

STATE ENVIRONMENTAL LAWS AFFECTING NEVADA AGRICULTURE

*(See NASDA's website for
Federal Environmental Laws Affecting U.S. Agriculture)*

A Project of the

**National Association of State Departments
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The Project Participants

National Association of State Departments of Agriculture Research Foundation

The National Association of State Departments of Agriculture (NASDA) is a nonprofit, nonpartisan association of public officials comprised of the Commissioners, Secretaries, and Directors of the fifty State Departments of Agriculture in the fifty states and the territories of Puerto Rico, Guam, American Samoa, and the Virgin Islands. NASDA's mission is to represent the State Departments of Agriculture in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry while protecting consumers and the environment. The NASDA Research Foundation is a 501(c)(3) nonprofit, tax-exempt corporation for educational and scientific purposes.

National Center for Agricultural Law Research and Information

The National Center for Agricultural Law Research and Information (NCALRI) was created in 1987 under Public Law 100-202, 101 Stat. 1329-30 to address the complex legal issues that affect American agriculture. The NCALRI focuses its efforts on research, writing, publishing, development of library services, and the dissemination of information to the public. The NCALRI is located at the University of Arkansas School of Law in Fayetteville, Arkansas.

Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service (SCS), is a federal agency within the U.S. Department of Agriculture (USDA). NRCS conservationists work with private landowners and operators to help them protect their natural resources.

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) is a federal agency with primary responsibility for implementation of most federal laws designed to protect, enhance, and conserve the nation's natural resources.

Disclaimer

This guide is designed for use by farmers, ranchers, landowners, and their consultants in understanding the effect environmental laws have on agricultural operations. It is not a substitute for individual legal advice. Producers should always confer with their own attorneys, consultants, or advisors as well as federal, state, and local authorities responsible for the applicable environmental laws.

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The contents and views expressed in this guide are those of the authors and do not necessarily reflect the policies or positions of the United States Department of Agriculture (USDA) NRCS or EPA.

Although every effort has been made to ensure the accuracy of the information contained in this book, environmental statutes, regulations, and ordinances are constantly changing. In addition, the overwhelming complexity and extent of environmental law make it impossible for a single book to describe in complete detail and depth all of the environmental laws and regulations impacting agricultural operations. The following material is simply a basic primer on environmental law for agricultural producers. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, the National Center for Agricultural Law Research and Information, the University of Arkansas, the United States Department of Agriculture, the National Association of State Departments of Agriculture Research Foundation, the Natural Resources Conservation Service, and the United States Environmental Protection Agency for any liability, claims, damages, or expenses that may be incurred by any person or organization as a result of reference to, or reliance on, the information contained in this book.

The background research and final documents were completed in October 2001. Updates of the information contained in the guide will occur on an as needed basis and be available on the internet.

Anyone with comments concerning the guide should contact the NASDA Research Foundation at 1156 15th Street, N.W., Suite 1020, Washington, D.C. 20005, or phone (202) 296-9680.

Quick Reference Guide

Producer Note: The following chart is intended as a quick reference guide to permits which may be necessary for a particular operation. If a permit is necessary, refer to the page numbers listed referencing this document for further information and contact the agencies listed in the final column for information on applications and procedures for securing a permit for an operation. A list of agencies and contact information is also provided in Appendix A.

| Regulatory Area | Type of Activity | Permit Required | Agency |
|---------------------------------|---|--|--|
| Water Quality <i>pp. 1-7</i> | Concentrated animal feeding operations (CAFOs) | National Pollutant Discharge Elimination System (NPDES) permit; Best management practices (BMPs) | Division of Environmental Protection (DEP) within Nevada Department of Conservation & Natural Resources (DCNR) |
| | Aquaculture | NPDES permit | DEP within Nevada DCNR |
| | Crop production, silviculture, irrigation return flows | BMPs | DEP within Nevada DCNR |
| | Wetlands dredge & fill activity or dam, dike, or bridge-building activities | Clean Water Act (CWA) Section 404 permit; BMPs; Lake Tahoe Watershed permits | U.S. Army Corps of Engineers, Environmental Protection Agency (EPA), DEP within Nevada DCNR, and Health Division within Nevada Department of Human Resources |
| Air Quality <i>pp. 7-8</i> | Grain terminals, elevators, on-farm incinerators, large internal combustion engines | Permit required | DEP within Nevada DCNR and Clark County or Washoe County Local Control Board if so located |
| | General agricultural operations | No permit required | N/A |

