

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R170-99

November 9, 1999

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

AUTHORITY: §§1-12, NRS 459.485, 459.500 and 459.510.

Section 1. NAC 444.8427 is hereby amended to read as follows:

444.8427 “Facility for community recycling” means a facility for recycling hazardous waste which has a yearly capacity that is not more than twice the amount of the type of hazardous waste proposed to be recycled that is generated within the region in this state in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July ~~1, 1998.~~ *6, 1999.*

Sec. 2. NAC 444.84275 is hereby amended to read as follows:

444.84275 “Facility for community storage” means a facility for the storage and consolidation of hazardous waste which has a yearly capacity that is not more than twice the amount of hazardous waste that is generated within the county in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July ~~1, 1998.~~ *6, 1999.*

Sec. 3. NAC 444.843 is hereby amended to read as follows:

444.843 1. “Hazardous waste” has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261;

~~(b) [Mixture of wastes from commercial chemical products identified in 40 C.F.R. Part 261.33, which have been discarded or are intended to be discarded, if at least 10 percent of the mixture, by volume, is composed of one or more of its active ingredients;~~

~~—(e)]~~ Waste containing polychlorinated biphenyl; and

~~[(d)]~~ (c) Waste brought into this state which is designated as hazardous waste in the state of its origin.

Sec. 4. NAC 444.8452 is hereby amended to read as follows:

444.8452 1. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay the following fees to the division to offset partially the cost of inspection and other regulation of the facility:

(a) ~~[Except as otherwise provided in paragraph (d), for]~~ **For** the disposal, open burn, open detonation or incineration ~~[, including] of hazardous waste by a unit or for the burning of hazardous waste in a boiler or industrial furnace~~ for the recovery of energy ~~[in boilers or industrial furnaces, of waste that is hazardous waste as described in paragraph (a) or (b) of subsection 2 of NAC 444.843, \$18.50] by a facility:~~

(1) Eighteen dollars and fifty cents per ton of the volume ~~[received by the facility.~~

~~—(b) Except as otherwise provided in paragraph (d), for the disposal of waste brought into this state that is hazardous waste as described in paragraph (c) or (d) of subsection 2 of NAC 444.843, but that is not otherwise designated as hazardous waste in accordance with 40 C.F.R. Part 261, \$3 per ton of the volume received by the facility.~~

~~—(e)~~ that is hazardous waste pursuant to paragraph (a) of subsection 2 of NAC 444.843; and

(2) Three dollars per ton of the volume that is hazardous waste pursuant to paragraph (b) or (c) of subsection 2 of NAC 444.843 but is not hazardous waste pursuant to paragraph (a) of that subsection.

(b) For the treatment or storage of a volume of hazardous waste *by a unit* without

~~[subsequent]~~ :

(1) *Subsequent* disposal, open burn, open detonation or incineration *of the hazardous waste* by the facility ~~[,]~~ ; or

(2) *Subsequent burning of the hazardous waste in a boiler or industrial furnace for the recovery of energy by the facility,*

FLUSH \$5 per ton , ~~[of the volume received by the facility,]~~ not to exceed a maximum fee of \$10,000 per calendar year if the waste *that is stored or* treated ~~[or stored]~~ is waste generated at that facility.

~~[(d)]~~ (c) For the treatment ~~[and subsequent disposal]~~ of a volume of hazardous waste ~~[that is treated]~~ *by a unit* so that it is ~~[not]~~ *no longer* hazardous waste pursuant to NAC 444.843 ~~[,]~~ *and subsequent disposal of the treated waste by the facility,* \$3 per ton . ~~[of the volume received by the facility.]~~

2. The owner or operator of such a facility shall:

(a) Calculate the amount of hazardous waste subject to the fees on a quarterly basis ~~[,]~~ *based on the volume of hazardous waste that is newly managed by a unit during the quarter of the year for which the fees are calculated;*

(b) Pay the fees provided in this section ~~[, based on the volume of hazardous waste received by the facility during each quarter of the calendar year,]~~ within 30 days after the end of each quarter; and

(c) Submit, with each payment, a detailed accounting of the volume of waste, which corresponds to the fee paid.

3. The division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that a fee remains unpaid.

4. The division may waive any part of the fees specified in subsection 1 for waste brought to a state-owned facility if the waste is generated:

(a) By an agency of this state; or

(b) In compliance with an order issued by the division to clean up a spill or deposit.

5. As used in this section ~~[, “owner”]~~:

(a) *“Owner or operator of a facility for the management of hazardous waste”* means a person who:

~~[(a)]~~ (1) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G; or

~~[(b)]~~ (2) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive.

(b) *“Unit” means a unit for the management of hazardous waste that is:*

(1) Operated by a facility for the management of hazardous waste; and

(2) Subject to the permitting requirements of 40 C.F.R. Part 270.

Sec. 5. NAC 444.8454 is hereby amended to read as follows:

444.8454 The division shall deposit the fees and penalties it collects pursuant to NAC 444.8446 to 444.8452, inclusive, with the state treasurer for credit to the ~~[fund]~~ *account* for the management of hazardous waste.

Sec. 6. NAC 444.846 is hereby amended to read as follows:

444.846 1. The operator of a facility for the management of hazardous waste that is owned by the State of Nevada shall, in addition to any other applicable fees, pay to the division of environmental protection of the state department of conservation and natural resources a fee of 25 cents per cubic foot of the volume of all hazardous waste received at the facility.

2. The operator of such a facility shall pay the fee provided in subsection 1, based upon the volume of hazardous waste received by the facility during each quarter of the calendar year, within 30 days after the end of each quarter.

3. The division of environmental protection may assess and collect a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that the fee remains due.

