

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB FILE NO. R084-19I

**The following document is the initial draft regulation proposed
by the agency submitted on 10/04/2019**

Proposed Permanent Regulations
P2019-06
October 4, 2019
Authority: NRS 459.485, 459.490, and 459.500

Explanation: matter in *blue bold italics* is new; matter in ~~red brackets~~ is omitted.

1. NAC 444.6665 Operating criteria: Program for detecting and preventing disposal of regulated hazardous waste and PCB wastes. (NRS 444.560)

1. The owner or operator shall carry out a program at the municipal solid waste landfill unit for detecting and preventing the disposal of regulated hazardous waste and PCB wastes. The program must include, but is not limited to:

- (a) Random inspections of incoming loads;
- (b) Records of inspections;
- (c) Training persons employed at the unit to recognize regulated hazardous waste and PCB wastes;
- (d) Procedures for handling hazardous waste or PCB wastes found at the site; and
- (e) Notification of the solid waste management authority if hazardous waste or PCB wastes are discovered at the unit.

2. As used in this section:

(a) "Hazardous waste" includes those wastes described by 40 C.F.R. Part 261.3 which are not excluded by 40 C.F.R. Part 261.4(b), *except 261.4(b)(4)*, or generated by a ~~conditionally exempt~~ *very* small quantity generator in accordance with 40 C.F.R. ~~Part 261.5~~ *sections 261.13 and 261.14*, as those sections existed on November 8, 1993.

(b) "PCB" has the meaning ascribed to it in 40 C.F.R. Part 761.3, as that section existed on November 8, 1993.

2. NAC 444.735 Location. (NRS 444.560) The location of a Class III site must:

1. Be easily accessible in all kinds of weather to all vehicles expected to use it.
2. Safeguard against water pollution originating from the decomposed solid waste at the site.
3. Safeguard against uncontrolled movement or collection of gas originating from the decomposed waste at the site.
4. Have an adequate quantity of cover material that is workable, compactible and does not contain organic material of a quantity and distribution conducive to the harboring and breeding of disease vectors.
5. Conform to the land use planning of the area.
6. Not be within one-fourth mile of the nearest inhabited domestic dwelling or place of public gathering or be within 1,000 feet of a public highway, unless special provisions for the beautification of the site and the control of litter vectors are included in the design and approved by the solid waste management authority.
7. Not be within 1,000 feet of any surface water or be within 100 feet of the uppermost aquifer if the site is approved after September 2, 1992, unless approved by the solid waste management authority.
8. Be approved by the solid waste management authority.

~~[9. If the site accepts hazardous waste from conditionally exempt small quantity generators as defined in 40 C.F.R. § 261.5, comply with the provisions of NAC 444.6785 and 444.679.]~~

3. NAC 444.850 Definitions. (NRS 459.485, 459.490) As used in NAC 444.850 to 444.8746, inclusive, unless the context otherwise requires:

1. ~~[NAC 444.8509 "Conditionally exempt small quantity generator" defined. (NRS 459.485) "Conditionally exempt small quantity generator" means a generator which~~

~~generates 100 kilograms of hazardous waste or less in a calendar month. A generator is a conditionally exempt small quantity generator only during the calendar months that it generates 100 kilograms of hazardous waste or less.~~

2. **NAC 444.XXX “Very small quantity generator” defined. (NRS 459.485)** “Very small quantity generator” means a generator who generates less than or equal to the following amounts in a calendar month:
 - (1) 100 kilograms (220 lbs) of non-acute hazardous waste; and
 - (2) 1 kilogram (2.2 lbs) of acute hazardous waste listed in 40 C.F.R. §261.31 or §261.33(e); and
 - (3) 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 C.F.R. §261.31 or §261.33(e).
3. **NAC 444.XXX “Written” defined. (NRS 459.485)** “Written” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

4. NAC 444.8618 Information relating to procedure to obtain and application for EPA identification number. (NRS 459.485, 459.490)

A generator, transporter or facility owner or operator who is required to obtain an EPA identification number pursuant to 40 C.F.R. § 262.12, 263.11, 264.1(j)(1), 264.11 or 265.11, as adopted by reference in NAC 444.8632, may obtain information relating to the procedure to obtain the identification number and an application by submitting a request in writing to the Division of Environmental Protection, Bryan State Office Building, 901 South Stewart Street, Carson City, Nevada 89701-5249, by telephone at (775) 687-~~9481~~9461, or by visiting <https://ndep.nv.gov/land/waste/hazardous-waste-management/epa-id-number-information>.

