can then move that waste to a storage area for 90 days. They are required to put the code number on the label after the waste is moved and the accumulation start date is entered. This issue surfaced in dealings with the University of Nevada in Reno and various laboratory settings. Small quantities of waste are generated in each individual lab and it is burdensome for them to have to apply a waste code. It is easier for them to label it as hazardous waste, transfer those small volumes of waste to their central storage area and at that point have the staff who are trained in regulatory compliance add the code numbers.

Section 11 and 12 reference the antifreeze regulations adopted last year. Section 11 denotes that we are excluding

from secondary containment containers which contain "no" free liquid and Section 12 makes a section numbering change referenced in 444.8931 from subsection 4 to subsection 2..
Section 13 changes the date of reference from 1995 to 1997 and updating the cost figures for obtaining those relevant C.F.R.'s.
Chairman Close called for questions.
Commissioner Johnson asked what the conditions for mixtures would be under the federal regulations? Do they have to be pure products?
David Emme explained when the hazardous waste regulations were adopted federally, EPA felt it could regulate pure virgin commercial chemical products that are, for whatever reason, destined for disposal or are discarded but they did not have sufficient data to set standards or determine whether those same chemical products would be hazardous if mixed together. The federal regulations only regulates the pure virgin form of most commercial chemical products. In practice many commercial chemical products may actually be characteristic waste. For example, if discarded they may be ignitable.
Commissioner Johnson asked if a manufacturer has two chemicals under 40 C.F.R. they would be regulated as long as they were kept pure but if the two were mixed together they are not regulated?
David Emme explained they would not be regulated as commercial chemical product waste.
Commissioner Johnson asked why don't we accept the responsibility to regulate those? Aren't we saying that we are going to go with the problematic approach from the federal government.
David Emme stated the difference is between theory and practice. In theory, 7 years ago it was thought there was the problem you describe. In practice, the issue has not come up often and the waste ends up being handled as hazardous anyway. The language as it is written has caused a lot of confusion and it is for practice that we are bringing this forward.
Chairman Close called for public comment. No comments were received.
Commissioner Molini made a motion to adopt Petition 97008 as presented.
Commissioner Turnipseed seconded the motion.
The motion carried.

Chairman Close adjourned the meeting for lunch.
Chairman Close called the meeting back to order at 1:15 p.m.

Chairman Close moved to Agenda Item II-D:
Petition 97009 (LCB R-204-97) proposes to permanently amend NAC 445B by establishing a new section to govern municipal solid waste landfills annual reporting of non-methane organic compound emissions, the process for planning and installing air emission collection and control equipment. This regulation is based on 40 C.F.R. Parts 60.30(c) to 60.36(c) and amends NAC 445B.001 to 445B.395.
Jolaine Johnson, Chief of the Bureau of Air Quality, explained Petition 97009 is proposed in response to a federal requirement for every state to develop a program to address the non-methane organic emissions from large landfills throughout the state. Petition 97009 addresses those landfills within the jurisdiction of the NDEP, those outside of Clark and Washoe County.
The federal rule has 3 fundamental requirements:

1) That the state develop the plan to address these emissions from these landfills;
2) That the landfills of a certain size estimate the emissions of non-methane air pollutants from their landfill; and
3) If they hit a certain threshold of emissions at those landfills that they establish control measures to reduce those emissions substantially, currently 98%, to meet the federal requirement.

Chairman Close asked how are emissions reduced from a 100 acres landfill?

Ms. Johnson explained the federal rule is very specific about the technology which involves some complex plumbing so you can get those emissions into one area where a flame will burn the emissions off. Under the state's jurisdiction there are 3 landfills that fall into the threshold of size requirements: Carson City, Douglas County and the Lockwood landfills, all sites under the 2.75 million tons threshold of total waste capacity. Those sources have estimated that they fall below the threshold of emissions that would require them to install the controls. However, with planned growth we anticipate by the year 2015 one or more may have emissions at a level where they would have to install controls. In the meantime, we are simply adopting this program wherein those landfills of a certain size have to do an annual evaluation of their emissions and submit that in a report to the division. If a landfill reaches the threshold we would have to institute a control program.

Jolaine Johnson explained Section 1 sets a requirement that the landfill shall install a system designed to collect and control the emission of non-methane organic compounds not later than 30 months after the date on which the rate of emission of non-methane organic compounds by the municipal solid waste landfill is equal to or greater than 55.125 tons per year. A municipal solid waste landfill is exempt from the provisions of subsection 1 if the municipal solid waste landfill is not, and was not, the site of construction, reconstruction or modification that commenced before May 30, 1991. It is exempt if it did not accept waste on or after November 8, 1987, and has a design capacity that is less than 2.756 million tons or 3.27 million cubic feet if the design capacity is calculated in density calculations specific in the federal rule. It is not subject to the control requirements if it has a rate of emission compounds of less than 55.125 tons per year.

Commissioner Molini asked if these emissions were always in the form of a gas or could the non-methane organic compounds be water- borne?

Ms. Johnson assumed some of these compounds could be taken up in the water but the specific rule addresses those that are air-borne.

Chairman Close called for additional questions or public comment. No questions or comments were received.

Commissioner Molini made a motion to adopt Petition 97009 as presented.

Commissioner Turnipseed seconded the motion.

The motion carried.

Chairman Close moved to Agenda Item 2-E:

Petition 97004 (LCB R-105-97), dealing with the Federal Clean Air Act and amends NAC 445B.001 to 445B.395 by adding a new provision for a stationary source to request a revision for a air quality Class II operating permit. In addition, NAC 445B.011 is revised to reference the NRS. NAC 445B.019, "applicable requirement" is re-defined to delete temporary source; NAC 445B.094 amends the definition of major source to exclude mobile sources as defined under Title II of the Federal Clean Air Act; and NAC 445B.221 is amended to add various subparts for New Source Performance Standard Industrial-Commercial-Institutional Steam Generating Units, Municipal Landfills, dry cleaners, chrome anodizing tanks, industrial process cooling towers, halogenated solvents, wood furniture manufacturing, printing and publishing, tanks, containers, surface impoundments, individual drain system and oil or organic water separators. The term "modification" is supplanted with the term "revision" from NAC 445B.001 to NAC 445B.395. NAC 445B.321 is proposed to be amended to add thresholds in defining minor revisions for Class I operating permits. It is proposed that NAC 445B.024, 445B.025, 445B.026, 445B.039, 445B.040, 445B.089, 445B.100, 445B.101, 445B.150, 445B.238, 445B.240, 445B.241, 445B.243, 445B.244, 445B.245, and 445B.367 be repealed.

Jolaine Johnson, Chief of the Bureau of Air Quality, explained Petition 97004 is the result of several months of working with the regulated industries, trying to streamline our air quality permitting requirements, to make them more consistent with the federal rule and less burdensome to the major sources in Nevada.

Within the last 3 days the Nevada Mining Association and the Federal EPA has requested minor modifications that I address this as we review the petition.

Section 1 is new. When we adopted the Nevada permitting program several years ago we had to adopt the federal requirements for the major sources but we omitted some specific requirements for the minor, smaller sources. Section 1 states a small source can make a modification or revision to their permit by submitting an application and then we specify the elements that we want on that application.

Ms. Johnson requested 2 changes to Section 1:

Page 1, line 3, strike the words "operating in compliance". Line 3 would then "an owner or operator of a stationary source with a Class II Operating Permit may make a modification".

Page 2, line 3, Item (h) - EPA has asked that we add "new or" before the word modified. Line 3 would then read: "A discussion of all applicable requirements to which the new or modified operations will be subject" - this acknowledges that a revision to a permit may include new sources and existing small sources.

Section 2 adds in a provision of Section 1 of the overall regulations.

Section 3 deletes the definition of air pollution as it is already defined in NRS. LCB requests that we not re-define it in NAC.

Section 4 is a substantial change and very important to the sources. The term "applicable requirement" is a term adopted by the Federal EPA in their major source program but it does not include ambient air quality standards. When Nevada adopted this rule we did include both federal and state ambient air quality standards as applicable requirements. According to the federal rule sources have to certify every year that they are fully in compliance with all applicable requirements. Sources don't disagree with having to meet these ambient air quality standards but in order for them to certify they have met those standards all year long they would have to do a modeling each year to address their full operation and to prove the standards have been met. It is an unnecessary requirement for them to have to prove that over and over again. We would like to remove the ambient air quality standards from the definition of applicable requirement.

