

LCB File No. R034-98
NOTICE OF INTENT TO ACT UPON REGULATIONS
NEVADA STATE ENVIRONMENTAL COMMISSION
NOTICE OF HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Wednesday, March 25, 1998, in Conference Room 4401 located in the Grant Sawyer Office Building, 555 East Washington Avenue, Las Vegas, Nevada.**

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations in Chapters 444 and 445B. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

1. Petition 98001 (LCB File No. R-033-98) is a proposed permanent regulation amending NAC 445B.590 to require that a waiver from the provisions of NAC 445B.596, the vehicle emission inspection and maintenance program, be increased from \$ 100 for self repair and \$ 200 for shop repair to \$ 450 and that the receipt for parts and services be from an authorized station. The provision to credit waiver expenditures for owner self repair of a vehicle is proposed to be repealed. The proposed amendments are required by the U.S. Environmental Protection Agency to be in effect by 1998 for the enhanced Inspection and Maintenance emission test program.

The proposed regulation is not expected to have an adverse economic impact to the regulated public fleet owners. Authorized Stations will realize an increase of revenue estimated at \$ 333,600 in Clark and Washoe county. Vehicle owners that do not pass the established emission standards will be required to spend an additional \$ 250 to \$ 350 in vehicle repairs in order to receive a waiver from those standards. Based upon the issuance of approximately 1,112 waivers in the preceding year, those vehicle owners will realize a total increase in expenditures of about \$ 333,600. The regulation will result in reduced carbon monoxide emissions in the urban nonattainment areas. The proposed regulation (NAC 445B.590) does not duplicate or overlap any other state or local requirements. This wavier amendment to require an expenditure of no more than \$ 450 from auto emissions standards is required by the U.S. Environmental Protection Agency in 40 C.F.R. Part 51.360. The requirement to have such repairs conducted at an authorized maintenance station is more stringent than federal requirements. Repairs conducted at authorized maintenance stations, where trained and certified emission repair specialists are employed will ensure that the consumer is protected and that repairs are effective. There is no additional cost to the agency for enforcement. There will be no additional fees, nor will there be an increase in fees associated with this regulation.

2. Petition 98002 (LCB File No. R-034-98) is a proposed permanent amendment to NAC 444.570 to 444.7499, solid waste disposal by adding new provisions relating financial assurance

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for municipal solid waste landfills. The regulation establishes a local government financial test and criteria for guarantees. The regulation also establishes a corporate financial test and criteria for financial guarantees for landfill owners and operators.

There may be a modest beneficial effect accruing to both private businesses and for the public located in rural areas of Nevada due to potential reductions in the costs for construction and operation of some rural municipal solid waste landfills. The new financial assurance self-tests should result in lower financial assurance costs for some entities, especially local governments, owners and operators of Municipal Solid Waste Landfills. The public should not experience any short or long term economic adverse impact. There is no additional cost to the agency for enforcement. There are no other state or government agency regulations which the proposed amendments duplicate. The regulation is no more stringent than the federal regulation. The proposed amendments are consistent with those of the federal government and will allow the State to implement the RCRA program. This regulation does not impose a new fee or increase an existing fee.

3. Petition 98003 (LCB File No. R-035-98) is proposed to permanently amend NAC 444.570 to 444.7499 by adding new provisions relating to solid waste public storage bin facilities and transfer stations. The regulations establishes a process for application for approval criteria for transfer stations including the transfer design report, operating plan, design standards, and operating standards. Standards for public storage bins are established. NAC 444.666 is proposed to be amended to remove the provision requiring all-weather roads for approach and exit to transfer stations. NAC 444.628 is proposed to be amended to establish alternative frequencies for monitoring at Class II landfill sites. NAC 444.688 is proposed to be amended to define "operating day" for determining the necessary frequency and criteria for covering landfill sites. NAC 444.7175 is proposed to be amended to provide for alternative requirements for infiltration barriers at Class II sites. NAC 444.747 is proposed to be amended to provide record keeping criteria for Class III landfill sites.

The proposed regulation may have a modest beneficial effect accruing to both private businesses and local governments due to potential reductions in the costs for construction, operation and closure of some municipal solid waste landfills. There will be no immediate adverse or beneficial economic effect on the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The proposed regulations are not more stringent than what is required by the federal Resource Conservation and Recovery Act (RCRA), subtitle D. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

4. Petition 98004 (LCB File No. R-036-97) is proposed to permanently amend NAC 445B.321, minor revisions to Class I air quality operating permits, by clarification of the comment period for Class I minor revisions. This regulation will amend Section 28 of petition 97004, LCB file R-105-97 as adopted by the Environmental Commission January 22, 1998.