| Regulatory Area | Type of Activity | Permit Required | Agency |
|---|--|--|---|
| | Open burning | May require permit from county or municipality. Nevada has a voluntary smoke management plan for agriculture | DEP within Nevada DCNR |
| Solid Waste and Hazardous Waste pp. 8-11 | Disposal of agricultural waste | Generally, no permit required | N/A |
| | Land application of septic tank pumpings or raw sewage | Permit required | DEP within Nevada DCNR and Local District Board of Health |
| | Underground Storage Tanks | Permit may be required | DEP within Nevada DCNR |
| | Storage, treatment or disposal of hazardous waste | Permit required | DEP within Nevada DCNR |
| Pesticides pp. 12-13 | Sale, application and use of pesticides | Registration, permit or license may be required | Nevada DCNR, Nevada Department of Agriculture (DOA) |
| Wildlife Protection pp. 13-14 | Taking of wildlife | Permit, license required | Nevada Division of Wildlife (DOW) within DCNR |
| | Habitat modification | Permit required | Nevada DOW within DCNR |

STATE ENVIRONMENTAL LAWS AFFECTING NEVADA AGRICULTURE

Producer Note: Agricultural producers are faced with many challenges in today's rapidly changing world. Changes in industrialization, computer-based technology, marketing dynamics, and environmental regulation are affecting agricultural producers in a number of ways. Environmental regulation is a complex area with both federal and state government involvement. Staying informed is the producer's most useful instrument for meeting the challenges of today's agriculture. This information on environmental regulation is provided to educate producers of the breadth and scope of environmental laws which may impact daily production activities.

I. WATER QUALITY

A. Nevada Water Quality Laws and Regulations

Most states have enacted clean water legislation. While these state statutes usually contain provisions similar to those found in parallel federal legislation, there may be significant differences. State statutes may impose requirements that are more restrictive than the federal Clean Water Act (CWA).¹ In all cases, however, federal CWA requirements must be followed as well as state statutes and regulations implemented by state administrative agencies.

Under the CWA, the Environmental Protection Agency (EPA) has delegated the National Pollutant Discharge Elimination System (NPDES) permit program to many states. Nevada is one of the states that has assumed the EPA delegated administrative responsibility for the NPDES system.

Caution: Because environmental laws and regulations change frequently, agricultural producers must stay in contact with both state and federal officials in order to remain aware and in compliance with changes in the law.

Producer Note: Often the specifics of environmental laws are found in agency regulations. In addition, regulations are likely to be amended frequently. As a result, agricultural producers must stay in touch with offices administering specific programs in order to keep up with all changes which may occur.

¹ 33 U.S.C. § 1251 *et seq.* (1994).

1. Nevada Water Pollution Control Act

The Nevada Water Pollution Act² (NWPA) is the principal water quality statute in the state. NWPA governs both surface water and groundwater, and it implements portions of the federal CWA and the federal Safe Drinking Water Act (SDWA).³ Although the EPA has delegated the administration of both the NPDES permit program and the safe drinking water program to the state of Nevada, the NWPA contains a few water quality provisions peculiar to Nevada.

The NWPA is administered by Nevada's Department of Conservation and Natural Resources (DCNR). The DCNR contains several divisions. The Division of Environmental Protection (DEP) is responsible for water quality as well as air quality, mining, wastewater treatment, and solid waste management. Another state body, the Nevada Environmental Commission (EC), sets forth the water quality standards and other regulations that are enforced by the DCNR.

a. Water Quality Standards

The NWPA requires the EC to adopt water quality standards for most surface water bodies in Nevada. These standards protect and maintain the EC-established beneficial uses. Beneficial uses of water are categories of use established for segments or sections of water. Beneficial uses are categorized as domestic supply, industrial supply, livestock watering, irrigation, wildlife or recreational uses. The category of beneficial use established for the water segment may impose numerical effluent limitations on the amount of pollutants that may be discharged into that water segment. The DEP within the Nevada DCNR considers water quality standards along with effluent limitations and other factors in issuing NPDES permits under the NWPA.

b. Point Source Discharges

Under the NWPA, a point source is defined the same as in the federal CWA, and that is:

[A]ny discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigation.

