

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R130-24

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

AUTHORITY: §§ 1 and 2, NRS 445A.425 and 445A.465; § 3, NRS 445A.425, 445A.465 and 445A.520.

A REGULATION relating to water pollution; revising the methodology used in determining the level of concentration of hazardous substances, hazardous wastes or regulated substances in soil or groundwater for which corrective action may be required; revising the methodology for determining the maximum concentration levels of certain contaminants for the purposes of underground injection control; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits any person from allowing a pollutant discharged from a point source or fluids injected through a well to remain in a place where the pollutant or fluids could be carried into the waters of the State by any means. (NRS 445A.465) Existing law also authorizes the State Environmental Commission to adopt regulations relating to the control of water pollution. (NRS 445A.425) Existing regulations establish the methodology for the Division of Environmental Protection of the State Department of Conservation and Natural Resources to determine the level of concentration of hazardous substances, hazardous wastes or regulated substances in soil or groundwater for which corrective action may be required. (NAC 445A.227, 445A.2272, 445A.22725, 445A.22735) For the purposes of determining the action level for soil, **section 1** of this regulation replaces the Integrated Risk Information System adopted by the United States Environmental Protection Agency with the Regional Screening Levels for Chemical Contaminants at Superfund Sites adopted by the United States Environmental Protection Agency. (NAC 445A.2272) For the purposes of determining the action level for groundwater, **section 2** of this regulation: (1) updates references to regulations adopted by the United States Environmental Protection Agency under the Safe Drinking Water Act; and (2) replaces the Integrated Risk Information System adopted by the United States Environmental Protection Agency with the Regional Screening Levels for Chemical Contaminants at Superfund Sites adopted by the United States Environmental Protection Agency. (NAC 445A.22735)

Existing regulations establish the methodology for the Division to determine the maximum concentration level for contaminants for the purposes of controlling underground injections of certain fluids. (NAC 445A.8585) For the purposes of determining that maximum concentration level, **section 3** of this regulation replaces the Integrated Risk Information System adopted by the United States Environmental Protection Agency with the Regional Screening

Levels for Chemical Contaminants at Superfund Sites adopted by the United States Environmental Protection Agency.

Section 1. NAC 445A.2272 is hereby amended to read as follows:

445A.2272 1. For the purposes of NAC 445A.22695 to 445A.2271, inclusive, the action level for soil must be established at the following levels:

(a) The background concentration or volume of a hazardous substance, hazardous waste or a regulated substance set forth in:

- (1) The permit issued to the owner or operator by the Division; or
- (2) A study approved by the Division.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in the soil at an appropriate level of concentration that is based on the protection of the waters of the State, public health and safety for all identified routes of exposure and the environment. The appropriate level of concentration must be determined by the Division using the ~~Integrated Risk Information System, adopted by the Environmental Protection Agency, as it existed on October 3, 1996,~~ *Regional Screening Levels for Chemical Contaminants at Superfund Sites adopted by reference in subsection 3* or any other equivalent method or peer-reviewed source of information chosen by the Division.

2. Except as otherwise provided in this subsection, if more than one action level for soil may be established using the criteria set forth in paragraph (b) of subsection 1, the most restrictive action level must be used. In no case may the action level be more restrictive than the background concentration of the hazardous substance, hazardous waste or regulated substance.

3. The State Environmental Commission hereby adopts by reference the ~~Integrated Risk Information System, adopted by the Environmental Protection Agency, as it existed on October~~

~~3, 1996. A copy of the system is available on-line through the Internet and may be obtained from an Integrated Risk Information System Representative at (301) 496-6531, free of charge.]~~

Regional Screening Levels for Chemical Contaminants at Superfund Sites, including all tables therein and the associated User's Guide, adopted by the United States Environmental Protection Agency, as it existed on the date on which the Legislative Counsel files this regulation with the Secretary of State pursuant to NRS 233B.070. A copy of this material is available, free of charge, at the Internet address <https://www.epa.gov/risk/regional-screening-levels-rsls>.

Sec. 2. NAC 445A.22735 is hereby amended to read as follows:

445A.22735 1. For the purposes of NAC 445A.22725, 445A.2273 and 445A.2274, the action level for groundwater must be established at the following levels:

(a) The presence of 1/2 inch or more of a petroleum substance that is free-floating on the surface of the water of an aquifer, using a measurement accuracy of .01 feet.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in groundwater at a level of concentration equal to the maximum contaminant level for that substance or waste established pursuant to the ~~[Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and]~~ *“National Primary Drinking Water Regulations,”* 40 C.F.R. Part 141, as ~~[those sections existed on October 3, 1996.]~~ *adopted by reference in subsection 4.*

(c) A level of concentration equal to the background concentration of a hazardous substance, hazardous waste or a regulated substance, if that level of concentration is greater than the maximum contaminant level established pursuant to paragraph (b).

(d) If a maximum contaminant level has not been established for a hazardous substance, hazardous waste or a regulated substance, a level of concentration equal to:

(1) The background concentration of the waste or substance; or

(2) An appropriate level of concentration that is based on the protection of public health and safety and the environment. The appropriate level of concentration must be determined by the Division using the ~~Integrated Risk Information System,~~ *Regional Screening Levels for Chemical Contaminants at Superfund Sites* adopted by reference in NAC 445A.2272, or an equivalent method approved by the Division.

2. In establishing an action level pursuant to subsection 1, the Division may consider:

(a) The presence of more than one hazardous substance, hazardous waste or regulated substance in the groundwater;

(b) Any potential threat the contamination may pose to sensitive areas of the environment; and

(c) Any other threat or potential threat to groundwater that is specifically related to the site.

3. If more than one action level for groundwater may be established using the criteria set forth in subsection 1, the most restrictive action level must be used.

4. The ~~Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and 40 C.F.R. Part 141, as those sections existed on October 3, 1996, are hereby adopted by reference. A copy of those sections may be obtained by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at a cost of \$30.~~ *State Environmental Commission hereby adopts by reference the “National Primary Drinking Water Regulations” adopted by the United States Environmental Protection Agency, 40 C.F.R. Part 141, as they existed on the date on which the Legislative Counsel files this regulation with the Secretary of State pursuant to NRS 233B.070. A copy of this material is available, free of charge, at the Internet address*

<https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations> or may be obtained by mail from the Environmental Protection Agency, Office of Ground Water and Drinking Water, 1200 Pennsylvania Ave, N.W. (Mail Code 4606M), Washington, DC 20460.

Sec. 3. NAC 445A.8585 is hereby amended to read as follows:

445A.8585 If a maximum contaminant level has not been established for a contaminant, a concentration level for the contaminant may be established by using:

1. The naturally occurring background concentration of the contaminant; or
2. An appropriate level of concentration based on the protection of public health and safety and the environment. The appropriate level of concentration of a contaminant must be determined by the Division using the ~~Integrated Risk Information System~~ *Regional Screening Levels for Chemical Contaminants at Superfund Sites* adopted by reference ~~pursuant to~~ in NAC 445A.2272, or an equivalent method approved by the Division.