5. NAC 444.8632 Compliance with federal regulations adopted by reference; availability. (NRS 459.485, 459.490)

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, B and G, Parts 260 to 270, inclusive, Part 273 and Part 279, as those provisions existed on July 1, ~~2008~~ 2018, which, except as otherwise modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by reference. The Commission may use federal statutes and regulations that are cited in 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A, B and G, Parts 260 to 270, inclusive, Part 273 and Part 279 to interpret those sections and parts.

2. The volumes containing those parts may be obtained by mail from the Superintendent of Documents, U.S. Government Publishing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, for the following prices:

(a) Volume 40 C.F.R. Parts 1 to 49, inclusive.....	\$66
(b) Volume 40 C.F.R. Parts 100 to 135, inclusive.....	51
(c) Volume 40 C.F.R. Parts 260 to 265, inclusive.....	56
(d) Volume 40 C.F.R. Parts 266 to 299, inclusive.....	56

6. NAC 444.86325 Exceptions to and revision or replacement of federal regulations adopted by reference. (NRS 459.485, 459.490)

1. The following sections and parts of Title 40 of the Code of Federal Regulations, and any reference to those sections and parts, are not adopted by reference:

- (a) Section 2.101(a)(1)-(10);
- (b) Sections 124.1(b)-(e), 124.4, 124.5(e), 124.9, 124.10(a)(1)(iv), 124.15(b)(2), 124.16, 124.17(b), 124.18, 124.19 and 124.21;
- (c) Sections 260.1(b)(4)-(6) and 260.20, 260.21, 260.22, *and 260.42*;
- (d) Section ~~261.5(j)~~*261.4(a)(23), 261.4(a)(24), 261.4(a)(27), 261.4(b)(4), 261.4(h), and 262.13(f)(1)(iii)*;
- ~~(e) Part 262, Subpart H;~~ *Section 262.10(l)*;
- (f) Part 262 Subpart K*;
- (g) Sections 264.1(d), 264.1(f), 264.149, 264.150, *264.15(b)(5)*, 264.301(1), 264.1050(h), 265.1(c)(4), 265.149, 265.150, 265.430 and 265.1050(g);
- (h) Section 266.111;
- (i) Section 267.150;
- (j) Sections 268.5 and 268.6, Part 268, Subpart B, and sections 268.42(b) and 268.44;
- (k) Sections 270.1(c)(1)(i), 270.60(b) and 270.64;
- (l) Part 278; and
- (m) Sections 279.10(b)(2), 279.10(b)(3), 279.10(c), 279.10(d)(1), 279.42(b)(2), 279.51(b)(2), 279.62(b)(2) and 279.73(b)(2).

2. The following parts and sections of Title 40 of the Code of Federal Regulations are adopted by reference, as revised in this subsection:

- (a) Part 124 is adopted with the following exceptions:
 - (1) Delete all references to appeals to the Administrator in section 124.5(b);
 - (2) Delete all references to “EPA-issued permits” and insert in its place “permits issued by the Department,” except in sections 124.5(d), 124.10(b) and 124.10(d)(1)(vi);
 - (3) Delete all references to “when EPA is the permitting issuing authority” and insert in its place “when the Department is authorized to issue a permit,” except in sections 124.5(d), 124.10(b) and 124.10(d)(1)(vi);
 - (4) Subpart A is adopted solely for the purpose of establishing procedures for permits for the management of hazardous waste, except that all references to “UIC,” “PSD” and “NPDES” are deleted;
 - (5) Delete all references to “RCRA part B,” “part B RCRA” and “part B” and insert in their place “NRS 459.400 to 459.600, inclusive,” in sections 124.31 and 124.32; and
 - (6) Delete from sections 124.31(a), 124.32(a) and 124.33(a) the following sentence: “For the purposes of this section only, ‘hazardous waste management units over which EPA has permit issuance authority’ refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. part 271.”
- (b) Section 260.2(a) is adopted except that the Freedom of Information Act, 5 U.S.C. § 552, section 3007(b) of RCRA and EPA regulations implementing the Freedom of Information Act and section 3007(b) must be replaced with “NRS 459.555 and any regulations adopted pursuant thereto.”
- (c) Section 260.10 definition of “Hazardous secondary material generator” except that “261.2(a)(2)(ii) and” is deleted;*
- (d) Section 260.11(a) is adopted except that “and 278” is deleted.
- (e) Section 260.11(c)(3)(vii) is adopted except that “and § 278.3(b)(1)” is deleted.
- (f) Section 260.33(b) is adopted except that “in the locality where the recycler is located” is deleted.
- (g) Section 260.34(a) is adopted except that “Determinations may also be granted by the State if the State is either authorized for this provision or if the following conditions are met: (1) The State determines the hazardous secondary material meets the criteria in paragraphs (b) or (c) of this section, as applicable; (2) The State requests that EPA review its determination; and (3) EPA approves the State determination.” is deleted.*
- (h) Section 260.41(a) is adopted except that “or unless review by the Administrator is requested. The order may be appealed to the Administrator by any person who participated in the public hearing. The Administrator may choose to grant or to deny the appeal” is deleted.

(i) Section 261.4(e)(3)(iii) is adopted except that “in the Region where the sample is collected” is deleted.

(j) Section 262.11(c)(1) is adopted except that “, or according to an equivalent method approved by the Administrator under 40 C.F.R. Part 260.21” is deleted.

(k) Sections 262.42(a)(2) and 262.42(b) are adopted except that “for the Region in which the generator is located” is deleted.

(l) Sections 264.18(c) and 265.18 are adopted except that “except for the Department of Energy Waste Isolation Pilot Project in New Mexico” is deleted.

(m) Sections 264.143(h), 264.145(h), 265.143(g) and 265.145(g) are adopted except that “If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions” is deleted and replaced with “If the facilities covered by the mechanism are in this State and another state, identical evidence of financial assurance must be submitted to and maintained with the Division and the agency regulating hazardous waste in the other state or, if the other state has not been approved or authorized by the EPA under 40 C.F.R. Part 271, the EPA Regional Administrator.”

(n) Sections 264.147(a)(1)(i), 264.147(b)(1)(i) and 265.147(a)(1)(i) are adopted except that “or Regional Administrators if the facilities are located in more than one Region” is deleted.

(o) Section 264.151 is adopted with the following exceptions:

(1) Replace any requirement that an owner or operator notify the EPA Regional Administrator of the financial obligations of the owner or operator with a requirement that the owner or operator notify the Director, the agency regulating hazardous waste in a state that has been approved or authorized by the EPA under 40 C.F.R. Part 271 and all EPA Regional Administrators of Regions affected by the financial assurance mechanism of the owner or operator;

(2) Require that all orders, requests, instructions and notices to the Trustee regarding a financial assurance mechanism for a facility in this State be in writing and signed by the Director; and

(3) Delete “an agency of the United States Government” from the second paragraph of the trust agreement.

(p) Part 270 is adopted with the following exceptions:

(1) Delete all references to “interim authorization”; and

(2) Delete “or 267.150” in § 270.290(r).

(q) Section 279.40(c) is adopted except that “unless, under the provisions of § 279.10(b), the hazardous waste/used oil mixture is determined not to be hazardous waste” is deleted.