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There is no estimated adverse or beneficial economic effect upon business by this proposed regulation, either immediate or long term. There will be no immediate adverse or beneficial economic effect on the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The proposed amendment will make the Nevada air pollution control regulations consistent with the federal Clean Air Act law and regulations. The regulations are no more stringent than federal regulations. This amendment will eliminate conflicting provisions and provide for an integrated program.

There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

NON REGULATORY ACTIONS

5. REGULATORY WORKSHOP & REVIEW PURSUANT TO NRS 233B.050(d)

The Environmental Commission will begin reviewing its Rules of Practice (NAC 445B.875 to 445B.899 pursuant to NRS 233B.050, subsection d. After the review the Commission will conduct a workshop pursuant to NRS 233B.061 regarding the development of possible regulations regarding the Rules of Practice, including such topics as management of appeals before the Commission and other relevant matters as may be defined upon the review of the Rules of Practice.

6. COLORADO RIVER SALINITY CONTROL FORUM STANDARDS ADOPTION

The Environmental Commission will be reviewing and consider adoption of the Colorado River Salinity Control Forum's 1996 Review of Water Quality Standards for Salinity. Section 303 of the Clean Water Act requires water quality standards be reviewed from time to time. The Colorado River Salinity Control Forum, composed of seven states in the Colorado River Basin, recommends no change in the numeric salinity criteria at the three lower main reaches of the Colorado River. The 1996 review presents recommended revisions to the plan of implementation based upon hydrologic conditions and water use within the Colorado River Basin.

Persons wishing to comment upon the proposed regulations or any other matter listed above may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. Written submissions must be received at least 5 days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City and at the Division of Environmental Protection, 555 E. Washington - Suite 4300, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notice have been deposited at major library branches in each county in **Petition 98003 was submitted to the State Environmental Commission on February 6, 1998. Petition 98003 was submitted to the Legislative Counsel Bureau for drafting into regulatory language on February 9, 1998.**

Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. The proposed regulations are on the Internet at <http://www.leg.state.nv.us>.

Pursuant to NRS 233B.0603(c) the provisions of NRS 233B.064 (2) is hereby provided:
"Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption".

Additional copies of the regulations to be adopted or amended will be available at the Division of Environmental Protection for inspection and copying by the members of the public during business hours. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Executive Secretary in writing, Nevada State Environmental Commission, 333 West Nye Lane, Room 128, Carson City, Nevada, 89706-0851, facsimile (702) 687-5856, or by calling (702) 687-4670 Extension 3118, no later than 5:00 p.m. on **March 19, 1998**.

This public notice has been posted at the following locations: Clark County Public Library and Grant Sawyer Office Building in Las Vegas; the Washoe County Library in Reno; and Division of Environmental Protection and State Library in Carson City.

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

Petition 98003

Explanation: Matter in italics is new. Matter in [] is material to be omitted.

AUTHORITY: NRS 444.560

Section 1. Chapter 444 of the NAC is hereby amended by adding thereto a new section to read as follows:

“Public Storage Bin Facility” defined. “Public Storage bin facility” means a facility used for the placement of one or more portable containers, having a combined capacity of less than 100 cubic yards, for the collection of solid waste for transport to a solid waste disposal site. Public storage bin facilities do not include residential or commercial waste containers located on the site of waste generation.

Section 2. Chapter 444 of the NAC is hereby amended by adding thereto a new section to read as follows:

Application for approval to operate a transfer station.

An application for approval to operate a new transfer station or to modify an existing transfer station must be submitted to the solid waste management authority prior to the commencement of construction and must include:

1. The name, location and mailing address of the:

(a) Site;

(b) Owner of the site;

(c) Operator of the site; and

(d) Authorized agent of the owner.

2. Proof of ownership of the land on which the transfer station will be located;

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3. *The report of the design of the transfer station required by Section 5;*
 4. *The plan for operating the transfer station required by Section 6;*
 5. *Proof of approval from the local governing board to establish the transfer station;*
- and*
6. *Any additional information which the solid waste management authority may require.*

Section 3. Chapter 444 of the NAC is hereby amended by adding thereto a new section to read as follows:

Application for approval to operate an existing transfer station.

The owner or operator of an existing transfer station must meet all requirements of section 2, subsections 1, 2, 4, and 6, and Section 7, within 180 days of the effective date of this section, and of section 2, subsection 3, and section 6 within two years of the effective date of this section.

Section 4. Chapter 444 of the NAC is hereby amended by adding thereto a new section to read as follows:

Transfer station design report.

