

**REVISED PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R079-04

May 19, 2004

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 and 445A.430.

A REGULATION relating to the discharge of pollution; revising the provisions relating to animal confinement facilities; requiring owners of facilities which engage in agricultural or silvicultural activities and which are designated as significant contributors of pollution to apply for a permit not later than 90 days after receiving notification of this designation; increasing the fees for general permits for dischargers engaged in agricultural or silvicultural activities; and providing other matters properly relating thereto.

Section 1. NAC 445A.228 is hereby amended to read as follows:

445A.228 1. Except as otherwise provided in subsection 2, a person shall not discharge a pollutant from a point source into any waters of this State without obtaining a permit from the Department.

2. Although not exempted from complying with all other applicable laws, rules and regulations regarding pollution, the following are specifically exempted from the requirements to obtain a permit:

(a) Persons utilizing an individual sewage disposal system or other sewage disposal system that uses a soil absorption system for the treatment and disposal of domestic wastes, with accumulative flows of less than 5,000 gallons per day, providing the system is approved and is installed, operated and maintained in accordance with the rules and regulations and other

requirements of the district health departments or the State Board of Health. This exemption does not preclude the possibility that health authorities will require permits.

(b) Except as otherwise provided in this paragraph, persons discharging pollutants into a publicly owned or privately owned sewerage system, if the owner of such sewerage system has a valid permit from the Department. In such cases, the owner of the sewerage system assumes ultimate responsibility for controlling and treating the pollutants which he allows to be discharged into the system. The Department may require an industrial user who discharges pollutants into a publicly owned treatment works which does not have an approved pretreatment program to obtain a permit pursuant to NAC 445A.257.

(c) Discharges of pollutants from agricultural and silvicultural activities, including, without limitation, irrigation return flow and runoff from orchards, cultivated crops, pastures, rangelands and forest lands, except that this exemption does not apply to the following:

(1) Discharges from facilities *in* which *crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season and that* confine animals if the facilities contain, or at any time during the previous 12 months contained, for a total of 30 days or more, any of the following types of animals at or in excess of the number listed for each type of animal:

(I) ~~[Slaughter and feeder cattle,]~~ *Cattle, veal calves or a pair consisting of a cow and a calf*, 1,000;

(II) Mature dairy cattle (whether milkers or dry cows), 700;

(III) Swine weighing over 55 pounds, 2,500;

(IV) *Swine weighing 55 pounds or less, 10,000;*

(V) Horses, 500;

~~[(V) Sheep, 10,000;]~~

(VI) *Sheep or lambs, 10,000;*

(VII) *Turkeys, 55,000;*

~~[(VII) Laying hens and broilers,]~~

(VIII) *Chickens, if the animal confinement facility has ~~continuous overflow watering,~~
100,000;*

~~———— [(VIII) Laying hens and broilers,] a liquid manure handling system, 30,000;~~

(IX) *Chickens, other than laying hens, if the animal confinement facility ~~has~~ does
not have a liquid manure handling ~~systems, 30,000; or~~*

~~———— [(IX)] system, 125,000;~~

(X) *Laying hens, if the animal confinement facility does not have a liquid manure
handling system, 82,000;*

(XI) *Ducks, if the animal confinement facility has a liquid manure handling system,
5,000 ~~[-~~*

~~———— (2) Discharges from facilities which confine animals if such facility or facilities contain,
or at any time during the previous 12 months contained, for a total of 30 days or more, a
combination of animals such that the sum of the following numbers is 1,000 or greater: The
number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle
multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the
number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.~~

~~———— (3)] ; or~~

(XII) *Ducks, if the animal confinement facility does not have a liquid manure
handling system, 30,000.*

(2) Discharges from production facilities for aquatic animals.

~~[(4)]~~ (3) Discharges of irrigation return flow (such as tailwater, tile drainage, surfaced ground water flow or bypass water) operated by public or private organizations or natural persons if the source of water is effluent from a treatment works.

~~[(5)]~~ (4) Discharges from any agricultural or silvicultural activity which have been identified by the Administrator or the Director as a significant contributor of pollution.

Sec. 2. NAC 445A.230 is hereby amended to read as follows:

445A.230 1. ~~{Any}~~ *Except as otherwise provided in subsection 2, any* person wishing to commence future discharges of pollutants must file a complete permit application on forms provided by the Department, not less than 180 days in advance of the date on which the person desires to commence the discharge of pollutants, unless the Department has granted permission for a later date.

2. *The owner of a facility described in subparagraph (4) of paragraph (c) of subsection 2 of NAC 445A.228 must file a complete permit application on forms provided by the Department not later than 90 days after receiving notification of having been identified by the Administrator or the Director as a significant contributor of pollution.*

3. The Director:

(a) May require the submission of additional information after a permit application has been filed; and

(b) Shall ensure that if a permit application is incomplete or otherwise deficient, processing of the application is not completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

~~3.~~ 4. If, upon review of an application, the Department determines that a permit is not required, the Department shall notify the applicant in writing of this determination. The notification constitutes final action by the Department on the application.

Sec. 3. NAC 445A.268 is hereby amended to read as follows:

445A.268 1. A general permit may be issued upon proper application by a group of dischargers whose facilities meet the requirements of NAC 445A.266. The application must include:

- (a) The name and address of the discharger;
- (b) The exact location of the discharge;
- (c) The nature of the discharge;
- (d) The name and location of the receiving waters;
- (e) The quantity and quality of the discharge; and
- (f) Any other information deemed necessary by the Director for the determination of whether

the discharger should be included in the general permit.

2. A general permit may be issued without application if the Director deems it appropriate.

3. If a general permit has been issued, a discharger who is eligible to be covered under the permit may submit a request to the Director to be included in the general permit. Such a request must include the information required by subsection 1, be accompanied by a nonrefundable fee

~~of~~ :

(a) Of \$700, if the discharger is a facility that meets the requirements of subparagraph (1) of paragraph (c) of subsection 2 of NAC 445A.228; or

(b) Of \$200, if the discharger is a facility that does not meet the requirements of subparagraph (1) of paragraph (c) of subsection 2 of NAC 445A.228,

↪ and be signed in the manner prescribed by NAC 445A.231 for application and reporting forms. If such a request is denied because the Director has determined that the discharger must be covered under an individual permit, the Director must inform the holder pursuant to the provisions of NAC 445A.269.

4. A discharger will not be covered under a general permit until he has been notified by the Director.

5. A discharger who is covered under a general permit *and is a facility that:*

(a) Meets the requirements of subparagraph (1) of paragraph (c) of subsection 2 of NAC 445A.228 shall pay to the Director a nonrefundable fee of \$700 not later than July 1 of each year that the discharger is covered under that permit; or

(b) Does not meet the requirements of subparagraph (1) of paragraph (c) of subsection 2 of NAC 445A.228 shall pay to the Director a nonrefundable fee of \$200 not later than July 1 of each year that the discharger is covered under that permit.