(r) *Section 279.82 is rewritten as:*

(a) The use of used oil as a dust suppressant is prohibited.

(b) The list of states given at 40 CFR 279.82(c) are those states which have petitioned EPA to allow the use of used oil as a dust suppressant as per 40 CFR 279.82(b) and EPA has granted permission for such use of used oil in those states.

3. Corrections to Code of Federal Regulations Internal Reference Errors:

(a) Definition of Solid Waste (80 FR 1694, January 13, 2015 and 83 FR 24664, May 30, 2018 “Checklist 233”)

(1) Exclude section 261.1035(b)(1) and 1064(b)(2);

(2) Section 261.1089(f) replace internal reference “§261.1082(c)(1) or (c)(2)(i) through (vi)” with “§261.1082(c)”;

(3) Exclude sections 261.400(a) and (b), 410(e) and (f), 411 and 420;

(b) Imports and Exports of Hazardous Waste (81 FR 85696 and 82 FR 41015, November 28, 2016, “Checklist 236”): Substitutions Conforming to Removal of 40 CFR 262, Subparts E and F

(1) Section 261.6(a)(3)(i)(A) substitute the internal references to “§§ 262.53, 262.56(a)(1) – (4), (6), and (b), and 262.57” with “§§ 262.83(b), (g), and (i)” and substitute the internal reference to “subpart E of part 262” with “subpart H of part 262”;

(2) Section 262.20(a)(2) substitute internal references to 40 CFR 262.54 and 262.60 with 40 CFR 262.83(c) – (e) and 40 CFR 262.84, respectively;

- (3) Section 262.83(i)(1)(v) substitute internal reference to “§ 262.85” with “§ 262.82(f)”;
- (c) *Hazardous Waste Generator Improvements (81 FR 85732, November 28, 2016, “Checklist 237”)*
 - (1) Section 260.10 substitute internal references to “§262.34” with “§§ 262.15 and 262.17”;
 - (2) Section 261.4(e)(1) substitute internal reference to “40CFR 261.5 and 262.34(d)” with “40 CFR 262.13 and 262.16(b)”;
 - (3) Section 261.11(c) substitute internal reference to “§ 261.5(c)” with “§ 262.13(c)”;
 - (4) Section 261.30(d) substitute the clause “acutely hazardous wastes established in § 261.5” with “acutely hazardous wastes established in § 262.13”;
 - (5) Section 261, Appendix IX substitute internal references to “40 CFR 262.34” with “40 CFR 262.15, 262.16 and 262.17”;
 - (6) Substitute any reference to “subpart E of part 262” with “subpart H of part 262”;
 - (7) Section 262.20(a)(2) substitute both internal references to “§ 262.34” with “§§ 262.16 or 262.17”;
 - (8) Section 262.212(e)(3) substitute internal reference to “§ 261.5(c) and (d)” with “§ 262.13(c) and (d)”;
 - (9) Section 264.1030(b)(3) substitute internal reference to “40 CFR 262.34(a)” with “40 CFR 262.17(a)”;
 - (10) Section 264.1050(b)(2) substitute internal reference to “40 CFR 262.34(a)” with “40 CFR 262.17(a)”;
 - (11) Section 265.71(c) substitute both internal references to “§ 262.34” with “§§ 262.15, 262.16 and 262.17”;
 - (12) Section 266.100(c)(3) substitute the clause “special requirements for conditionally exempt small quantity generators under § 261.5 of this chapter” with “special requirements for very small quantity generators under §§ 262.13 and 262.14 of this chapter”;
 - (13) Section 266.108(c) Note substitute clause “special requirements for small quantity generators under § 261.5 of this chapter” with “special requirements for small quantity generators under §§ 262.13 and 262.16 of this chapter”;
 - (14) Section 273.13(c)(2)(iii) and (iv) substitute internal references to “40 CFR 262.34” with “40 CFR 262.15 and 262.16”;
 - (15) Section 273.33(c)(2)(iii) and (iv) substitute internal references to “40 CFR 262.34” with “40 CFR 262.15 and 262.17”;
- (d) *Other typographical errors in the CFR*
 - (1) Sections 261.142(a)(3-4) substitute internal reference to “265.5113(d)” with “265.113(d)”.

