

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

Petition 97008

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

Authority: NRS 459.485, 459.490 and 459.500

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

444.8427 “Facility for community recycling” defined. “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, [1995] 1997.

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

444.84275 “Facility for community storage” defined. “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 [1995] 1997.

Section 3. NAC 444.850 is hereby amended to read as follows:

444.850 Definitions. 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 it existed on July 1, 1997 [1995], have the meanings ascribed to them in that section.

Section 4. NAC 444.8565 is hereby amended to read as follows:

444.8565 “Hazardous waste” defined.

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

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

Section 5. NAC 444.8632 is hereby amended to read as follows:

444.8632 Compliance with federal regulations adopted by reference.

1. In addition to the requirements of NAC 444.850 to 444.8746, inclusive, any 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, [1995] 1997, which, except as 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, United States Government Printing Office, Washington, D.C. 20402, for the following prices:

- (a) Volume 40 C.F.R. Part 2\$ [39] 50
- (b) Volume 40 C.F.R. Part 124 [39] 40
- (c) Volume 40 C.F.R. Parts 260 to [270, inclusive, 273 and 279 36]
 265, inclusive29
- (d) Volume 40 C.F.R. Parts 265 to 299, inclusive.....29

Section 6. NAC 444.86325 is hereby amended to read as follows:

444.86325 Exceptions to and revision of federal regulations adopted by reference.

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

- (a) Sections 2.106(b) and 2.110;
- (b) Sections 124.1(b)-(e), 124.4, 124.5(e), 124.9, 124.10(a)(1)(iv), 124.12(e), 124.14(d), 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 and 260.22;
- (d) Section 261.5(j);
- (e) *Section 262 Subpart h;*
- (f) Sections 264.1(d), 264.1(f), 264.149, 264.150, 264.301(1), 265.1(c)(4), 265.149, 265.150 and 265.430;
- [(f)] (g) Section 266.111;
- [(g)] (h) Sections 268.5 and 268.6, Part 268, Subpart B, and sections 268.42(b) and 268.44;
- [(h)] (i) Sections 270.1(c)(1)(i), 270.60(b) and 270.64; and

[i] **(j)** 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); and

(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 references to “RCRA part B” and insert in its place “NRS 459.400 to 459.600, inclusive” in sections 124.31(a) and 124.32(b).

(6) Delete the following sentence: “For the purpose of the section only, ‘hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271.’” from sections 124.31(a), 124.32(a) and 124.33(a).

(b) Section 260.2(a) is adopted except that “the Freedom of Information Act, 5 U.S.C. section 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 260.33(a) is adopted except that “in the region where the recycler is located” is deleted.

(d) Section 260.33(b) is adopted except that “and this decision may not be appealed to the Administrator” is deleted.

(e) 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.

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

(g) 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.

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

(i) 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.

(j) Sections 264.143(h), 264.145(h), 265.143(g) and 265.145(g) are adopted except that “If the facilities covered by the mechanisms 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.

(k) 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.

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

(1) Delete all references to “(of/for) the Regions in which the facilities are located;” and

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

(m) Part 270 is adopted except that all references to “interim authorization” are deleted.

(n) 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.

Section 7. NAC 444.8671 is hereby amended to read as follows:

444.8671 Labeling of containers of hazardous waste accumulated or stored on site. 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, include on the label of each container of hazardous waste, *excluding those containers described in 40 CFR Part 262.34.(c)*, the hazardous waste number assigned by the United States Environmental Protection Agency.

Section 8. NAC 444.8886 is hereby amended to read as follows:

444.8886 Container: Secondary system for containment. Each container which stores used antifreeze at a facility for the transfer of used antifreeze or a facility for the recycling of used antifreeze must have a secondary system for containment which:

1. Includes dikes, berms or retaining walls, or the equivalent, which are impervious to the penetration of used antifreeze;
2. Includes a floor, or the equivalent, which covers the entire area within the dike, berm or retaining wall and is impervious to the penetration of used antifreeze;
3. Is large enough to prevent the release of used antifreeze into the soil, ground water or surface water; and
4. Has the capacity to contain either 10 percent of the total volume of the containers within the system or the volume of the largest container within the system, excluding a container which contains *no* free liquid, whichever is greater.

Section 9. NAC 444.8951 is hereby amended to read as follows:

444.8951 Identification number; compliance with federal regulations.

1. Except as otherwise provided in subsection [4] 2 of NAC 444.8931, a transporter of used antifreeze must hold an identification number. An identification number may be obtained from the Environmental Protection Agency by submitting to the administrator a completed Form # 8700-12. This form is available, upon request, by telephone at (800) 882-3233.
2. A transporter of used antifreeze shall comply with all applicable provisions of 49 C.F.R. Parts 173, 178 and 179, as those parts existed on October 3, 1996, which govern the packaging, labeling and placarding of hazardous waste.

Section 10. NAC 444.9452 is hereby amended to read as follows:

444.9452 Adoption by reference of provisions of Code of Federal Regulations.

1. All sections, subparts and parts of Title 40 of the Code of Federal Regulations referred to in NAC 444.940-444.9555, inclusive, as modified by NAC 444.9453, are hereby adopted by reference as they existed on July 1, ~~1995~~ 1997.

2. The volumes containing these sections, subparts and parts may be obtained from the superintendent of Documents, United States Government Printing Office, Washington, D.C.20402, for the following prices:

- (a) The volume containing 40 C.F.R Part 260 to ~~270, inclusive, 273 and 279~~ \$36]
265, inclusive.....\$29
- (b) *The volume containing 40 C.F.R. Parts 266 to 299, inclusive*29
- (c) The volume containing 40 C.F.R. Part 761~~28~~ 38

End of Petition 97008