Although agricultural stormwater and return flows from irrigation are exempted by statute, many agricultural activities do require a NPDES permit. There are four main types of agricultural activities that constitute point source discharges for which NPDES permits are required:

² NEV. REV. STAT. §§ 445A.300-.730.

³ 42 U.S.C. § 300g-1 *et seq.* (1996).

- Concentrated animal feeding operations (CAFOs);
- Facilities producing aquatic animals;
- Irrigation return flows when the irrigation water consists of effluence from a wastewater treatment plant; and
- Activities identified by the DCNR or by EPA as a significant contributor to pollution.⁴

Other normal agricultural activities are generally exempt from the NPDES permit requirements although they may be subject to other water quality regulations discussed below.

2. Nevada Concentrated Animal Feeding Operations

NPDES permits in Nevada are required for CAFOs that exceed a 1000 animal unit (AU) capacity during the previous 12 months for a total of 30 days or more. Nevada law defines an AU in terms of slaughter or feeder cattle. However, equivalent AUs for other species are established and are the same as AUs set forth in federal requirements. AUs may be converted by using these ratios: 1.4 for dairy cattle, 0.4 for swine, 0.1 for sheep, and 2.0 for horses.⁵ Examples of the 1000 AU capacity for CAFOs that trigger the NPDES permit requirement are:

- 1000 slaughter or feeder cattle;
- 700 mature dairy cattle;
- 2500 swine weighing more than 55 pounds;
- 10,000 sheep or lambs;
- 55,000 turkeys;
- 100,000 laying hens or broilers (for facilities using continuous overflow watering);
- 30,000 laying hens or broilers (for facilities using liquid manure handling system); and
- 5,000 ducks.

⁴ NEV. ADMIN. CODE § 445A.228, 445A.275.

⁵ NEV. ADMIN. CODE § 445A.228.

Besides the requirement of a NPDES permit for CAFOs triggered by 1000 AU or more capacity as stated above, NPDES permits in Nevada, as with the federal program, are also triggered by operations with a lesser AU capacity of 300 AUs when combined with a potential to discharge into navigable waters or an actual discharge into navigable waters. However, with the smaller 300 AU CAFO, if the only discharge would occur in the event of a 25-year, 24-hour rainfall event, the operation does not require a NPDES permit.

Producer Note: Agricultural producers should consult with the DEP within the Nevada DCNR for information on procedures that must be followed to obtain NPDES applications and permits and additional permits that may be required for CAFOs.

3. *Nevada Water Pollutant Release Notification*

Nevada law requires the owner or operator of any facility to report the release of certain water pollutants from the facility. The law defines a facility as a building, structure, equipment, pipe, pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage tank, container for storage, or underground storage tank. A facility also includes motor vehicles, rolling stock, aircraft, and any area where a hazardous substance, pollutant, or contaminant has been placed, stored, or disposed. The definition of a facility would include most agricultural operations.⁶

Releases of the following pollutants must be reported to the National Response Center:

- Pollutants as set forth in 40 C.F.R. (Code of Federal Regulations) Part 302;
- Pollutants, hazardous waste, or contaminants defined in Nevada Revised Statutes Sections 459A.430 or 445A.325 ; and
- Any petroleum products:
 - Released to the soil or other surfaces of land in a quantity greater than 25 gallons;
 - Discovered in groundwater; or
 - Discovered in at least three cubic yards of soil during excavation, groundwater monitoring, or any other subsurface activity.

The law defines a release as spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing a pollutant into the environment. A release does not include, however, the proper application of fertilizers or

⁶ NEV. ADMIN. CODE §§ 445A.345-.347.

pesticides. It also does not include any release that complies with a permit issued by the state or by the federal government.

An owner or operator of the facility must report the release to:

- The Division of Emergency Management of the Department of Motor Vehicles and Public Safety as soon as possible after such person has knowledge of the release (702/ 687-4240 during normal working hours and 702/ 687-5300 after hours.); and
- The DEP of the DCNR not later than the end of the first working day (800/ 992-0900, ext. 2670, or 702/ 687-4670).