7. NAC 444.8633 Revision of and meanings ascribed to certain terms referred to in federal regulations adopted by reference. (NRS 459.485, 459.490) Except as otherwise provided in NAC 444.8634:

1. Any references in any part of Title 40 of the Code of Federal Regulations to the U.S. Environmental Protection Agency, “United States Environmental Protection Agency,” “Agency,” “EPA Headquarters,” “EPA Region(s)” or “EPA” which have been adopted by reference in NAC 444.8632 shall be deemed to mean the “Department” with the following exceptions:

- (a) Any reference to “EPA” identification numbers;
- (b) Any reference to “EPA” hazardous waste numbers;
- (c) Any reference to “EPA” test methods;
- (d) Any reference to “EPA” forms;
- (e) Any reference to “EPA” publications or manuals;
- (f) Any reference to “EPA” guidance;
- (g) Any reference to “EPA” Acknowledgment of Consent;
- (h) Any reference to “EPA” or “Agency” in:
 - (1) Sections 124.1(f), 124.2(b), 124.6(e) and 124.10(c)(1)(ii);

- (2) The provisions of section 124.2(a) defining “Administrator,” “Director,” “EPA,” “permit,” “person” and “Regional Administrator”;
- (3) The provisions of section 260.10 defining “Administrator,” “EPA Region,” “federal agency,” “person” and “Regional Administrator”;
- (4) *Section 260.4(a)(4), 260.5(b)(2), 260.11 and Part 260, Appendix I;*
- (5) Section 261.39(a)(5), *261.41* and Part 261, Appendix IX;
- (6) Section 262.32(b), Part 262 Subpart[s E, F,] *H*, ~~and the Appendix to Part 262~~;
- (7) The Note following section 263.10(a);
- (8) Sections 264.11, *264.12(a)*, 264.71, 265.11, *265.12(a)* and 265.71;
- (9) Section 268.1(e)(3) *and Section 268.2(j)*;
- (10) Sections 270.1(a)(1), 270.1(b), 270.3, 270.5, 270.10(e)(1)-(2), 270.11(a)(3), 270.32(a), 270.32(c), 270.51, 270.72(a)(5) and 270.72(b)(5); and
- (11) The provisions of section 270.2 defining “Administrator,” “approved program or approved State,” “Director,” “Environmental Protection Agency,” “EPA,” “final authorization,” “permit,” “person,” “Regional Administrator” and “state/EPA agreement”;

(12) Section 279.82(b)

(i) Any reference to “EPA,” “Agency” or “EPA Director of the Office of Solid Waste” in section 262.21, *262.24(a)(3)*, and any subsequent reference to EPA’s oversight of the manifest registry process in Part 262, Subparts C and E, *264.71(j), 265.71(j), and Subpart FF of parts 264 and 265.*

(j) Any reference to “EPA,” “federal requirements”, and internal references to 262.25 provisions addressing the federal requirements for Electronic manifest signatures.

2. Any references in any part of Title 40 of the Code of Federal Regulations to the “Regional Administrator”, ~~or~~ “Administrator” *or “the Regional Administrator, or State Director (if located in an authorized State)”* which have been adopted by reference shall be deemed to mean the “Director” with the following exceptions:

- (a) The provisions of section 124.2(a) defining “Administrator,” “Director,” “interstate agency,” “major facility” and “Regional Administrator”;
- (b) Sections 124.2(b), 124.5(d), 124.6(e) and 124.10(b);
- (c) The provisions of section 260.10 defining “Administrator,” “Regional Administrator” and “hazardous waste constituent”;
- (d) Sections 260.23 and 260.30-34;*
- (e) Section 261.30(b), Section 261.4 and Part 261, Appendix IX;*
- (f) ~~Section 262.12,~~ Part 262, Subpart ~~E~~ *H* ~~and the Appendix to Part 262~~;*
- (g) Sections 263.11 and 264.1(j)(1);*
- ~~*(g) Sections 264.12(a) and 265.12(a);*~~
- (h) Sections 268.5, 268.6, 268.42(b), and 268.44(a)-(g);*
- (i) The provisions of section 270.2 defining “Administrator,” “Director,” “major facility,” “Regional Administrator” and “state/EPA agreement”; and*
- (j) Sections 270.3, 270.5, 270.10(e)(1)-(2), 270.10(e)(4), 270.10(f)-(g), 270.11(a)(3), 270.14(b)(20), 270.32(b)(2) and 270.51.*

3. Any references in any part of Title 40 of the Code of Federal Regulations to the Resource Conservation and Recovery Act, “RCRA,” “Subtitle C of RCRA,” “RCRA Subtitle C” or “Subtitle C” which have been adopted by reference in NAC 444.8632 shall be deemed to mean “NRS 459.400 to 459.600, inclusive,” when referring to an operating permit or to the federal hazardous waste program, with the following exceptions:

- (a) Any references to a specific provision of the Resource Conservation and Recovery Act, “RCRA,” “Subtitle C of RCRA,” “RCRA Subtitle C” or “Subtitle C”;
- (b) The provisions of section 124.2 defining “appropriate act and regulations” and “RCRA”;
- (c) The provisions of section 260.10 defining “Act or RCRA”;
- (d) Part 260, Appendix I;
- (e) Part 261, Appendix IX;

- (f) The Appendix to Part 262;
- (g) Section 270.1(a)(2); and
- (h) The provisions of section 270.2 defining “RCRA” and the provision of section 270.51 defining “RCRA permit.”

4. Following any references in any part of Title 40 of the Code of Federal Regulations to a specific provision of the Resource Conservation and Recovery Act, “RCRA,” “Subtitle C of RCRA,” “RCRA Subtitle C” or “Subtitle C,” which have been adopted by reference in NAC 444.8632, the phrase “or any comparable provisions of NRS 459.400 to 459.600, inclusive, and any regulations adopted pursuant thereto” shall be deemed to be added with the following exceptions:

- (a) Section 270.1(a)(2);
- (b) Section 270.72(a)(5); and
- (c) Section 270.72(b)(5).

5. Any references in any part of Title 40 of the Code of Federal Regulations to the “Department of Transportation” or “DOT” which have been adopted by reference in NAC 444.8632 shall be deemed to mean “the Department of Transportation of the United States.”

6. Any references in any part of Title 40 of the Code of Federal Regulations to “state(s),” “authorized state,” “approved state” or “approved program” which have been adopted by reference in NAC 444.8632 shall be deemed to mean “Nevada” with the following exceptions:

- (a) The provisions of section 124.2(a) defining “Director,” “interstate agency,” “person” and “state”;
- (b) The provisions of section 260.10 defining “person,” “state” and “United States”;
- (c) Part 262;
- (d) Sections 264.143(e)(1), 264.145(e)(1), 264.147(a)(1)(ii), 264.147(b)(1)(ii), 264.147(g)(2) and 264.147(i)(4);
- (e) Sections 265.143(d)(1), 265.145(d)(1), 265.147(a)(1)(ii), **265.147(b)(1)(ii)**, 265.147(g)(2) and 265.147(i)(4);

(f) Section 267.147(g)(2)

(g) The provisions of section 270.2 defining “approved program or approved State,” “Director,” “final authorization,” “person” and “state.”