Ms. Johnsons stated, for the record, I would like to say that doesn't mean Nevada doesn't care about the ambient air quality standards and certainly a source must demonstrate to us, to our satisfaction, that they will continue to meet those ambient air quality standards prior to us issuing a air quality permit so those provisions are provided for elsewhere in the regulations.

Section 5 corrects the definition that is in NRS.

Section 6 changes the definition of construction by removing the word "fabrication". The Nevada rule currently does not allow a source to contract for, or begin to build, an emission unit before they have a permit. They have asked for that flexibility to give them advance time to build units. In some cases that process can take a year or more to fabricate prior to having an operating permit. They would not be allowed to put those units in place or to operate those units without their operating permit so they would be taking a risk in fabricating those units before they have an operating permit.

Section 7 changes the definition of emissions. The NRS definition of air contaminate includes anything, including water droplets, and we would like to stay focused on regulating actual air pollutants.

Section 8 removes the phrase "or group of stationary sources". This will make more sense later when we look at the definition of stationary source wherein we are grouping all of the activities in one contiguous area under the same ownership into a stationary source so it is included in that definition.

On page 5, subsection 3, line 5 - we are adding an element to the definition of major source to be consistent with the federal rule. EPA asked us to add this in a serious nonattainment area of particulate matter of 10 microns or less. The EPA's cutoff is 70 tons per year.

Section 9 changes the definition of stationary source. LCB has included a subsection 5 and this should be a separate item that applies to all major sources. It now reads that it has to be a contracted operation to be a major source but we want this to read that any contracted operation has to be included as part of the major stationary source. So subsections 1, 2, 3 and 4 are the criteria that have to be met to be a major stationary source and what is now # 5 would be the qualifier.

In line 5 was ask that after "control" the word "and" be put in; in Line 8 the word "and" be taken out; in Line 9 the number "5" and the word "are" is deleted and "Contracted" begin a new sentence. To clarify that language, in line 10, we would ask that after source we insert the words "must be included as part of the stationary source" and it would continue "except that the temporary construction activities, including construction of emission units, are not part of the stationary source.

In Section 10 we ask to delete metric units.

Section 12 adds several new source performance standards, correcting the dates on some of those existing, and doing this simply to have these regulations in one place so when we issue an operating permit to a source we can be sure that we are including all the state and federal requirements within that operating permit rather than writing permit conditions and then having the source subject to other federal requirements through another program. We are pulling the programs together.

Section 14 on page 15 corrects language that incorrectly referenced the wrong NAC.

Section 16 cleans up awkward language in the rule. We are taking language out that has become confusing and difficult to process.

Section 17 addresses Class I-B applications that are required for new major sources or existing major sources that make significant modifications. On page 18, line 4, we add a new provision that clarifies a minor source can also make a modification and get a revision to their operating permit.

Section 18 clarifies the language on the source having to submit an application to get a revision of their operating permit.

On page 19, line 7, we are deleting section 4 of that provision which says that we shall apply the provisions of 40 C.F.R. part 60.7. These are Prevention of Significant Deterioration (PSD) requirements.

Section 19 begins the clarification of how we process an application when we receive it. We have tried to clarify here that a once a major source submits an application the division has 60 days to make a completeness determination. We would like to consider the official date of that application the date on which we determine that application is complete. If we miss the 60 days deadline to make that determination the official date of submittal would be that 61st day.

In Section 20 on line 25, page 19 - we ask that the word "if" remain in and not be deleted as indicated. The deletion would start at "any".

Page 21, line 24 should read "the director requests within the time specified in the request by the director.

Ms. Johnson explained in the Nevada Air Quality regulations the "director" means the Director of the Department of Conservation and Natural Resources. The "administrator" means the Administrator of the Federal EPA.

Ms. Johnson requested a correction on page 22, line 22. NAC 445B.319 should read NAC 445B.320 and asked to insert the words "except as otherwise provided in those provisions" on line 23 because NAC 445B.320 and NAC 445B.321 have specific requirements for notifying both the Director of the EPA and surrounding states.

Page 24, subsection 13 speaks of a minor modification that EPA has 45 days to review the operating permit proposed by the division. We ask that the language "including all comments submitted during the period allowed for public comment or made during the public hearing" be deleted. With a minor modification we must provide a 30 day-public notice and we have to wait until the end of that public notice before we send EPA the document, then allow them another 45 days for review. We would like these to run concurrently. For the record, we needed to ensure that there is an understanding that if there is substantial public comment and the division has to change the proposed permit substantially that EPA may require another 45 days to review the change.

Ms. Johnson asked to delete Line 10 on page 25 except for sub (b). Delete "Except as otherwise provided in NAC 445B.319, 445B.320 and 445B.321" that is unnecessary language that causes confusion.

On lines 14 and 15 we ask that "applicable requirements" be left in and add after that the words "and all" so Subsection 2 would read: "The conditions of the operating permit provide for compliance with all applicable requirements and all requirements of NAC 445B.001 to 445B.395 -

Page 29, Section 24, beginning on Line 9 we ask for the following corrections.
Place a colon after the word "evaluation", delete the word "for" from that sentence and on line 10 begin subsection 1 with the word "For" so it reads "For a new stationary source".
On line 14 we ask that the word "for" be added before the word "A". Subsection 2 will now read: "For a modification to an existing stationary source that meets the following criteria".
On Line 16 after "25 tons" we ask to insert the words "of a regulated air pollutant" and similarly on line 18 - after "10 tons" insert "of a regulated air pollutant".
Referring to Page 32, Section 27 Ms. Johnson explained this provision allows a source to make changes in their operations to an express term of the state operating permit. This provision is required by the Federal Clean Air Act (CAA) and by the federal regulations adopted pursuant thereto. We have been apprised, and rightfully so, that the change we were making made this more restrictive than ever intended by Congress in the CAA and by the Federal EPA. We ask that the changes proposed in this section be taken out.
Ms. Johnson reviewed the changes:
Line 17: Leave the deletion of a Class I as is.
Line 21: We want to leave the words "applicable requirements" in there; delete the word "and" and add the words "or any" . This section would now read "Violate any applicable requirement; or any provision of NAC 445B.001 to 445B.395, inclusive, or section 1 of this regulation; or"
Line 25: Keep those changes as proposed.
Page 33, line 1: Leave the word "notification" and delete the word "request". This was a substantial change we were trying to make to give us more of an opportunity for review but the source clearly, by the Federal CAA, can notify the agency that they are going to make this change.
Line 2: Leave in the number "7" and delete the number "30", and delete the phrase that has been added, "If the operating permit is for a Class I source, the holder of the permit shall also present the request to the administrator".
Line 4: Leave in "notification" and remove "request".
Line 5: Leave as proposed.
Line 7: Leave that additional language ", as determined in accordance with NAC 445B.239;"
Line 11: Remove all of subsection 4. Lines 11 through 16 should be deleted.
Line 18: Leave the word "notification" and remove the words "request and the determination of the director"
Ms. Johnson continued to page 34 and explained what we are saying here is that a source may make a minor modification if they don't have substantial increases in certain kinds of pollutants. We have taken the thresholds that are provided for in the PSD regulations and included those as significant thresholds for changes in operations in the Nevada major source program. Thus, we are changing the current wording which says that "a source that is increasing emissions of less than 1 ton per year may make a minor modification" and allowing a source to make a minor revision to their permit provided they don't exceed these thresholds by pollutant.
Page 35, line 15 clarifies language on how we process a minor modification, providing a clearer indication on how soon the agency will react to a minor modification request.
That carries through to Section 29.
Ms. Johnson asked that the word "temporary" on Page 37, Section 29, Line 14 be left in that sentence. the word
Page 40, Section 33, deletes some metric references.
Page 44 repeals text - definitions that we don't need.
Page 45 deletes language that was taken verbatim from the Federal PSD requirements for modification. We are meeting the PSD requirements adopted by reference and w found this wording for modification just does not work for the Nevada program.
Chairman Close called for questions.
Russ Fields, President of the Nevada Mining Association, reported the NMA thinks these regulation changes take an important step forward in making the permitting process in Nevada more streamlined, clearer and effective. Mr.