The application for approval of a transfer station must include a report of design prepared under the direction of a registered professional engineer and must:

1. *Be signed and stamped by a professional engineer registered in this state;*
2. *Include a general location map showing land use and zoning within 1 mile of the transfer station;*
3. *Include plans and specifications of the facility which are of sufficient detail to show compliance with the applicable design standards. The plan must:*
 - (a) *Be at a scale of not more than 200 feet to the inch, including contour intervals of not more than 5 feet;*
 - (b) *Show existing and proposed contours;*
 - (c) *Show access roads and traffic routing within and around the proposed site;*

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(d) Provide for the control of surface water run-on and run-off and show grades, berms, dikes, swales and other devices for proper drainage and control of surface water;

(e) Show fencing, equipment, shelter, employee facilities, waste handling areas and all other appurtenances;

(f) Include provisions for weighing or measuring incoming solid waste;

(g) Include provisions to control odors and dust as necessary to prevent a public nuisance.

4. Define the population and area to be served by the site;

5. Define the anticipated types quantities and sources of solid wastes to be disposed of at the site;

6. Show how the transfer station will meet the requirements of Section 6.

Section 5. Chapter 444 of the NAC is hereby amended by adding thereto a new section to read as follows:

Transfer station operating plan.

An application for approval of a transfer station must contain an operating plan which includes:

1. Provisions for control of access and on-site attendants during operating hours;

2. Proposed equipment and machinery to be used;

3. Vehicle traffic control procedures;

4. Types of waste excluded from acceptance and designation of facilities where excluded wastes will be directed;

5. A program for detecting and preventing disposal of regulated hazardous waste and PCB wastes;

6. Procedures for measuring or weighing incoming solid waste;

7. The proposed facility capacity and expected life;

8. The frequency and method of transfer of solid waste to a disposal site, the maximum time that any solid waste will be stored at the facility and the location of waste storage areas;

9. The proposed operating hours;

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- 10. A contingency plan that describes emergency procedures and alternate solid waste handling systems;*
- 11. A plan for the prevention and control of fires approved by the local fire authority;*
- 12. A plan for the management of special wastes which are proposed for acceptance at the facility;*
- 13. Show how the site will comply with the requirements of Section 7.*

Section 6. Chapter 444 of the NAC is hereby amended by adding thereto a new section to read as follows:

Transfer station design standards

A transfer station must be constructed;

- 1. with effective barriers and appurtenances necessary to control access to the site;*
- 2. with an all-weather access road;*
- 3. to comply with the requirements of NAC 444.690, Signs;*
- 4. with appurtenances to control litter;*
- 5. with processing, tipping, sorting and storage areas located within a covered enclosure having at least three sides;*
- 6. with processing, tipping, sorting and storage floors provided with a hard surface such as concrete or asphalt pavement and drainage structures for the recovery of liquids;*

Section 7. Chapter 444 of the NAC is hereby amended by adding thereto a new section to read as follows:

Transfer station operating standards.

A transfer station must be operated according to the following standards:

- 1. All solid waste accepted at the transfer station shall either:*
 - (a) ultimately disposed of at a solid waste disposal site which has been issued a permit by the solid waste management authority; or*
 - (b) salvaged for reuse or recycling according to the requirements of NAC 444.674 and promptly removed from the site;*

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2. The transfer station shall be maintained in a neat and orderly condition. All residual wastes or other materials shall be promptly removed from the site;

3. All areas used for tipping, handling or storing waste shall be free of standing water, and the drainage from floors receiving solid waste shall be discharged to a sanitary sewer or the equivalent;

4. Salvage of solid waste for reuse or recycling is prohibited unless approved by the solid waste management authority and supervised by the operator. Salvaged material shall be stored in clearly identified containers or areas and maintained in a safe, sanitary and orderly manner.

5. The operator shall maintain accurate records of facility operations. The records shall include a daily log of the quantity of solid waste received and transported, and instances of waste load rejection, any unusual events or emergencies, and be open for inspection by the solid waste management authority.

6. All solid waste shall be removed from the transfer station within 72 hours of acceptance, except in cases of emergencies, including fire or flood, which may prevent removal within 72 hours. The owner or operator shall notify the solid waste management authority within 24 hours of any emergency resulting in the storage of solid waste for more than 72 hours.

7. The acceptance, handling and transportation of asbestos waste must be done in accordance with NAC 444.965 to 444.976, inclusive;

8. At final closure of the transfer station all remaining wastes shall be removed to a solid waste disposal site which has been issued a permit by the solid waste management authority.