8. NAC 444.8634 Meanings ascribed to certain terms referred to in federal regulations; payment and deposit of certain fees. (NRS 459.485, 459.490)

1. Any reference to the following terms in 40 C.F.R. Part 2, Subpart A, as adopted by reference in NAC 444.8632, 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 2.105(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 or her 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, Bryan State Office Building, 901 South Stewart Street, Carson City, Nevada 89701-5249” **except in 40 C.F.R. §261.4(b)(11)(ii)**;
- (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.—Any reference to the “Administrator” in 40 C.F.R. § 262.12, 263.11 or 264.1(j)(1) shall be deemed to include the “Director.”}~~

~~{3.}~~ 2. Any reference to the “EPA” in 40 C.F.R. § 264.11 or 265.11 shall be deemed to include the “Director.”

~~{4.}~~ 3. Fees required to be paid to the “U.S. Environmental Protection Agency” or the “United States Environmental Protection Agency” pursuant to 40 C.F.R. § 2.107 must be paid to the “State of Nevada” and deposited in the Account for the Management of Hazardous Waste.

9. NAC 444.8655 Acquisition, preparation and distribution of manifests. (NRS 459.485, 459.490)

1. Except as otherwise provided in 40 C.F.R. Part 262, Subpart B, as adopted by reference in NAC 444.8632, the generator shall include in the manifest the hazardous waste number assigned by the United States Environmental Protection Agency, if appropriate.

2. The manifest must consist of at least the number of copies which will provide:

~~{(a) The Division with one copy;}~~

(a) The generator, each transporter and the operator of the designated facility, one copy each; and

(b) Another copy to be returned to the generator upon completion of the shipment.

~~{3.—For shipments of waste out of the State, the generator shall, in addition to complying with the requirements for distribution set forth in 40 C.F.R. § 262.23, as adopted by reference in NAC 444.8632, send one copy of the generator’s returned copy from the out-of-state facility to the Division within 30 days after his or her receipt of that copy.}~~

~~{4.}~~ 3. The generator shall acquire his or her manifest as specified in 40 C.F.R. § 262.21, as adopted by reference in NAC 444.8632, or in the case of international shipment as specified in 40 C.F.R. Part 262, Subpart E, as adopted by reference in NAC 444.8632.

10. NAC 444.8666 Receipt of hazardous waste accompanied by manifest. (NRS 459.485, 459.490) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his or her agent, shall ~~{~~

~~—1.—Comply} comply with the requirements for manifests set forth in 40 C.F.R. Part 264, Subpart E or 40 C.F.R. Part 265, Subpart E, as adopted by reference in NAC 444.8632. ~~{and~~~~

~~—2.—Within 30 days after the delivery, send a copy of the manifest or shipping paper, for shipments transported by railroad, to the Division.}~~

11. NAC 444.8671 Labeling of containers of hazardous waste accumulated or stored on-site. (NRS 459.485, 459.490) A generator who accumulates or stores hazardous waste on-site shall, in addition to complying with the requirements for labeling set forth in 40 C.F.R. Part 262, as adopted by reference in NAC 444.8632, include on the label of each container of hazardous waste, excluding those containers described in 40 C.F.R. § ~~{262.34(e)}~~ **262.15(a)**, as adopted by reference in NAC 444.8632, the hazardous waste number assigned by the United States Environmental Protection Agency.

12. NAC 444.8677 Written record of inspections by certain generators of hazardous waste; contents and maintenance of records. (NRS 459.485, 459.490, 459.550) A generator who generates more than 100 kilograms of hazardous waste in a calendar month and accumulates hazardous waste on-site shall, in addition to complying with the requirements for accumulation set forth in 40 C.F.R. § ~~{262.34}~~ **262.15, 262.16, and 262.17**, as adopted by reference in NAC 444.8632, maintain a written

record of inspections conducted of containers and tanks. Those records must be kept on-site for not less than 3 years and must include:

1. The date and time of an inspection;
2. The name of the inspector;
3. A notation of the inspector's observations; and
4. The date and nature of any repairs made or other remedial action taken.