Fields offered NMA's letter dated January 21, signed by John Barta, for the record and expressed appreciation to the BAQ for being open with the NMA, accessible and considerate of the request the NMA made relative to the changes in the regulations. The NMA is completely supportive of the changes made here today. We do want to clarify Jolaine's comments and testimony that just preceded me regarding Section 28, the minor modification permitting track and addressed on page 2 of NMA's letter. We have questions regarding specific pollutant thresholds. I want to clarify that in discussions with Jolaine we agreed that we will need some guidelines or policy from NDEP to help us interpret and implement all of the criteria. We are confident they are going to develop those guidelines and we urge them to do that as soon as possible to help us meet the goals and objectives of streamlining these regulations.

Mike Tomko, Attorney for the NMA, agreed with the minor modification provisions as they have been proposed for amendment. They are necessary to enable the mining industry and other sources to have a permitting track that is efficient and will allow quick turn-around for modifications that are truly minor. Mr. Tomko referred to Section 28, page 34, thresholds specified for a number of pollutants that are generally consistent with EPA's thresholds used to distinguish between a minor modification and a significant modification. EPA modified what is known as Section 12 of the CAA significantly, modifying the thresholds for determining whether a modification is significant or minor and because they implemented a new program for addressing hazardous air pollutants they eliminated those pollutants from the PSD program. Mr. Tomko addressed those he thought incorrectly listed on page 34 in the proposed regulation: lead on line 24; asbestos on line 25, beryllium on line 26, mercury on line 27 and vinyl chloride on line 28. Mr. Tomko recommended that these thresholds not be specified along with the other thresholds which are consistent with EPA's guidance and the direction that the EPA has gone on distinguishing between significant and minor modifications.

Commissioner Molini asked why the NMA proposed to delete lead, asbestos, beryllium and vinyl chloride?

Mr. Tomko explained the 1990 Amendments of the CAA were a significant revision. With respect to hazardous air pollutants, congress said we are not going to specify thresholds that we are going to use to make a determination of whether or not a modification is minor or significant. We are going to enact Section 112 of the CAA that would address hazardous air pollutants much more directly, not as indirectly as the PSD program where hazardous air pollutants had been regulated more-or-less as an after-thought. The focus has been on the criteria pollutants, NOX, CO, SO_2, and Particulate Matter. So there is a different regulatory framework for those pollutants and congress has made a determination that thresholds for determining the significance for a modification should not address those specific pollutants.

Mr. Fields asked the Commission to refer to page 3 of NMA's letter relative to 445B.374, fuel-burning equipment; subsection 5, line 25, page 42 of Petition 97004 - "a person shall not cause or permit the emission of any gas"; and line 8 on page 43, "Air Quality Models, adopted by reference pursuant to NAC 445B.221".

NMA suggests in our letter that an additional sentence be added which would provide both the NDEP and the industry more flexibility in the models that are used. That language would read: "the director may authorize the modification of a model specified in the guideline on air quality models or the use of a model not included in the guideline on air quality models if the director determines that such modification or use is appropriate". Mr. Fields asked Jolaine Johnson to comment.

Commissioner Johnson questioned the justification for deleting metric measurements in the air quality area.

Russ Fields stated the industry will do whatever the BAQ would like us to do with this. Standard English is more convenient and less confusing and the NMA supports this change. Metric is not commonly used.

Mike Tomko agreed with Mr. Fields.

Chairman Close asked Ms. Johnson to respond to Mr. Field's statement.

Ms. Johnson responded that the BAQ is in full agreement with NMA's request to delete lead, asbestos, beryllium, mercury and vinyl chloride from this list and agreed those elements are not consistent with the EPA definition of Significant Modification. Those pollutants are clearly, and actually more stringently, regulated in another provision

of the Federal CAA so we are not losing control of those.
Ms. Johnson also agreed with the NMA's recommendation to allow the Division to make some determination on whether other models can be used when appropriate.
Chairman Close asked that the NMA's letter dated January 21, 1998, be included as part of the record.
Chairman Close called for additional testimony or comments.
Commission Turnipseed made a motion to adopt Petition 97004 as amended by both staff and the NMA.
Acting Commissioner Driesner seconded the motion.
The motion is carried.

Chairman Close moved to Agenda Item II-F:
Petition 97006 (LCB R-107-97) amends NAC 444.8452 "Additional fees to offset cost of inspection and other regulation: Payment; accounting; penalty for unpaid fee." The proposed amendment adjusts the fees charged for disposal and treatment of hazardous waste to make rates at the state owned Beatty facility comparable to California rates. Fees for importation of hazardous waste, not federally regulated, are reduced and fees for treatment are retained at $ 5.00 dollars per ton.
David Emme, Chief of the Bureau of Waste Management, revealed a public workshop was scheduled and noticed for September 10, 1997 but no one attended.
Mr. Emme distributed a handout of the proposed rate structure which principally applies to the Hazardous Waste Landfill near Beatty, a state-owned facility operated under contract by U.S. Ecology.
Mr. Emme explained the business of handling and disposing of hazardous waste is regional in nature. Shipments of waste commonly cross state lines and state fees are a large portion of the cost of disposing of hazardous waste. The volume of hazardous waste has been declining and California, Oregon, Idaho, and Utah have all lowered their state's fees. Since a large portion of waste received for disposal at the Beatty facility is derived from California the competitiveness of U.S. Ecology is strongly affected by the fees charged. Because California dropped its fees in 1996 the volume of waste received by U.S. Ecology dropped significantly and the facility was unable to pay its fees to Nevada during the first 2 quarters of 1996, incurring a debt of over $1 million dollars. $842,000 of that debt was paid by check this morning. California dropped their fees again, effective January 1, 1998 and that left a doubt as to whether the Beatty facility would remain viable given Nevada's rate structure.
Petition 97006 proposes to lower Nevada's fees to the extent we feel reasonable.
Mr. Emme distributed a handout, a comparison of Nevada & California fees and discussed the contents which relate to Petition 97006.
The proposed rates include three fees: $33.14 for federally regulated RCRA waste; $17.64 for California regulated waste and $3.00 for waste treated to be non-hazardous, all per ton fees. The proposed fees are composed of several individual fees. $33.14 on RCRA hazardous waste per ton actually includes the fee that is set in regulation, which we are proposing at $18.15; $4.50 for the fire-marshal; $1.50 for PSC (both prescribed in statute); $6.74 for the site closure and post-closure fund; and $1.89 is a fee that is established in the lease agreement between the state and U.S. Ecology and that is the only fee that benefits the division that we are proposing to change.
Commission Turnipseed asked if the percentage of waste going to Beatty generated out-of-state versus within Nevada was known.
Mr. Emme replied 75% of more comes from out-of-state.
Commission Turnipseed asked why do we want to remain competitive to bring hazardous waste into Nevada?
David Emme explained although most of the waste disposed of at Beatty is derived from out-of-state yet Nevada has been active in discouraging importation of out-of-state waste. The fact that the state benefits from the fees, owns the site, and regulates the site adds complexity. The rationale we offered to that question from the Governor's office was we allow the site to operate to reach the capacity agreed to in the 1993 settlement over the lawsuit; to provide closure and post-closure funds after the site reaches capacity; and to add additional funding to the perpetual care