Section 8. Chapter 444 of the NAC is hereby amended by adding thereto a new section to read as follows:

Storage bin Facility Standards

1. The owner of a storage bin facility must notify the solid waste management authority in writing within 30 days of establishing the facility. The notification shall indicate the

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location, facility owner, name and phone number of the owner's authorized agent, facility capacity in cubic yards, the types of solid wastes received, and the population and area to be served by the site.

2. Storage bins shall be constructed of durable, watertight materials with a lid or screen on top that prevents access by vectors and the loss of materials during transport. Storage of solid waste outside the storage bins is prohibited unless approved by the solid waste management authority.

3. Each storage bin facility shall:

(a) be located in an easily identifiable place accessible by all-weather roads;

(b) be serviced as often as necessary to ensure adequate storage capacity at all times. All waste must be removed from the site at least weekly;

(c) comply with the requirements of NAC 444.690, Signs.

4. The owner or operator shall remove all remaining wastes at final closure to a permitted facility and remove the storage bin or bins.

Section 9. NAC 444.628 is hereby amended to read as follows:

444.628 "Transfer station" defined. "Transfer station" means a solid waste processing site where solid waste is transferred from one vehicle to another vehicle [**or storage bin**] for temporary storage until transferred to a disposal site. Some processing may be included therein.

Section 10. NAC 444.666 is hereby amended to read as follows:

444.666 Transfer station.

1. A transfer station must not be established until the site location, *design and plan of operations* [**facilities and proposed method of operation**] have been approved by the solid waste management authority.

2. A transfer station must be designed and constructed so as to be esthetically compatible with its environs.

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[3. Approach and exit roads to a transfer station must be of all-weather construction and maintained in good condition.]

Section 11. NAC 444.628 is hereby amended to read as follows:

444.667 Operating criteria: Control of explosive gas.

1. An owner or operator shall provide for the control of explosive gas at the municipal solid waste landfill unit in accordance with the provisions of this section.

2. The owner or operator shall ensure that:

(a) The concentration of methane gas generated at the unit does not exceed 25 percent of the lower explosive limit for methane in structures, excluding components for any system to control or recover the gas; and

(b) The concentration of methane gas does not exceed the lower explosive limit for methane at the boundary of the unit.

3. The owner or operator shall carry out a routine program for monitoring methane gas to ensure that the standards set forth in subsection 2 are met. The level of methane must be monitored at least quarterly each year. The type and frequency of monitoring must be determined based on the:

(a) Conditions of the soil;

(b) Hydrogeologic conditions surrounding the unit;

(c) Hydraulic conditions surrounding the unit; and

(d) Location of the structures and boundaries of the unit.

4. *The solid waste management authority may establish alternative frequencies at Class II sites for the monitoring requirement of sub-section 3, after public review and comment. Any alternative frequency requirements established under this section shall:*

(a) consider the unique characteristics of the small community served by the site,

(b) take into account climatic and hydrogeologic conditions, and

(c) be protective of human health and the environment.

[4.] 5. If the owner or operator detects levels of methane gas exceeding the limits specified in paragraph (a) of subsection 2, he shall:

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(a) Immediately take all necessary actions to ensure protection of public health and safety and notify the solid waste management authority;

(b) Except as otherwise provided in subsection 5, within 7 days after detection, place in the operating records for the unit the levels of methane gas detected and a description of the actions taken to protect public health and safety; and

(c) Except as otherwise provided in subsection 5, within 60 days after detection, carry out a plan for remediation for the releases of methane gas, place a copy of the plan in the operating records and notify the solid waste management authority that the plan has been carried out. The plan must describe the nature and extent of the problem and the proposed remedy.

[5.] 6. The solid waste management authority may establish alternative schedules for demonstrating compliance with paragraphs (b) and (c) of subsection 4.

7. As used in this section, "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25EC and at atmospheric pressure.

Section 12. NAC 444.688 is hereby amended to read as follows:

444.688 Cover of compacted solid waste. The compacted solid waste of a Class I site must be covered as follows:

1. Except as otherwise provided by this section, all solid waste must be covered at the end of each operating day or at more frequent intervals as necessary to control disease vectors, fires, odors, blowing litter and scavenging with at least 6 inches of compacted earthen material.

2. The solid waste management authority may approve alternative materials to be used for compaction and alternative thicknesses of that material if the owner or operator shows that the alternative materials and thicknesses are capable of controlling disease vectors, fires, odors, blowing litter and scavenging without presenting a threat to public health and safety and the environment.