Any release must also be reported to the local fire authorities. Failure to report a release as required is punishable as a violation of the NWPAs.

Producer Note: Agricultural producers should be particularly concerned with releases of petroleum products, pesticides, and fertilizers stored on their lands. Producers should consult with the DCNR to obtain the specific list of chemicals and other substances covered by the release notification requirements.

4. Nevada Nonpoint Source Pollution - Diffuse Source Discharges

The NWPAs address nonpoint source pollution, and it refers to nonpoint source pollution as diffuse source discharges. Diffuse sources are the opposite of point sources and are any source of water pollution which is so diffuse that it is not readily discernible as to its origin and it is not confined to a discrete conveyance. Diffuse sources include agricultural runoff and irrigation return flows as well as silvicultural activities, mining activities, the modification of water courses or stream channels, and runoff from roads, streets, and urban areas.⁷

The NWPAs allow the DCNR to regulate any diffuse source of pollution existing on July 1, 1979 if the DCNR determines that the source is significantly causing or adding to water pollution in violation of a water quality standard. The DCNR may also regulate any diffuse source created after July 1, 1979 if controls are necessary to prevent the degradation of any high quality state water. The DCNR may delegate its authority to regulate diffuse sources to a county or city if the DCNR determines that the county or city has necessary funding and staff to administer the program effectively.⁸

⁷ NEV. ADMIN. CODE § 445A.309.

⁸ NEV. REV. STAT. § 445A.570.

The current DCNR discharge program requires agricultural operations and other diffuse sources to adopt best management practices (BMPs) for their activities to control pollution. The State Conservation Commission has developed a handbook of required BMPs for Nevada which the EC adopted. The handbook is reviewed and updated every two years. Counties and cities that have assumed delegated authority for diffuse source discharges in local areas must adopt BMP handbooks that meets the particular conditions of their jurisdictions but, nevertheless, is consistent with the state handbook.

An activity which constitutes or results in a diffuse source discharge must be conducted in accordance with BMPs as described in the state handbook or the applicable local handbook for permit eligibility. The DCNR or local governmental body may also require a written BMP plan to control any pollution that violates a state water quality standard. A county or city must consult, however, with the local conservation district when reviewing or enforcing a BMP plan intended to control an agricultural diffuse source.⁹

Producer Note: Examples of agricultural BMPs are the use of vegetative buffer strips along rivers and lakes, time and place restrictions on the application of fertilizer and pesticides (such as not spreading fertilizer on frozen ground and not applying pesticides within a certain distance of water bodies), and the use of appropriate manure handling facilities and equipment. Agricultural producers should follow state and local BMP handbooks and consult with the DCNR or the appropriate local agency for additional information.

5. *Nevada's Lake Tahoe Protection Act*

The Lake Tahoe Protection Act (LTPA) sets forth additional water quality requirements for the Lake Tahoe watershed.¹⁰ Additional water quality requirements include a special permit in addition to the regular permit obtained from the DCNR. The special permit must be obtained from the Division of Health in the Department of Human Resources (DHR) when attempting to build, repair, or alter a pier, breakwater, marina or otherwise alter the shoreline of Lake Tahoe in any way. A third permit must also be obtained when removing sand or gravel from the lake or depositing fill into the lake. In determining whether to grant a permit in the Lake Tahoe watershed, the DCNR must consider a number of environmental, economic, and social factors in addition to whether any impairment to water quality would result from the proposed activity.

The LTPA prohibits any discharge of sewage, trash, or waste of any kind into Lake Tahoe or within 100 feet of the high water rim as well as discharge into any stream, spring, well, or other source in the lake's watershed. Under special circumstances, the State Board of Health may grant

⁹ NEV. ADMIN. CODE §§ 445A.336-.337, 445A.339-.340, 445A.321.

¹⁰ NEV. REV. STAT. §§ 445A.170-.190.

a variance to this provision when the Board finds that the variance would promote public health, safety, and welfare.

A construction permit is required to construct any building or water, sewage, or drainage system within the Lake Tahoe watershed. This construction permit is required in addition to any other permits required by law and may be obtained from the Health Division.