13. NAC 444.8681 Mixing of used oil with hazardous waste or products prohibited; exceptions; contents and maintenance of records by small quantity generators. (NRS 459.485, 459.490, 459.550)

1. The mixing of used oil with hazardous wastes is prohibited except for the following:

(a) Mixtures of used oil and a hazardous waste which is hazardous solely because it exhibits the characteristic of ignitability specified in 40 C.F.R. § 261.21, as adopted by reference in NAC 444.8632, and is not listed in Subpart D of 40 C.F.R. Part 261, as adopted by reference in NAC 444.8632, by a ~~conditionally exempt~~ **very** small quantity generator who generates and mixes less than 5 gallons of such waste per calendar month with its used oil, if the resulting mixture does not exhibit the characteristic of ignitability specified in 40 C.F.R. § 261.21.

(b) Mixtures of used oil and waste gasoline, if the resulting mixture does not exhibit any of the characteristics of hazardous waste specified in Subpart C of 40 C.F.R. Part 261, as adopted by reference in NAC 444.8632.

(c) Mixtures of used oil and waste diesel fuel. If such mixtures will be used for mining activities relating to extraction, express written approval must be granted by the Division before such use.

2. The mixing of used oil with products is prohibited except for the following:

(a) Mixtures of used oil and diesel fuel. If such mixtures will be used for mining activities relating to extraction, express written approval must be granted by the Division before such use.

(b) Mixtures of used oil and other fuels if such mixture will be used for the recovery of energy pursuant to 40 C.F.R. Part 279, as adopted by reference in NAC 444.8632.

(c) Mixtures of used oil and sorbent materials when used only to manage isolated leaks and spills. Such mixtures must not contain any free liquid.

3. ~~Conditionally exempt~~ **Very** small quantity generators who mix hazardous waste with used oil pursuant to paragraph (a) of subsection 1 shall maintain records of the mixing for a minimum of 3 years. The records must include the quantity and description of the hazardous waste mixed with the used oil, the amount of used oil to which the waste was added and the date the mixing took place. In addition, such ~~conditionally exempt~~ **very** small quantity generators shall, for not less than 3 years, maintain records on-site of all purchases of solvents that upon disposal would exhibit the characteristic of ignitability specified in 40 C.F.R. § 261.21, as adopted by reference in NAC 444.8632. The records maintained pursuant to this subsection must be readily available for review.

~~14. [NAC 444.8693 Submission of application for variance from certain federal regulations. (NRS 459.485, 459.548) An owner or operator of a facility for the management of hazardous waste may seek a variance from the requirements of 40 C.F.R. Parts 260, 264 and 268, as adopted by reference in NAC 444.8632, by submitting an application for the variance to the Commission.]~~

~~15. [NAC 444.8696 Fee for processing and review of application for variance. (NRS 459.485, 459.548)]~~

~~—1. Except as otherwise provided in subsection 2, the owner or operator of a facility for the management of hazardous waste shall pay to the Division, to offset the cost to process and review an application for a variance:~~

- ~~—(a) A fee of \$50 for each hour of staff time devoted to processing and reviewing the application; and~~
- ~~—(b) The actual cost of travel, per diem, salaries and any other expenses incurred by the Commission in connection with the application.~~
- ~~—2. The maximum amount an applicant must pay pursuant to subsection 1 is:~~
 - ~~—(a) Five thousand dollars in the case of a facility or proposed facility handling less than 1,000 tons of hazardous waste annually.~~
 - ~~—(b) Ten thousand dollars in the case of a facility or proposed facility handling 1,000 tons or more but less than 10,000 tons of hazardous waste annually.~~
 - ~~—(c) Twenty thousand dollars in the case of a facility or proposed facility of unspecified capacity or handling 10,000 tons or more of hazardous waste annually.~~
- ~~—3. The Division shall maintain an accurate account of the time and expense associated with the review of each application and, upon completion of the review, refund to the applicant any difference between:~~
 - ~~—(a) The amount required to cover the cost of the review; and~~
 - ~~—(b) The amount paid at the time the application was filed.~~
- ~~—4. The Commission shall not issue a variance unless all applicable fees are paid.]~~