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3. The solid waste management authority may grant a temporary waiver from the requirements of subsections 1 and 2 if the owner or operator can show that extreme seasonal climatic conditions make the requirements impractical.

4. Unless otherwise approved by the solid waste management authority, at least 12 inches of compacted earthen material must be placed as an intermediate cover on a fill surface if that surface is not to receive waste for more than 90 days. This subsection does not apply to final fill surfaces.

5. The integrity of daily and intermediate cover must be maintained until further filling or the addition of final cover is made. All cracks, depressions and erosion of the cover for surface and side slopes of fills must be promptly repaired.

6. Daily and temporary cover must be graded to drain runoff of surface water. The top slope must have a grade of not less than 3 percent.

7. For purposes of this section, an "operating day" is the 24-hour period beginning at midnight, or, if the site operates continuously, a period of time, not to exceed six days, which ends with the first interruption of 4 hours or more in the acceptance and disposal of solid waste.

8. The owner or operator of any site which operates continuously must first obtain approval from the solid waste management authority, based on a demonstration that daily cover application imposes a severe operational constraint upon the site and that disease vectors, fires, odors, blowing litter and scavenging will be controlled, before reducing the frequency of the covering of all solid wastes to a frequency less than every 24 hours.

Section 13. NAC 444.716 is hereby amended to read as follows:

444.716 Cover of solid wastes.

1. Except as otherwise provided in this section solid wastes at a Class II site must be covered in accordance with NAC 444.688 .

2. The solid waste management authority may, after public review and comment, establish alternative frequencies at Class II sites for cover requirements in section 444.688.

Any alternative frequency requirements established under this section shall consider the

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unique characteristics of small communities, take into account climatic and hydrogeologic conditions, and be protective of human health and the environment.

Section 18. NAC 444.7175 is hereby amended to read as follows:

444.7175 Final cover or closure for certain sites. The owner or operator of a Class II site that stops receiving waste before October 9, 1997, shall:

- 1. Except as otherwise provided in this section, [C] comply with the requirements for a final cover set forth in NAC 444.6891; and*
2. Complete activities for the closure of each municipal solid waste landfill unit at the site within 180 days after the last receipt of waste.
- 3. The solid waste management authority may, after public review and comment, establish alternative requirements at Class II sites for the infiltration barrier in section 444.6891. Any alternative requirements established under this section shall consider the unique characteristics of the small community served by the site, take into account climatic and hydrogeologic conditions, and be protective of human health and the environment.*

Section 15. Chapter 444.735 of the NAC is hereby amended to read as follows:

444.735 Location. 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 **Petition 98003 was submitted to the State Environmental Commission on February 6, 1998. Petition 98003 was submitted to the Legislative Counsel Bureau for drafting into regulatory language on February 9, 1998.**

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. *Comply with the provisions of NAC 444.6785 and 444.679, if the site accepts hazardous waste from conditionally exempt small quantity generators as defined in 40 C.F.R. 261.5.*

Section 16. NAC 444.747 is hereby amended to read as follows:

444.747 Miscellaneous requirements; annual reports.

1. Scavenging at a Class III site is prohibited.

2. The area of a Class III site must be inspected daily and all scattered paper and other lightweight debris returned to the fill area and covered.

3. The operator of a Class III site shall:

(a) Establish provisions concerning weighing or otherwise adequately measuring and recording all solid waste received at the site; and

(b) Submit annually to the division a report of the solid waste received at the site. The report must be submitted *within 30 days following the end of each calendar year* on a form provided by the division.

4. The operation of a Class III site must be approved by the solid waste management authority.

5. The owner or operator of a Class III site shall record and retain at the site in the operating records or at a location approved by the solid waste management authority, the following information as it becomes available:

(a) Any demonstration of restrictions on location required by NAC 444.735;

(b) Any demonstration, certification, finding, monitoring, testing or analytical data from the program for monitoring ground water required by NAC 444.7481 to 444.7499, inclusive;

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(c) Any plan to characterize solid waste required by NAC 444.737;

(d) Plans for closure and postclosure and any monitoring, testing or analytical data required by NAC 444.6891 to 444.6896, inclusive; and

(e) Any documentation of cost estimates and financial assurance required by NAC 444.685.

6. The owner or operator shall notify the solid waste management authority when the documentation has been placed in or added to the operating records. All information contained in the operating records must be furnished upon request to the solid waste management authority or be made available at all reasonable times for inspection by the solid waste management authority.

7. The solid waste management authority may establish alternative schedules for recordkeeping and notification required by NAC 444.570 to 444.7499, inclusive, except for the notification required by subsection 3 of NAC 444.7491.

End of Petition 98003

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