and maintenance fund that protects the state's liability over the long term for the site. If we closed the gates now and the company walks away the state may face some liability for closure of the site. We have some funds in both the perpetual care and maintenance fund and closure fund but the closure fund is not fully funded.
Commissioner Turnipseed stated he did not think it was the charge of the Commission to reduce the fees in order to keep U.S. Ecology solvent.
David Emme agreed. Our policy and interest in walking this fine line is to protect where we can the state's liabilities and to adhere to the terms of the 1993 settlement which did allow the site to fill up the available land space that was left on the 80-acre parcel. NDEP benefits as well since we receive fees that support the hazardous waste program and corrective action program.
Commissioner Molini asked how much capacity remains at the Beatty site.
Mr. Emme explained there is not much capacity in Trench 11 which they are currently filling. The settlement agreement allowed them to construct 1 additional trench, the last sliver of land available on site. That will be Trench 12 with a capacity of about 1 million cubic yards (1 yard is a ton). At the current rate of disposing of 60,000 - 80,000 tons a year the new trench may take 10 years to fill.
Commissioner Molini asked what would be the incentive for out-of-state hazardous waste generators to use the Beatty site?
David Emme admitted he did not know the exact answer. We hear from generators that one reason may be because of the site's arid location, it's security and because it is state owned implying that it has some funding for its long-term care and maintenance.
Commissioner Johnson asked if the Bureau had charts that revealed a sharp drop-off in tonnage after California initially dropped fees. Mr. Johnson thought the RCRA waste would continue to go to California and asked to see figures that will indicate you are going to continue to receive this waste, if that is the interest of the Commission, and I'm not certain that it is.
Mr. Emme explained he did not have the figures with him but he recalled in the last 2 calendar quarters of 1995 Beatty was receiving something like 30,000 tons per quarter. Then, beginning the first quarter of 1996 when California initially dropped its fees, the figures were down to around 15,000 tons per quarter and it has essentially stayed at that level.
Chairman Close asked what Nevada would do with its waste when Beatty is filled to capacity?
David Emme reiterated the business of managing hazardous waste is regional. Ironically, while most of the waste that is received by Beatty is from out-of-state, most of the hazardous waste that Nevada generates is exported, having to do with the types of wastes generated. There is some Nevada waste that goes to the Beatty facility but most of the hazardous waste we generate is exported to California.
Chairman Close wondered if it is wise to encourage filling this site when we may need space in the future.
David Emme explained 10 years ago sites were being proposed to be permitted all over the area but that is no longer the case. It has become a very competitive business. Regionally, however, there is available disposal capacity.
Chairman Close called upon Zaki Naser.
Zaki Naser, General Manager for U.S. Ecology spoke to an issue not been presented today. Major mines in Nye County are closing their doors in 2 years. U.S. Ecology is the second largest employer in the area and closing the facility will have a drastic impact on Beatty. U.S. Ecology is a big part of the community - we have been there for 40 years. We contribute funds and even employ the volunteer fire chief, 8 other volunteers plus the area director of emergency response. We sometimes close the site so the employees could attend to emergencies. Assemblyman Neighbors, Senator McGinness, the Chairwomen for the Town of Beatty and the Chamber of Commerce ask you to act favorably on this proposal.
Mr. Naser explained the volume of waste and the revenue has dropped in half since 1996. In 1995 Beatty received almost 160,000 cubic yards, in 1996 we received about 80,000 cubic yards and in 1997 about 40,000 cubic yards of hazardous waste because of the reduction in fees in California. In 1996 the company lost $1.3 million. In 1997 we

reduced our losses to $560,000 by efficiently cutting corners without affecting our health, protection of the employees and protection of the environment. As a company we would like to continue in business but our share holders will not allow us to continue at a loss. Mr. Naser explained there is not enough hazardous waste generated in Nevada to support our facility. We have to go to nearby states and we have been at a fee disadvantage since 1996. I joined U.S. Ecology a little over 3 years ago. I am committed to my company and the town of Beatty. It is in the interest of the environment, the liability of the state, and to the community for us to continue to operate. I would like to see you act in favor of that interest.

Chairman Close asked for questions.

Commissioner Doppe asked Mr. Naser if the fee reductions proposed would enable U.S. Ecology to become competitive again.

Mr. Naser replied the reduction in fees will not make us rich but we will be able to continue to operate and compete. We are more efficient now. I am responsible for the operation and marketing - in the past 3 vice-presidents did what I am now doing. If the present fee structure is maintained I would go back and close the door.

Chairman Close asked for additional comments or testimony.

Commissioner Johnson expressed concern that the business will be impacted and their ability to operate may be in jeopardy but declared he would vote for the proposal although he reservations and asked that we monitor this very closely, both from the income to the department and to the flow of material to that site. I ask that we review and revisit this issue in the near term.

Chairman Close asked if he could be more specific as to when you want to revisit the issue.

Commissioner Johnson stated it would depend on the meeting schedule. Perhaps late spring, May or June, or I could simply just receive a report from the Division.

Chairman Close agreed for a report from the Division. Then, if you want it placed on an agenda we could do that.

Commissioner Turnipseed stated he probably would not vote for it. I remember being sued, each member was sued for $1 million by U.S. Ecology and I still resent that so I wouldn't care if U.S. Ecology pulled out of the state tomorrow. I don't believe they are doing the best that they could do for the environment but I do fear for the survival of the division and the closure/post-closure fund if we filled it in and just closed it up today.

What liability would the state have in that regard, monetarily or otherwise?

David Emme explained as a condition of its permit the facility is required to have financial assurance for the cost of closing the site, eventually putting a cap on the landfill and 30 years of post-closure care which would include monitoring ground water. The cost estimates for that closure and post-closure care added together are $10 million. The state is left with the cost of essentially back-filling a very large hole. In addition, there is some ground water contamination at the site and dealing with that contamination is a condition of their permit. Currently, I would add that as some benefit to the state of having the site continue to operate so they are able to correct that rather than the state having to pay that cost.

Chairman Close asked if there is a perpetual care fund now being accumulated towards when they close.

Mr. Emme explained there is a perpetual care and maintenance fund which is entirely the state's money, held by the Health Division as a hold-over from the days when they regulated the low-level radioactive waste site. Part of the fees they are currently paying ($1.89 a ton) goes into that perpetual care and maintenance fund.

Chairman Close asked if that will remain the same.

David Emme said it would and revealed that fund is currently something like $8 million. Again, by virtue of the name, perpetual care, so it is intended to be the state's financial mechanism for dealing with any long-term liability for the state. The closure and post-closure fund is essentially the facilities money to assure for the cost of closure and post-closure care for 30 years. The perpetual care and maintenance fund was supposed to be the state's fund for after that 30 year period.

Commissioner Turnipseed asked if there is a balance in the closure fund or is it a bond.

Mr. Emme explained it is a trust fund and the balance is just under $3 million. There is a $10 million cost estimate

for closure and post-closure care for 30 years. The balance in the perpetual care fund is $8 million.
Lew Dodgion explained that also includes a perpetual care of low-level radio-active sites.

Commissioner Turnipseed asked how long would it take and how much would it cost to fill in the present trench and go about our business?
David Emme replied we may be able to do that for the cost of what is in the current closure fund, $3 million.
Commissioner Molini asked about the seriousness of the ground water contamination. What are the contaminants and is it in shallow water.
David Emme explained it is shallow by Nevada standards - 250 feet. Five or six years ago there was organic vapor from solvents - volatile organic compounds - detected in the unsaturated zone, essentially in the air between the bottom of the trenches and the water table. More recently low-levels of contaminants, parts per billion range, of these organic compounds were detected at a monitoring well near the fence line. There is no real evidence that it has migrated off-site and there aren't any nearby drinking water wells but it is a problem that needs to be dealt with and controlled, most likely through soil vapor extraction of that contaminated vapor plus further monitoring off-site.
Commissioner Turnipseed acknowledged the Bureau relies on fees to pay employees, etc. If these fees were no longer collected, what impact would that have on your bureau?
David Emme explained the Bureau of Waste Management, particularly the Hazardous Waste Program and a portion of Corrective Actions, are funded by the Hazardous Waste Management Fund which is where these fees are deposited. If we were no longer collecting fees we would not face an immediate crisis since we have managed to accumulate a surplus from the years when the site was receiving large volumes of waste but that surplus would be exhausted in a couple of years and we would have to find alternative sources of revenue. We do have authority to levy fees on generators of hazardous waste in Nevada but we don't currently do that and I doubt that we would be able to collect enough money to support our costs if we transferred the revenue we receive, essentially subsidized by the California waste, onto the backs of Nevada generators.
Chairman Close called for additional testimony.
Lori Taguchi, an employee of U.S. Ecology reiterated that Beatty would experience a major impact if U.S. Ecology is closed. She explained the average employment at the site is 12 years and there is nowhere else in Beatty to get employment. Ms. Taguchi expressed pride in the site's regulatory compliance history - no violations in the last 2 years - and the good job they are doing protecting the environment. Ms. Taguchi expressed concern that Commissioner Turnipseed had bad feelings about U.S. Ecology but asked the Commission to approve the proposal.
Commissioner Turnipseed explained he had no personal grudge against Ms. Taguchi or Mr. Naser but he did have a comment. The life of the facility is less than 10 years so one-way-or-the-other so there is going to be unemployment in Beatty either today, tomorrow, or 10 years from now.
Lori Taguchi explained Nye County is trying hard to lure businesses to Beatty and to the Amargosa Beltway so maybe in 10 years there will be places for people to find employment. Right now that is not a possibility.
Chairman Close called for additional testimony or comments.
Commissioner Doppe explained he had made a list of the issues at-hand but there were in no particular order. Some are our responsibility and some are not:
1) Obvious employment and economic benefits happening in the town of Beatty by virtue of the company operating there to the extent that the state almost goes into partnership because they entered into a contract a number of years ago at a then competitive rate with other states. If those states lower their price and we don't lower our price it strikes me as though we perhaps are not being a responsive business partner as is occurring in the other areas;
2) It has been stated that there are closure/post closure maintenance costs to be incurred one-way-or-another. If we have somebody operating and contributing to that fund I don't know why we would want to sell that short. There doesn't seem to be any down-side to allowing those people to continue to fill up that trench, continue to contribute money into those funds so that when they are done the state won't have liability, or reduced liability, seeing that the