II. GROUNDWATER

A. Nevada Injection Wells

Injection wells are underground wells used to dispose waste. Injection wells require an underground injection control permit issued by the DEP of the DCNR. The DCNR will not issue a underground injection control permit unless the applicant can demonstrate that the injection well will not endanger any source of drinking water. Detailed technical information must be submitted to DEP along with the application. In no event may an injection well be used to dispose industrial, municipal, radiological, high level radioactive, or otherwise hazardous waste.¹¹

III. AIR QUALITY

A. Nevada Air Quality Laws and Regulations

1. Nevada Air Emissions from Agricultural Operations

Nevada law charges the DCNR and county governments with regulating air quality in the state.¹² The DEP has specific responsibility for air quality within the DCNR. The state Environmental Commission (EC) adopts the air quality standards, emission control requirements, and other regulations promulgated by the DCNR. Nevada law requires counties with 100,000 or more residents to establish and administer their own air pollution programs. In these more populated counties, a local control board assumes a role similar to the EC.

In general, stationary sources of air pollution require a permit from the DCNR or the local control board before constructing, operating, replacing, or relocating any equipment or process which may cause air pollution. New sources of air pollution also require an operating permit. There are special requirements for hazardous and toxic air emissions.

Generally, few agricultural operations will require air quality permits. With the exception of open burning which is discussed below, there are no special air quality requirements for

¹¹ NEV. REV. STAT. § 445A.465.

¹² NEV. REV. STAT. §§ 445B.100-.845.

agricultural activities. Indeed, Nevada law specifically exempts agricultural land use activities from any required permits and fugitive dust regulations.¹³

Exceptions to the general agricultural exemption are:

- Grain elevators;
- On-farm incinerators with an incineration rating of 25 pounds per hour or greater; and
- On-farm stationary and internal combustion engines that have a horsepower output of 250 or greater that operate more than 100 hours per year.

The above exceptions will require permits. Agricultural producers having such facilities or operations should consult with the DCNR or local control boards about such equipment. Agricultural producers should also be aware that air emissions from CAFOs may be the subject of air quality regulations in the future.

2. *Nevada Open Burning*

Nevada law generally prohibits the open burning of refuse, waste, garbage, and oil as well as the open burning in salvage operations. However, the law exempts burning for agricultural purposes and for agricultural management purposes except where prohibited by local ordinances or regulations. All permitted open burning, however, must be attended and controlled at all times to eliminate fire hazards.¹⁴ Nevada is developing a handbook for agricultural burners to assist them in reducing the impact of open burning.

IV. SOLID WASTE AND HAZARDOUS WASTE

A. Nevada Solid Waste and Hazardous Waste Laws and Regulations

Producer Note: While most agricultural producers are not generators, transporters, or disposers of hazardous waste, it is important to check with state officials concerning the definitions of solid waste and hazardous waste to determine whether an operation's activities would be regulated under state solid waste or hazardous waste statutes.

¹³ NEV. ADMIN. CODE §§ 445B.288; 445B.365.

¹⁴ NEV. REV. STAT. § 445B.381.

1. Nevada Solid Waste

Nevada's solid waste management laws¹⁵ impose requirements on solid wastes that do not otherwise qualify as hazardous waste (see discussion of hazardous waste below). These laws give the most attention to the regulation of public and private landfills. Solid waste laws are administered by the DCNR together with municipalities and local district boards of health. Regulatory standards are adopted by the EC and each municipality and district board of health must develop a comprehensive solid waste management plan for the jurisdiction. Although there are a number of other provisions of Nevada law involving solid waste that may affect agricultural producers, solid waste management plans do not apply to agricultural producers.

a. Residential Garbage

Household garbage from farm residences is subject to the same requirements as garbage from non-farm households. It must be stored in appropriate, secure containers until hauled away. Rural, single family residences may, however, lawfully burn their garbage on-site.