4. The division of environmental protection shall:

(a) Deposit the money received pursuant to this section in the ~~fund~~ *account* for the management of hazardous waste created pursuant to NRS 459.530;

(b) Account for the money received pursuant to this section separately; and

(c) Use the money for the cost of closure and perpetual care of the facility.

Sec. 7. NAC 444.850 is hereby amended to read as follows:

444.850 As used in NAC 444.850 to 444.8746, inclusive, unless the context otherwise requires:

1. The words and terms defined in NAC 444.8505 to 444.861, inclusive, have the meanings ascribed to them in those sections.

2. Except for the words and terms otherwise defined in NAC 444.8505 to 444.861, inclusive, the words and terms defined in 40 C.F.R. § 260.10, as that section existed on July ~~1998,~~ *6, 1999*, have the meanings ascribed to them in that section.

Sec. 8. NAC 444.8632 is hereby amended to read as follows:

444.8632 1. In addition to the requirements of NAC 444.850 to 444.8746, inclusive, a person who generates, transports, treats, stores, disposes or otherwise manages hazardous waste or used oil shall comply with all applicable requirements of, and may rely upon applicable exclusions or exemptions under 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, Part 273 and Part 279, as those provisions existed on July ~~1, 1998,~~ **6, 1999**, which, except as *otherwise* modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by reference. The state environmental commission may use federal statutes and regulations that are cited in 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, Part 273 and Part 279, to interpret these sections and parts.

2. The volumes containing these parts may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250, for the following prices:

- (a) Volume 40 C.F.R. Part 2~~[\$31]~~ **\$33**
- (b) Volume 40 C.F.R. Part 124~~[40]~~ **53**
- (c) Volume 40 C.F.R. Parts 260 to 265, inclusive~~[29]~~ **32**
- (d) Volume 40 C.F.R. Parts 266 to 299, inclusive~~[29]~~ **33**

Sec. 9. NAC 444.8634 is hereby amended to read as follows:

444.8634 1. Any reference to the following terms in 40 C.F.R. Part 2, Subpart A, shall be deemed to have the meanings ascribed thereto in this section:

(a) “District court of the United States” or “Federal district court” shall be deemed to mean “district court in Nevada”;

(b) “Federal agency” shall be deemed to mean “state agency”;

(c) Except in section 2.118(a), “Freedom of Information Act,” “FOIA,” the “Act” or “5 U.S.C. 552” shall be deemed to mean “NRS 459.555 and any regulations adopted pursuant thereto”;

(d) “Freedom of information officer” shall be deemed to mean the “administrator of the division or his designee”;

(e) “General counsel” shall be deemed to mean the “attorney general of Nevada”;

(f) Any addresses shall be deemed to mean the “Division of Environmental Protection, 333 W. Nye Lane, ~~[Capitol Complex,]~~ **Room 138**, Carson City, Nevada ~~[89710”];~~ **89706-0851”**;

(g) Any references to the employment rankings of “GS-8” or “GS-9” shall be deemed to mean, respectively, “grade 31” and “grade 32” of the Nevada personnel system established pursuant to NRS 284.170, and any reference to a fee for the cost of staff time shall be deemed to mean, respectively, \$15 and \$22.50 per half hour;

(h) Any references to duplication or reproduction charges of “\$0.15 per page” shall be deemed to mean “10 cents per page”; and

(i) Any reference to an officer except the general counsel shall be deemed to mean the “administrator of the division.”

2. Fees required to be paid to the “U.S. Environmental Protection Agency” or the “United States Environmental Protection Agency” pursuant to section 2.120 of 40 C.F.R. Part 2 must be paid to the “State of Nevada” and deposited in the ~~[fund]~~ **account** for the management of hazardous waste.

Sec. 10. NAC 444.8764 is hereby amended to read as follows:

444.8764 1. “Hazardous waste” has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261;

~~(b) [Mixture of wastes from commercial chemical products identified in 40 C.F.R. Part 261.33, which have been discarded or are intended to be discarded, if at least 10 percent of the mixture, by volume, is composed of one or more of its active ingredients;~~

~~—(c)]~~ Waste containing polychlorinated biphenyl; and

~~[(d)]~~ (c) Waste brought into this state which is designated as hazardous waste in the state of its origin.

Sec. 11. NAC 444.8841 is hereby amended to read as follows:

444.8841 1. “Hazardous waste” has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261 ~~[, as that part existed on October 3, 1996;~~

~~—(b) Mixture of wastes from commercial chemical products identified in 40 C.F.R. Part 261.33, as that part existed on October 3, 1996, which has been discarded or is intended to be discarded, if at least 10 percent of the mixture, by volume, is composed of one or more of its active ingredients; and~~

~~—(c)] ; and~~

(b) Waste brought into this state which is designated as hazardous waste in the state of its origin.

3. The term does not include waste containing polychlorinated biphenyl, unless it is mixed with hazardous waste.

Sec. 12. NAC 444.9452 is hereby amended to read as follows:

444.9452 1. All sections, subparts and parts of Title 40 of the Code of Federal Regulations referred to in NAC 444.940 to 444.9555, inclusive, as modified by NAC 444.9453, are hereby adopted by reference as they existed on July ~~[1, 1998.]~~ **6, 1999.**

2. The volumes containing these sections, subparts and parts may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250, for the following prices:

- (a) The volume containing 40 C.F.R. Parts 260 to 265, inclusive~~[\$29]~~ **\$32**
- (b) The volume containing 40 C.F.R. Parts 266 to 299, inclusive~~[29]~~ **33**
- (c) The volume containing 40 C.F.R. Part 761~~[38]~~ **42**