site is properly closed and maintained for the next 30 years or more.
3) There is a question as to whether-or-not, as an in-state disposal facility, Beatty is appropriately taken advantage of. If Beatty is closed it certainly won't be taken advantage of by an in-state generator. It has a definite benefit there.
4) The Division could collect fees from other places or reduce the size of the staff to the extent that they don't have anything to regulate so that is of lesser importance to me.
5) The state owns this facility and has hired this company on a long-term to run it. If we then don't respond as we ought to, in regards to California, Utah and other areas reducing their fees, we are telling U.S. Ecology "I don't want you to run this thing and we aren't going to allow you to do anything with it".
Mr. Doppe concluded, I don't see a down-side to the state to allowing U.S. Ecology to finish up their business there. Ten years may allow the community to make other plans and although it is not our primary concern I think it is a secondary concern, what happens to the people in Beatty. I think it is our duty to allow this company to continue it's business over the next 10 years. A side benefit of that is the people of Beatty will be able to make the adjustments they are going to need to make. As long as this company complies with the requirements of the Division I don't see why we would be opposed to allowing them to continue operation. I support adopting Petition 97006 and I put that in the form of a motion.
Commissioner Trenoweth seconded the motion.
Commissioner Turnipseed stated Commissioner Doppe had convinced him to change his mind, not out of compassion for U.S. Ecology but for the citizens of Beatty and for the employees of the NDEP.
Commissioner Molini acknowledged Commissioner Doppe made some very good points but if we just focus simply on the environment, and our charge of care for the environment, it seems to me that there is an awful lot of concern expressed about such things as hazardous waste. I have always been troubled that other industries that have serious environmental impacts are barely regulated. I believe to adopt this fee structure and keep U.S. Ecology in place is the responsible thing, environmentally, to do and therefore I support the motion.
The motion carried.

Allen Biaggi requested Chairman Close to address the Air Quality Settlement Agreement item on the agenda because the presenter was under a time constraint to attend another meeting.

Chairman Close moved to Agenda Item IV:.
Settlement Agreements on Air Quality Violations
Tom Porta, Chief, Bureau of Water Quality Planning, formerly with the Bureau of Air Quality presented the following agreements.

A: Day & Zimmermann Hawthorne Corp; Notice of Alleged Violation # 1244: Inspection back in April of 1997 revealed at the Hawthorne Army Depot that a utility boiler had been constructed at the facility without having an air quality permit issued. The boiler had not been in operation but was physically put in place and connected and ready for operation. Subsequent to that we issued NOAV # 1244 and had an enforcement in June. During that enforcement conference the Army's representative, Day and Zimmerman Corporation who is the contractor for the Army was present to represent the Army, did not dispute the violation for putting in this boiler. A subsequent negotiated penalty of $2400.00 was agreed to for this violation.
Commissioner Turnipseed made a motion to accept the settlement.
Commissioner Trenoweth seconded the motion.
The motion carried.

B:Echo Bay Minerals; Notice of Alleged Violation # 1288

An inspection revealed in September that this facility had a hopper which they used to transfer ore into a crushing facility was on site and not permitted. Originally, this hopper had been included with the original permit however the hopper was to be permanently covered with a stock-pile of ore. Subsequent mining changes in their operation the pile was never actually put over in place of the hopper and therefore needed an air quality permit. They did not have one, they did not have controls and at the time of the inspection we had fugitive dust noted, also coming from this hopper. Consequently, we issued two violations, one minor for fugitive dust which they did pay and the major violation # 1288 for failure to obtain a permit. During the enforcement conference Echo Bay did not dispute the violation and agreed that it should have been permitted since other hoppers had been permitted at the mining facility. A fine of $2,000.00 was negotiated for this major violation.
Commissioner Turnipseed noted Echo Bay had a history of violations; 1987, three times in 1988, once in 1989, twice in 1990, once in 1991 and asked if it was common for a major mining operation to have that many violations.
Mr. Porta explained it is not common but we do have facilities with similar records because of the many pieces of equipment that are operating.
Commissioner Johnson asked noted the permit application and modification has not been received but yet it is in compliance.
Mr. Porta explained the permit has been received and modified to include that hopper into their facility-wide permit.
Commissioner Molini made a motion to accept the settlement.
Commissioner Trenoweth seconded the motion.
The motion carried.

C. Nevada Cement Company; Notice of Alleged Violation # 1261
We had required Nevada Cement to conduct emission test for particulate on the #1 Clinker Cooler Bag House. Upon those results being delivered to DEP it was found that they were in exceedence of their particulate emission limit. We therefore issued a NOAV and had an enforcement conference. During the enforcement conference Nevada Cement informed us that typically these bags in the bag house that control particulate have a life-span of about 3 years and they were right at the 3-year mark when this source test was conducted. As part of their corrective action plan they have now stepped up the maintenance on this bag house to every 2 years to inspect or replace the bag and upon subsequent shutdowns will inspect the bag visually to make sure that they are all attached and effective. They agreed that they should have looked at this a little sooner before the source test had taken place and therefore we agreed to a $5,500.00 fine for the violation.
Commissioner Turnipseed made a motion to accept the settlement.
Commissioner Molini seconded the motion.
The motion carried.

D. Little Mondeaux Limousin Corp; Notice of Alleged Violations #1252, 1253, 1269 & 1273
There are 4 notices listed in the agenda but 3 were minor violations for fugitive dust. We conducted a series of inspections over a period of about 2 months. Each of those inspections resulted in at least one notice for fugitive dust. We followed the NAC minor fines schedule for the first 3: #1252 -$125.00; #1253 - $250.00; #1269 - $500.00. #4, 1273 took the penalty into the major category and this was to go before the commission in a contested hearing but through negotiations with their attorney's and the AG representing us they did agree to pay the 3 minor violations as well as pay a $3,000.00 for the major violation, #1273.
Commissioner Molini made a motion to accept the settlement.
Commissioner Doppe seconded the motion.
The motion carried.

E. H.E. Hunewill Construction Co.; Notice of Alleged Violation # 1276

An inspection of this facility in August revealed that an asphalt batch plant which was located on the site had not conducted a source test, or emission test, which is a federal regulation requirement of this facility. Mrs. Hunewill came to the enforcement conference unaware of this requirement and she subsequently agreed that she would have this source test conducted within 30 days and pay a $500.00 fine for not having the source test conducted. The test was conducted and I believe we did find the plant to be in compliance with the particulate emission requirement.
Acting Commissioner Driesner made a motion to accept the settlement.
Commissioner Molini seconded the motion.
The motion carried.

F. T.G. Sheppard Construction Inc.; Notice of Alleged Violation # 1279
This violation was the exact same one as H.E. Hunewill. An investigation at the facility found that their asphalt batch plant had not conduced the federally required emission test. We met with representatives from T.G. Sheppard Construction who agreed to perform the emission test. A similar penalty of $500.00 was agreed upon for this violation. The test was conducted at T.G. Sheppard and was found to be in compliance with the particulate emission requirement.
Commissioner Doppe made a motion to accept the settlement.
Commissioner Turnipseed seconded the motion.
The motion carried.