Producer Note: Under special circumstances, an agricultural producer may apply for on-farm composting operations or on-farm incinerators. Agricultural producers should consult with the DCNR if they are contemplating such operations.

b. Raw Sewage

Septic tank pumpings and raw sewage cannot be disposed by land application without the approval of solid waste management authorities following a determination that such land application will not adversely impact the health and safety of the public and the environment.

c. Waste Tires

Nevada has a mandatory used tire recycling program, and Nevada law prohibits the disposal of waste tires by open dumping into ravines, canyons, gullies, or trenches or by open burning. Tire sellers are required to accept used tires for recycling upon the purchase of new tires.

d. Reward Program

The DCNR or a local district board of health may offer rewards for information leading to the arrest and conviction of any person for illegal dumping or other violations of solid waste laws. The amount of the reward equals fifty percent of any civil penalties imposed.

¹⁵ NEV. REV. STAT. §§ 444.440-.650.

Producer Note: Agricultural producers should note that Clark and Washoe Counties have their own solid waste program that may impose additional or different requirements than Nevada state law.

B. Nevada Hazardous Wastes

Wastes deemed to be hazardous are regulated to a greater extent than solid waste under both Nevada law and federal law.¹⁶ Nevada has assumed the responsibility to operate its own hazardous waste program under the federal Resource Conservation and Recovery Act (RCRA).

The Nevada definition of hazardous waste closely follows the federal definition:

Hazardous waste means any waste or combination of wastes including solids, liquids, or contained gases which:

1. Because of its quantity or concentration or its physical, chemical, or infectious characteristics may:
 - (a) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or
 - (b) Pose a substantial hazard or potential hazard to human health, public safety, or the environment when it is given improper treatment, storage, transportation, disposal, or other management.
2. Is identified as hazardous by the DNCR as a result of studies undertaken for the purpose of identifying hazardous wastes.

The term hazardous waste includes, among other wastes, toxins, corrosives, flammable materials, irritants, strong sanitizers, and materials which generate pressure with decomposition, heating, or other conditions or treatments.¹⁷

Hazardous wastes are more specifically defined in regulations adopted by the Nevada EC and by the EPA. These regulations list specific substances determined to be hazardous.¹⁸

¹⁶ NEV. REV. STAT. §§ 459.380-.920.

¹⁷ NEV. REV. STAT. §§ 586.010-.450.

¹⁸ 40 C.F.R. § 261.

Producer Note: Agricultural producers should check with the DNCR to determine whether any chemicals or substances used in their operations are listed as hazardous and what regulatory requirements may apply.

Anyone who generates or transports hazardous wastes is subject to extensive regulatory requirements under Nevada law. These include record keeping requirements, storage requirements, disposal restrictions, permit requirements, emergency planning, personnel training, and equipment, container, and building standards. The extent of the regulation is determined by the degree of hazard and the quantity of waste.

Certain substances used in agriculture have been statutorily excluded from the definition of hazardous waste. Irrigation return flows and point source discharges are specifically excluded under the federal CWA and the NWPCA. The definition of hazardous waste also excludes solid wastes generated from growing crops and harvested crops along with solid wastes from animal production including manure that is returned to the soil as fertilizer. Pesticides fall under special rules, see sections below.

C. Nevada Underground Storage Tanks

Underground storage tanks (USTs) are regulated by Nevada law (NAC 459.9921-459.999) as well as federal law (40CFR 280.10-280.116). In 1989, the Nevada legislature enacted a comprehensive statutory program for the regulation of USTs that satisfies the minimum federal requirements under RCRA.¹⁹ The Nevada program is administered by the DCNR.

The UST is defined as a tank, or combination of tanks, used to contain certain regulated substances where the volume of the UST is at least 10% below the ground. Regulated substances includes petroleum products as well as hazardous substances.

By law, home heating oil tanks and septic tanks are excluded from regulatory requirements. Also excluded are tanks that are not more than 1100 gallons in size and that are used to store motor fuel for noncommercial purposes including farm and residential use, UST systems with field constructed tanks, and any UST system whose capacity is 110 gallons or less.

For tanks that fall under the UST definition, the law imposes a number of requirements:

- Releases and spills from USTs must be reported to the Nevada DEP at 775/687-9368 days or 888/331-6337 nights;
- Leak detection systems must be implemented;

¹⁹ NEV. REV. STAT. §§ 459.800-.856.

- Record keeping for UST system monitoring is mandatory; except for USTs that store fuel solely for use by emergency generators;
- Design and performance standards must be met;
- Remediation is mandatory for spills and releases;
- Closure steps and standards must be met; and
- Financial assurance is necessary is mandatory. (Section updated July 2004)

V. PESTICIDES AND CHEMIGATION

A. Nevada Pesticide and Chemigation Laws and Regulations

Producer Note: Nevada, like most states, has laws designed to control the use of pesticides. Pesticide laws are designed to closely monitor the distribution and ultimate use of these substances within the state.

1. *Nevada Pesticides*

An agricultural producer disposing hazardous waste pesticides generated from his own operation is not required to comply with most hazardous waste law requirements when pesticide residues are disposed at the same operation in a manner consistent with the disposal instructions on the pesticide label and the emptied pesticide containers are triple rinsed.²⁰ Additionally, the agricultural producer must comply with regulations concerning the final disposal of pesticide containers.

Producer Note: Agricultural producers should take heed that certain hazardous waste pesticides may be subject to more stringent requirements. Agricultural producers should consult with the DCNR and/or the Nevada Department of Agriculture (DOA) for specific regulatory requirements applicable to certain hazardous pesticides.

Other than disposal, Nevada also regulates pesticides in other ways. The Nevada Pesticides Act²¹ requires that all pesticides distributed, sold, transported, or offered for sale within the state be registered with the Nevada Department of Agriculture (DOA). It is illegal to sell,

²⁰ 40 C.F.R. § 262.70.

²¹ NEV. REV. STAT. §§ 586.010-.450.

distribute, or transport unregistered pesticides. The DOA enforces pesticide labeling requirements as part of the registration process. Other pesticide rules include the following:

- Prohibitions and restrictions on the use of certain pesticides;
- Restrictions on areas where pesticides may be used;
- Minimum requirements and certification requirements for pesticide applicators;
- Record keeping requirements regarding pesticide use; and
- Permitting requirements for the use of certain pesticides.

Regarding pesticide spills, Nevada law requires that any person engaged in the application of pesticides for hire must immediately report to the DOA any accidents involving aircraft loaded with pesticides, any emergency dumps of pesticides by aircraft, and any accidental pesticide spillage that is detrimental to people, wildlife, domestic animals, or crops. Additionally, within 48 hours, hired pesticide applicators must report any case of apparent pesticide poisoning requiring medical treatment.²²

VII. PROTECTION OF WILDLIFE

A. Nevada Wildlife Protection Laws and Regulations

Producer Note: Many states have measures which enhance protections under federal laws, address issues peculiar to wildlife and their habitat found within the state, or address common problems caused by wildlife. Nevada has state laws protecting wildlife.

Nevada has enacted a variety of laws to protect wildlife and regulate wildlife harvesting in the state. These laws, which may affect agricultural activities, are administered by the Division of Wildlife (DOW) of the DCNR.

1. *Nevada Endangered Species*

Nevada law provides that no endangered species may be captured, removed, or destroyed at any time or by any means except under a special permit issued by the DOW. The DOW maintains a list of species deemed to be endangered or rare.²³

²² NEV. ADMIN. CODE § 555.410.

²³ NEV. REV. STAT. § 503.585; NEV. ADMIN. CODE § 503.010.

a. *Eagles*

Nevada gives special protection to American and golden eagles.²⁴ Nevada law makes it unlawful to kill, destroy, wound, trap, injure, possess (dead or alive), catch, or capture these eagles. The law also makes it illegal to take, injure, possess, or destroy eagle nests or eagle eggs. Under certain circumstances, the DOW may issue permits to take eagles if they have become seriously injurious to wildlife or agricultural interests and there are no other means of avoiding the injury being caused by the eagles.

b. *Migratory Bird Treaty Act*

The DOW assists the U.S. Fish and Wildlife Service in enforcing the federal Migratory Bird Treaty Act. Nevada law makes it illegal for any person to hunt or possess migratory birds, their nests, or their eggs in violation of the terms of the treaty.²⁵

c. *Wildlife Habitat Modification Permits*

The DOW has promulgated a regulation that prohibits any person from substantially destroying, changing, or modifying the natural shape, form, or vegetational cover of any watershed by any type of construction or activity that is detrimental to wildlife habitat unless advance approval has been obtained from the DOW. The DOW must recommend alternatives to the proposed activity if the DOW determines the activity may result in a significant reduction in the quality or quantity of wildlife habitat. The DOW conducts periodic field checks to ensure that permit requirements are met.²⁶