G. Granite Construction Company; Notice of Alleged Violation # 1270
Granite Construction Company, probably the most significant violation on the agenda today, had constructed a new crushing and screening operation east of Carson City and operated that facility for a period of approximately 10 days to various testing for DOT for materials specifications knowing full well that they had not had the permit to construct or the operating permit in hand to do so. They admitted that they were in the wrong and therefore I negotiated at $12,000.00 settlement for this violation.

Chairman Close moved to Agenda Item III.A.
III-A. The Nevada Environmental Commission pursuant to NAC 444.8476 received a request on November 6, 1997 from Day & Zimmerman Hawthorne Corporation, the operations contractor for the Hawthorne Army Depot, for a variance application from NAC 444.8456(1)(d). This is in regards for the proposed plasma ordnance demilitarization system. The variance application concerns the proximity of groundwater beneath the proposed ordnance demilitarization system. NAC 444.847 through 444.8482 provides for the Environmental Commission to act upon variance requests. The variance application has been reviewed by the Nevada Division of Environmental Protection. The division's recommendation is for approval of the variance request. NAC 444.8478 provides for a thirty day public notice and comment period.
Jeff Denison, Supervisor of the Hazardous Waste Permitting Branch, presented background for the basis of the variance request. The Division was approached by Hawthorne Army Ammunition Depot about the potential of siting a plasma arc incinerator at the Western Area Demilitarization Facility within the Hawthorne main base boundary. A plasma arc incinerator is a hazardous waste facility requiring a permit. In addition to the federal permit standards there are pre-application requirements under these regulations. The siting criteria requires, among other standards, that a facility not be proposed in an area in which the water table seasonably rises within 150 feet of the ground surface. Hawthorne was informed of this requirement and was instructed that they would have to obtain a variance before formally proceeding with the permit for this facility. The application for variance was received and reviewed by the Division pursuant to the variance procedures in the regulations.
A memorandum from myself to the administrator outlines in further detail the basis we have in coming to you today with a favorable recommendation to issue a variance for the specific criteria, depth to ground water at this location.

A factor that primarily led to our being persuaded that a variance was in keeping with the intent of the siting criteria is basically as an incinerator our primary environmental pathways of concern are the air emissions. We believe that permit controls can be instituted to prevent any impact to ground water, regardless of depth. We also feel that this activity is consistent with the other activities at the Western Demilitarization Facility and that this technology poses a feasible alternative to more environmental evasive measures of treating this waste either by burning or other options.

Chairman Close called for questions.

Commissioner Doppe expressed concern regarding the site location and the ground water table.

Mr. Denison explained the Hawthorne main base facility is 1½ miles from Walker Lake and ground water depths are within a 30 foot range. While the 150 depth to ground water is probably not unduly restrictive for sites throughout the state, at the location near Hawthorne we do encounter ground water at substantially shallower depths. DAG Mischel informed the Commission that the authorizing warning grids when granting a variance includes the ability to approve or grant a variance based upon very specific conditions and in no event did the variance exceed the length of the permit that the variance applied to. If there is a motion to approve I would recommend that the conditions as stated on pages 2 and 3 of the attached memo, including the requirement that the facility comply with the State CAP Program and the requirements of NAC 444.8472 and 444.848. There is some ambiguity, obviously the limitation on the variance so that it expires on the date the permit is issued.

Jeff Denison explained if the Commission approves the variance request the Division would proceed formally with the permit process. Depending on the applicant's ability to respond and our expedient response to them it may take a year before they receive the permit. It would become effective when the permit issues and it would have to be renewed annually. There is a 5-year term on the permit.

Chairman Close reiterated, the permit is issued for 5 years, the variance is for 1 year.

DAG Mischel explained NAC 444.8482 states the variance must be renewed before the renewal of any permit by the Division - the 5-year requirement. The variance is revocable and must not continue in force after the expiration of any permit issued by the permitted facility and the Commission will review each variance at least once each year to ensure continuing compliance with conditions of the variance.

Commissioner Doppe asked what test methods would be used to make certain the ground water is not being contaminated.

Jeff Denison explained the incinerator would be housed within a permanent structure; water associated with the process would be discharged entirely through permits from the Water Pollution Control Bureau which would not allow discharge to the ground water and one condition is that they successfully obtain that permit; and discharges of any effluent outside of the building in which it is contained would go through the treatment facility located on the Hawthorne Base.

Commissioner Doppe questioned if they could, as part of their permitting process, describe their testing method of verification. If we are going to review this variance annually what are going to have to review?

Jeff Denison explained the permit would require them to conduct daily and weekly inspections and any release would have to be reported. An un-planned release would trigger a contingency plan that would be reported to the agency. The permit would not allow any impacts to the ground water so any of the monitoring that we would do would be based on contingency plans or events that happened superfluous to the permitted activity. There is on-going monitoring at the facility relating to other activities. Demilitarization activities related to munitions of an explosive nature are conducted in that area consistent with the activities for the purpose for which the Western Area Demilitarization Facility was built. The monitoring taking place there now is to monitor activities from earlier activities with munitions manufacturing at the site. Most of the corrective action issues associated with this site deal with historical issues and we could augment that monitoring activity to include parameters that we would suspect may be occurring as a result of this.

Commissioner Johnson noted the requirement for your engineering and permitting in an area that has deeper ground

water assumes you are not going to have a release. That is the reason you have the siting requirement, that there be that depth so in an unexpected emergency release there is time to respond before the ground water is contaminated. Are there improvements in engineering that would give you confidence to allow something like this in an area that has shallow ground water?

Jeff Denison explained the monitoring requirement for this facility is quite extensive. There is some assumption that if you comply with the ambient air standards any residue that may then occur on the ground surface does have a potential of getting into the ground water. That, and a health risk assessment is part of the evaluation of this pre-application process.

Chairman Close called for questions or comments from the audience. There were no questions or comments.

Commissioner Doppe stated he remained concerned that any spillage would infiltrate the 20-foot ground water table relatively quickly.

Commissioner Doppe made a motion to allow this variance request given that there is water quality monitoring being done either in conjunction with this particular section or with some other thing that is already going on at the site, at no additional cost to the Department.

DAG Mischel reminded the Commission there is a memo in the file dated December 3 listing a series of conditions.

Commissioner Doppe asked to include that in the motion as well.

Commissioner Molini seconded the motion.

Commissioner Johnson voted no.

The motion carried.

Chairman Close moved to Agenda Item III.B:

B. The Nevada Environmental Commission pursuant to NAC 445B.254 may provide an exemption for a person, government, governmental agency or political subdivision from the provisions of NAC 445B.001 to 445B.395 for an exceptional air quality event. The Division of Environmental Protection is requesting that the Commission declare four exceedences of the National Ambient Air Quality Standards for particulate matter (PM_{10}) exceptional events under NAC 445B.254(3)(1) due to high winds or the cleanup of silt deposited during the floods in January, 1997. These exceedences occurred in Carson City, Battle Mountain, Lovelock and McGill, Nevada. This designation would allow the Division to exclude these data from use in regulatory actions, attainment designations, and the requirement to develop control strategies.

Colleen Cripps, Supervisor of the Ambient Air Monitoring Branch, concurred that NAC 445B.254(b)(1) gives the Commission the authority to declare an event exceptional for a number of different reasons.

Today two reasons will be referenced.

1) For any activity relating to the cleanup after a major and natural disaster if the Governor or legislature declares an emergency because the natural disaster or the area affected by the natural disaster has been designated as being eligible for federal assistance.

2) For a high wind gust equal to or greater than 40 mph with no precipitation or only a trace of precipitation.

During the past 1½ years there have been 4 exceedences of the ambient air quality standards for PM_{10} in areas of the state that are under the jurisdiction of the DEP.

On January 10, 1997, an exceedence of the National Ambient Air Quality Standard was recorded by the PM_{10} monitor located at a middle school in Carson City, Nevada. The concentration was measured on that day at 195 ug/m3 per cubic meter which is above the federal standard of 150 ug/m3 per cubic meter. The Division believes that this exceedence was caused by the cleanup deposited on the Carson Valley Floor during the flooding in early January. During that week the Carson Public Works Department reported that the streets, sidewalks, and parking lot adjacent to the school were being swept and a lot of airborne dust was created. In addition, this event is quite

unusual and the concentrations that we saw on that day were very high than were typically recorded for Carson City. Ms. Cripps displayed an overhead seen over the past year in Carson City that verified that one value was extremely high.

The next three exceedences were all high wind events:

On October 18, 1996, an exceedence occurred in Lovelock where the 24-hour average PM_{10} concentration was measured at 174 ug/m3. Again, above the federal standard of 150 micrograms per cubic meter. Meteorological data from the nearest source, the Coeur Rochester Mine which is located about 30 kilometers northeast of Lovelock in the same hydrographic basin, shows wind gusts of greater than 40 mph during 14 of the 24 hours of October 18 with average hourly wind speeds of 33 mph and there were 2 hours when there were maximum wind gusts of 54 mph and 60 mph recorded. Local climatological data which is provided by the National Geographic and Aeronautics Administration (NOAA) shows that no participation fell for at least one month prior to the date of that event. Ms. Cripps displayed an overhead showing the unusual event in that area. We typically have values that are well below the standard which is 50 ug/m3.

Ms. Cripps continued, the document you were provided indicates that an exceedence occurred on October 18, 1997, in Battle Mountain. It occurred on October 18, 1996. At Battle Mountain the 24 hour PM_{10} concentration was measured at 244 ug/m3, above the federal standard of 150 ug/m3. An although meteorological data is not specifically available for Battle Mountain the daily weather map published by NOAA and the National Weather Service show regional winds ranging from 46 to 52 mph in that area. Meteorological data measured at the Valmy Power Plant which is 15 miles northwest of Battle Mountain and at Winnemucca showed gusts of 37 and 38 mph respectively. The NOAA data from Winnemucca which is the nearest source for participation data as well also indicated that no measurable precipitation had fallen for over 1 month prior to the exceedence. The overhead displayed proved this to be a fairly unusual event.

On August 13, 1996, in McGill, Nevada the 24 hour average PM concentration was measured at 185 ug/m3, again the federal standard is 150 ug/m3. Although meteorological data is also not available for McGill daily weather maps published by NOAA and the National Weather Service showed regional winds across the center of the state up to 46 mph. The nearest meteorological station located approximately 10 miles south of McGill at the Yelland Airport in Ely reported maximum gusts of 39 mph. The BHP Mine Site in the area which is approximately 15 air miles from the monitoring site also reported gusts up to 41 mph. Given the speed and duration of the winds, the lack of precipitation and the fact that these concentrations are significantly than the ambient concentrations typically measured the Division is requesting that the Commission declare all three of these exceedence of exceptional events. The overhead displayed the McGill data, one very unusual event in a year where the concentrations are well below the national standard for the ambient average.

Commissioner Molini asked what the consequences would be if we don't declare these exceptional events.

Ms. Cripps explained if these are not declared exceptional events all of these areas would be declared in non-attainment by EPA and we would be required to do a series of planning activities and come up with Best Available Control Measures in those areas to deal with it. One option would occur prior to that happening which is using the Natural Events Policy. That is a new policy that came out after the Exceptional Events Policy in 1996 and under that policy we would also have to undergo some very serious planning in each of those areas.

Chairman Close called for questions or comments from the audience.

Commissioner Turnipseed made a motion to declare the 4 events "exceptional events".

Commissioner Trenoweth seconded the motion.

The motion carried.

Chairman Close moved to Item V. Discussion Items:

A. Status of Lake Mead Water Quality Forum

Allen Biaggi explained the Forum was established by the Division one year ago. The intent was to attempt to gather together all of the federal, state and local entities discuss issues relating to the Las Vegas Wash and Lake Mead. Agencies included the Bureau of Reclamation, U.S. Fish & Wildlife Service, The Division of Environmental Protection, Clark County Health District, Clark County Sanitation and Clark County Parks and Recreation. We now have 21 participating entities and 2 citizen members. The forum has dealt with many issues; redtide algae, cryptosporidium, bacteria in the Las Vegas Wash and the impact on swimming, the Las Vegas Wetlands and probably the largest issue -the presence of perchlorate in the Wash and in the Colorado River system. The Forum has been successful because there is now more cooperation and discussion among all the member agencies. When we first started there was a great deal of suspicion among the entities but now we are experiencing free-flowing dialog and a desire and commitment to cooperate. That has been reflected in the development of a database of all Lake Mead water quality data. Southern Nevada Water Authority too the lead in developing that database and it has been made available to the member entities and to the public. Member agencies are cooperating in the field work going out together or sharing data.

The Forum is:

1) Working on the evaluation of a fish consumption advisory for Lake Mead. Member agencies have collected fish and the U.S. EPA is analyzing those fish to determine if a consumption advisory is necessary;
2) Looking at what can be done to stop erosion of the Las Vegas Wash;
3) Pursuing sampling and beach advisory from a bacterial standpoint; and
4) A number of subcommittees are looking at various issues concerning the Lake Mead System.

Chairman Close asked if a determination had been made as to where the cryptosporidium and the bacteria originated.

Mr. Biaggi explained cryptosporidium is found in all warm-blooded animals. It not only has the potential for coming from sewage but also wildlife, livestock and many other sources. The source has not been identified but it has been identified as being in extremely low concentrations. E-coli, fecal coliform and fecal strep are found to be primarily in the urban run-off coming off the streets, roadways and parking lots in the Las Vegas Valley. The homeless population living in the wash could also been contributors to that contamination. The waste water treatment plants disinfect to a very high level and compliance data proves they are in compliance with their permits.

Chairman Close asked if the Forum was looking at other ways to increase the activity with the Sanitation District to pick up that percentage they are missing right now because it must be somewhat significant.

Allen Biaggi explained the bacterial contamination from urban runoff is not the responsibility of the Sanitation District as much as it is the Flood Control District. This is not a unique problem to the Las Vegas Valley, all of the arid southwest is seeing similar type problems. A lot of that may be eliminated to some degree by the placement of wetlands in the Las Vegas Wash. It is difficult to disinfect urban runoff coming down the Wash and even more difficult during storm events.

Chairman Close asked how the Forum plans on increasing the size of the wetlands.

Mr. Biaggi explained Clark County Parks and Recreation Department will implement the wetlands park. Efforts have been slowed by concerns that the habitat of the Southwestern Willow Flycatcher, a threatened and endangered species, will be effected. I believe bids will soon be let for the installation of the first of 15 control structures.

Mr. Biaggi stated he did not know what the final acreage of the wetlands would be.

Chairman Close called for additional questions or comments.

Otto Ravenholt, Health Officer, Clark County Health Department, reported it was emphasized in the publication that the CDC and CCHD placed in the annals of Internal Medicine and elsewhere that the 1994 outbreak occurred without any breakdown in the treatment process and without the cryptosporidium ever being found in the source water. The sampling process for crypto is clumsy, requiring sampling 200 out of .5 billion gallons of water and then filtering and looking at the filtrates. Crypto cannot be grown in the laboratory so you cannot amplify its presence

like we do with most other bacteria. The analysis at the treatment plant did not identify a breakdown. Cryptosporidium, like giardia, is not inactivated by chlorine and it can only be removed by filtration or by settling. The Sanitation District and the Water Authority are planning to add ozone treatment which can significantly affect cryptosporidium and the only treatment mode other than filtration that has potential benefits. There was a higher incidence of cryptosporidium illness in those who relied on the public potable water system for their drinking water.

Chairman Close moved to Agenda Item V-B.

B. Status of air quality in the Las Vegas Valley

Michael Naylor, Director of the Air Pollution Control Division, Clark County District Health Department (CCHD), disseminated two handouts and explained Clark County's on-going problems with wind-blown dust originate with from construction activity, vacant land, and the natural background. Dust comes from paved and un-paved roads and permitted stationary sources account for 2% of the particulate matter emission. We are a serious non-attainment area. The County Commissioners recently approved a State Implementation Plan (SIP) that indicates the annual attainment for the PM_{10} standard was expected to be obtained by the year 2001. The county is requesting a 5-year extension on attainment of the 24 hour standard.

Mr. Naylor reported enforcement efforts have increased, penalties have gone up, construction sites are required to have signs, we are requiring dust control classes for the supervisors at construction sites, we are paving roads through the off-set program and we have been reducing emissions of PM_{10}. 1997 had the lowest number of exceedences for the last 3 years due to a combination of control efforts and help from Mother Nature.

EPA will now allow 3 exceedence days a year if you are monitoring every day. The combination of classifying high wind days as natural events plus the new provision of 99% is the compliance target. We think that combination could mean a 24-hour standard can reach the attainment value in 2001.