VIII. Enforcement of State Environmental Laws

As with federal environmental laws, violators of state environmental laws face substantial penalties. Specific penalties vary in degree with each statute, however, they generally include both civil and criminal fines. Additional fines may be assessed for each day of violation. For severe or repeated violations, jail sentences may be imposed. State agencies may also bring court proceedings or proceedings before an administrative tribunal to enjoin prohibited activities and force compliance with the statute. In some instances, citizens may file suits against violators to enforce environmental laws. As with the federal statutes, state laws afford agricultural producers the right to administrative and/or judicial review of any agency decisions.

²⁴ NEV. REV. STAT. § 503.610.

²⁵ NEV. REV. STAT. § 503.620.

²⁶ NEV. ADMIN. CODE §§ 504.520-.550.

Appendix A - Agencies

Producer Note: State agencies are available to answer questions regarding environmental matters and a producer's compliance with environmental laws and regulations. The following is a list of agencies which should be able to answer questions or provide materials for agricultural producers.

State Agencies:

Department of Agriculture

350 Capitol Hill Avenue
Reno, NV 89502
(775) 668-1180
(775) 668-1178 fax
<http://agri.state.nv.us/>

3 Divisions (within DOA)

Animal Industry

Plant Industry

Livestock Identification (Brands)

Department of Conservation & Natural Resources

123 West Nye Lane
Carson City, NV 89706-0818
(775) 687-4360
(775) 687-6122 fax
<http://www.state.nv.us/cnr/>

7 Divisions (within DCNR)

Division of Conservation Districts

333 West Nye, Room 118
Carson City, NV 89706-0857
(775) 687-6977
(775) 687-3783 fax
<http://www.state.nv.us/cnr/conv01.htm>

Division of Environmental Protection

333 West Nye, Room 138
Carson City, NV 89706-0851
(775) 687-4670
(775) 687-5856 fax
<http://ndep.state.nv.us/>

Division of Forestry

1201 Johnson Street, Suite D
Carson City, NV 89706
(775) 684-2500
(775) 684-4244 fax
<http://www.state.nv.us/cnr/forestry/>

Division of State Lands

333 West Nye, Room 118
Carson City, NV 89706
(775) 687-4363

(775) 687-3783 fax

<http://www.state.nv.us/lands/>

Division of Water Planning

1550 East College Parkway, Suite 142
Carson City, NV 89706-7921
(775) 687-3600
(775) 687-1288 fax
<http://www.state.nv.us/cnr/ndwp/home.htm>

Division of Water Resources

123 West Nye, Room 246
Carson City, NV 89706-0818
(775) 687-4380
(775) 687-6972 fax
<http://ndwr.state.nv.us/>

Division of Wildlife

1100 Valley Road
Reno, NV 89512
(775) 688-1500
(775) 688-1595 fax
<http://nevadadivisionofwildlife.org>

Environmental Commission (within DCNR)

333 West Nye, Room 138
Carson City, NV 89706-0851
(775) 687-4670
(775) 687-5856 fax
<http://www.state.nv.us/cnr/envcom.htm>

Health Division and Board of Health (within Department of Human Resources)

505 East King Street, Room 201
Carson City, NV 89701
(775) 684-4200
(775) 684-4211 fax
<http://www.state.nv.us/health>

Bureau of Health Protection Services

(within Health Division)
1179 Fairview Drive
Carson City, NV 89701
(775) 687-6353
(775) 687-5197 fax

Clark County Health District

625 Shadow Lane or
P.O. Box 3902
Las Vegas, NV 89106
(702) 385-1291
(702) 384-5342 fax
<http://www.cchd.org/index.html>

Washoe County Health District

1001 East Ninth Street or
P.O. Box 11130
Reno, NV 89520
(775) 328-2400
(775) 328-2279 fax
<http://www.co.washoe.nv.us/Health/>

2 Programs (within WCHD)

Air Quality Management

Permit Information and
Applications

Environmental Health Services

Waste Management
Permit Services
Safe Drinking Water Prog.
Underground Storage Tanks