Mr. Naylor explained carbon monoxide is almost the opposite. Dust is visible and occurs on windy days. Carbon monoxide is invisible and occurs on calm days and carbon monoxide, a motor vehicle emissions problem, is localized. Since 1990 we have only had 1 station out of 14 record an excess of carbon monoxide. That recording was at the Sunrise Acres Station located near Eastern and Charleston.

Dr. Ravenholt interjected, this measurement records on a continuing basis to Central Data Management and is a 8-hour moving average measurement. Over a years time there will be over 100,000 8-hour averages measured at the monitoring stations. In 1997 we had a single exceedence of less than 10% of the standard at Sunrise Acres Station. for the carbon monoxide.

The authority over carbon monoxide is shared by the SEC and DMV through the smog check. Clark County Health District now has the strictest rules in the country for oxygenated gasoline. Stationary sources only account for 1% of the total carbon monoxide.

Clete Kus, CCHD, Department of Comprehensive Planning, reported EPA is saying the Las Vegas Valley needs to reduce its concentrations of carbon monoxide by approximately 10%. In order to achieve that reduction we need to:

1) Assure that vehicles known as gross polluters are identified and repaired;

Local agencies, the CCHD and CDCP have been working with the State of Nevada's Motor Vehicle Emissions Control Advisory Committee to develop a package of recommendations to enhance the state's inspection and maintenance program. Additionally, the Clark County Air Quality Planning Committee and the Clean Air Task Force have also been discussing this particular issue. Through these collective efforts recommendations from these groups were presented to Clark County Board of County Commissioners and endorsed by them early this month. These recommendations will be forwarded to this Commission for future consideration. The recommendations focus on qualified mechanics actually performing emission control related repairs, especially for vehicles seeking a waiver from compliance in acquiring a certificate allowing them to register their vehicle.

2) Increase the minimum dollar amount for waivers and include an increase for self-repairs up to $450;

3) Moving forward with greater enforcement in increasing fines and penalties for inspectors and garage owners

convicted of conducting fraudulent smog tests.
Anticipating that the adoption of those proposed recommended changes could impose a financial hardship for some people the county is moving forward with an experimental subsidized vehicle repair program to provide financial assistance to cover the cost of emission related repairs to high emitting vehicles and we are considering developing a revolving loan program to provide long-term financial assistance.
Mr. Kus urged NDEP and the DMV to work cooperatively with the county to begin scheduling workshops to obtain input on recommended enhancements to the state's program.
Chairman Close commented vehicles idling at stop lights contributes to pollution and asked if north/south - east/west corridors were being established to alleviate waiting time at stop lights.
Mr. Kus explained annual upgrades occur on the Las Vegas Area Computerized Traffic System which identifies the largest amount of vehicle traffic and provides the longest green cycle possible. East/west arterial's have been implemented on Desert and Super and the county is moving forward with the Harmon Street project. The RTC did an in-depth study of the north/south roadways in the vicinity of the Strip and concluded no substantial air quality benefits would occur by re-routing some of the traffic.
Commissioner Turnipseed asked if the subsidized loan program mentioned would be for repairs.
Mr. Kus explained the program the county focuses on high-emitting vehicles owned by lower income individuals. To get the vehicle into compliance we will provide them up to $600 repairs. A revolving loan program is currently under consideration. That could provide long-term financial assistance in conjunction with the increase and waiver amount.
Commissioner Turnipseed asked why they didn't just purchase some of the gross polluters for $600 and junk them.
Mr. Kus reported 6 years ago we considered a voluntary vehicle buy-out program. The classic car enthusiasts misinterpreted the word "voluntary" and all action on that stopped immediately.
Chairman Close asked if Clark County would be back within a short time with another chance proposal to pin down the testers and to increase the price of mandatory cost of repairs.
Mr. Kus explained the Chairman of the Board of County Commissioners is in the process of transmitting the letter on the resolution and 15 recommendations to the SEC.
Mr. Kus concluded, we are only 10% away from attainment. Twenty years ago we had 100 unhealthy days a year, we are now down to less than 4 days a year and the number of vehicles has quadrupled. The combination of local measures, oxygenated gasoline, state and federal measures, smog check, new cars, relates to a success story.
Michael Naylor explained the CCDHD unique off-set program requires permitted non major sources of air pollution to contribute to paving un-paved roads in the Valley.
Dr. Ravenholt referred to the document disseminated that identifies part of the framework within which offsets are being addressed. EPA has offsets required above 70 tons per year in a non-attainment area on PM_{10} and above 100 tons per year in a non-attainment area for carbon monoxide. The CCDB adopted a requirement that there should be offsets from ground zero for anybody that produces 1 ton a year (7 or 8 pounds a day) that could be attributed to the enterprise, creating a large challenge for implementation. It is very difficult because it is applied on the potential to emit but ultimately adjusted for the real emissions so there is a significant contrast to what one can contribute to an enterprise's potential to emit for a year versus what they later can demonstrate after the fact to have been their probable real emissions.
Table 4 of the document summarized the 1996 credits (assessments) for offsets - of the 4,600 tons in the box to be assessed we have assessed over 90%. We are having difficulty assessing the small entities. This has helped pave some 33 miles of roads identified by the Public Works Department as high traveled roads. It is a complex program, extraordinary in terms of application and implementation.
Chairman Close asked for questions. There were no questions.

Chairman Close moved to Item V-C.

C. Status of Division of Environmental Protection's Programs and Policies

Lew Dodgion explained this item allows members of the Commission to talk about an environmental issue without violating the open meeting law. There were no questions or discussion.

Mr. Dodgion introduced Joseph Johnson, the new Commission member.

Joseph Johnson reported he is a registered geologist in California with long experience in the mineral industry, an ex-assemblyman and a lobbyist.

Lew Dodgion acknowledged Doug Driesner, Acting Administrator of Minerals.

Mr. Driesner reported this might be his one-and-only meeting. The Minerals Commission will pick 3 names out of the 64 applicants for the Administrator of Minerals position. The Director of the Department of Business and Industry will then select a permanent administrator and that person will attend future meetings.
administrator.

Lew Dodgion reported he would be retiring on July 3, 1998.

David Cowperthwaite reported the next SEC hearing will be held on March 25, 1998, to address solid waste and the I/M issue. A 1½ day hearing will be held in late June to address the Lake Mead Water Quality Standards and a field trip to the Las Vegas Wash and Saddle Island.

Chairman Close moved to Agenda Item D:

D. General Commission or Public Comment

No comments were heard.

Chairman Close adjourned the hearing at 4:40 p.m.

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STATE ENVIRONMENTAL COMMISSION
EXHIBIT LOG

Hearing Date: January 22, 1998

Location: Las Vegas, Nevada

STATE ENVIRONMENTAL COMMISSION
EXHIBIT LOG

Hearing Date: January 22, 1998

Location: Las Vegas, Nevada

#	Item	Item Description	Reference Petition #	Accepted Yes/No
1	12 page facsimile including letter & articles from newspaper	January 15, 1998 letter (fax) from the Nevada Environmental Coalition, Robert W. Hall, Chairman	97007 (LCB R201-97)	Yes
2	3 page facsimile/letter	January 19, 1998 letter (fax) from the Speciality Equipment Market Assoc. Stephen B. McDonald - Director, State Relations & Christopher J. Kersting - VP, Government Affairs	97010 (LCB R205-97)	YES
3	4 page letter with accompany documents	Letter from James M Sohns, President Nevada Car Owner's Assn. Inc.	97010 (LCB R205-97)	YES
4	1 page - Explanation Sheet	Relating to NRS 445B.760 and SB 430	97010 (LCB R205-97)	YES
5	Report	Overview of Offset Program for Reducing Dust from Unpave Roads in the Las Vegas Valley Clark County District Board of Health January 22, 1998		YES
6	Report	Presentation to the State Environmental Commission, January 22, 1998 Part V of Agenda Status of Air Quality in the Las Vegas Valley		YES
7	Letter	Nevada Mining Assocation - January 21, 1998	97004 (LCB R105-97)	Yes
8	Table	Comparison of proposed Nevada fees with California fees for hazardous waste treatment & disposal - January, 1998	97006 (LCB R107-97)	YES

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